



<b>8.10</b>	<b>17 ROCKLEA DRIVE, PORT MELBOURNE</b>
<b>LOCATION/ADDRESS:</b>	<b>17 ROCKLEA DRIVE, PORT MELBOURNE</b>
<b>RESPONSIBLE MANAGER:</b>	<b>GEORGE BORG, MANAGER CITY DEVELOPMENT</b>
<b>AUTHOR:</b>	<b>SIMON GUTTERIDGE, PRINCIPAL PLANNER FBURA</b>
<b>TRIM FILE NO.:</b>	<b>PF17/276500</b>
	<b>1. Plan drawings</b>
	<b>2. Elevation drawings</b>
	<b>3. Section drawings</b>
<b>ATTACHMENTS:</b>	<b>4. Car Park Cross Sections</b>
	<b>5. Shadow Plans</b>
	<b>6. Renders (1)</b>
	<b>7. Renders (2)</b>
	<b>8. Draft conditions</b>
<b>WARD:</b>	Gateway
<b>TRIGGER FOR DETERMINATION BY COUNCIL:</b>	Use of land for Accommodation (Dwelling) in the Capital City Zone
<b>APPLICATION NO:</b>	3/2017/MINRA (CoPP Ref) PA1700210 (DELWP Ref)
<b>APPLICANT:</b>	La Esquina Pty Ltd C/- Urbis Pty Ltd
<b>EXISTING USE:</b>	Office, Warehouse (Adshel Signs)
<b>ABUTTING USES:</b>	Office/Warehouse/Industrial buildings
<b>ZONING:</b>	Capital City Zone (CCZ1)
<b>OVERLAYS:</b>	Design and Development Overlay (DDO30) Development Contributions Plan Overlay (DCPO2) Parking Overlay (PO1)
<b>STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL</b>	N/A

### PROPOSAL

Demolish the existing buildings and construct a multi-storey building containing ground floor level retail and SoHo office/dwellings, apartments and communal facilities above, and associated car and bicycle parking, and construct and/or carry out works in the Capital City Zone and Design and Development Overlay. Use land for Accommodation (dwellings) in the Capital City Zone. Provide car parking in excess of the car parking rates specified in Table I of Schedule I to the Parking Overlay.



**I. EXECUTIVE SUMMARY**

- 1.1 This report assesses the Ministerial informal referral of an application to demolish the existing buildings and construct an 18 level building (including a three level podium) containing ground floor level retail and SoHo office/dwellings, apartments and communal facilities above, and associated car and bicycle parking, and construct and/or carry out works.
- 1.2 The application site is located in the Wirraway precinct of the Fishermans Bend Urban Renewal Area (FBURA).
- 1.3 The Minister for Planning is the Responsible Authority for the application pursuant to Section 2.0 and Figure 1 of the schedule to Clause 61.01 of the Port Phillip Planning Scheme as the proposal is for development with a building height of 4 storeys or greater, and use and development of 60 or more dwellings.
- 1.4 The Minister has provided Council with the opportunity to consider and provide advice on the application, which can be used by the Minister and his department in their assessment of the proposal.
- 1.5 Council's advice is provided on an informal basis as the planning scheme exempts most applications from notice and review.
- 1.6 The land is subject to mandatory podium (5-storey or 20m) and tower (18 storey) height limits and tower setbacks pursuant to interim Design and Development Overlay provision introduced in April 2015 while a review of the FBURA is carried out. The interim controls apply until 31 March 2018 (unless extended by the Minister).
- 1.7 The Fishermans Bend Strategic Framework Plan (September 2016) (FBSFP) requires development on the site and surrounds to respond to the Wirraway neighbourhood vision to create a family friendly inner city neighbourhood close to the Bay and Westgate Park.  

The Plan does not identify the site for a particular use, notes Rocklea Drive along the east side of the site an existing local street, and includes the rear of the land in the Westgate Interface Buffer (regards freight traffic noise from the Westgate Freeway).
- 1.8 The proposal was internally referred and officers raised concerns including regarding building height exceeding the mandatory maximum number of storeys, car park design detail, over provision of car parking and under provision of bicycle parking, loading bay access and design, lack of diversity in housing types and sizes, wind impacts adjacent to and within the site, lack of affordable housing, sustainable design detail including excessive glazing without adequate measures to control solar heat gain and loss, and natural light and ventilation, noise impacts from the freeway, materials and finishes, and protection of street trees and trees on abutting land.
- 1.9 The development would not comply with local policy for diversity of dwelling sizes, or affordable housing.
- 1.10 Notwithstanding the relatively long list of concerns, it is considered that the matters could be ameliorated by conditions to modify the proposal.
- 1.11 On 23 October 2017, the permit applicant lodged an application for review for failure to



decide the application within 60 statutory days was lodged with the Planning List of the Victorian Civil and Administrative Tribunal (VCAT).

- 1.12 Council has engaged legal representation for the matter.
- 1.13 The Tribunal set the matter down for a Practice Day on 01 December, a Compulsory Conference on 06 February 2018 and a hearing commencing 26 March 2016 for three days.
- 1.14 It is recommended that Council:
  - Advise the Tribunal, the Minister, and the applicant that it does not support the application as proposed;
  - Provide the parties with draft conditions for changes to the design, and the construction and on-going management of the proposal, pursuant to which Council would support the proposal, or in the event the Tribunal was to determine to grant a permit;
  - Delegate the Manager City Development to instruct Council’s Statutory Planners and/or Solicitors on the Tribunal Application for Review.

**KEY ISSUES**

1. Consistency with Fishermans Bend Strategic Framework Plan.
2. Building height (number of storeys, including interpretation of mezzanine levels).
3. Car park design and vehicle access.
4. Loading bay design and accessibility.
5. Waste room design and collection vehicle access.
6. Building materiality and breach of restrictive covenant.
7. Dwelling amenity including dwelling and open space size, light and ventilation, and noise attenuation.
8. Sustainable and Water Sensitive Urban Design.
9. On and off-site wind impacts.
10. Overshadowing of communal open space.

**2. RELEVANT BACKGROUND**

There are two previous permit applicants recorded for the subject site as follows:

Application No.	Proposal	Decision	Date of Decision
P0190/2001	Warehouse/printing & associated office & car parking	Approval	03 May 2001
PI414/2007	Car parking dispensation and the construction of four (4) rainwater tanks to the rear (west) elevation of the existing building	Approval	15 Jan 2008



**3. PROPOSAL**

- 3.1 The application proposes to:
- Demolish all of the existing buildings on the land.
  - Construct an 18 level building (including a three level podium) containing ground floor level retail and SoHo office/dwellings, apartments and communal facilities above, and associated car and bicycle parking.
  - Construct and carry out works including:
    - Remove two existing vehicle crossings on the east and south alignments of Rocklea Drive and construct one new 6.4m (w) crossing at the south-west front corner of the site off Rocklea Drive.
    - Landscaping of the frontage.
  - Use the land for Accommodation (dwellings) in the CCZI.
  - Provide car parking in excess of the car parking rates specified in Table I of Schedule I to the Parking Overlay (i.e. two spaces for the three bedroom dwellings).
- 3.2 The podium would have a maximum height of 20.0m and three storeys, plus three mezzanine levels for a total of six storeys. The tower would have a maximum height of 18 storeys plus the three mezzanine levels for a total of 21 storeys (72.1m) to roof top level and 80.9m to the top of the lift overrun/building services.
- 3.3 The building is proposed in a contemporary flat roofed style.
- 3.7 Materials and finishes are proposed to be white smooth and textured concrete panel, black powder-coated metal cladding, and silver mesh cladding, for external walls, and clear, fritted and pewter-silver glazing, with black powder-coated window frames and mullions.
- 3.8 A summary of the key elements of the proposals is as follows:

	<b>Application Plans (Received 08 June, 22 August and 15 November 2017)</b>
<b>Site area</b>	3,165m <sup>2</sup> approx.
<b>No. dwellings</b>	<b>224 (131 x 1BR [58.5%], 66 x 2BR [29.5%], 27 x 3BR [12%])</b> <b>Podium:</b> 65 (11 x 1BR inc. 5 x SoHo retail/office @ ground floor and mezzanine (Level 00 + mezzanine), 21 (20 x 1BR, 1 x 2BR) @ Level 01 and mezzanine, 33 (31 x 1BR, 2 x 2BR) @ Level 02 and mezzanine) <b>Tower:</b> 159 (69 x 1BR, 63 x 2BR, 27 x 3BR)
<b>Affordable housing</b>	Nil
<b>Podium street, side and rear setbacks</b>	North (rear): 0.0m, South (Rocklea Drive): 1.75m at Ground Level, 0.0m at First and Second Levels, East (Rocklea Drive): 1.75m at Ground Level, 0.0m at First and Second Levels, West (side): 0.0m
<b>Tower street, side and rear setbacks</b>	Min. 10.0m from street, side and rear boundaries.
<b>Tower separation</b>	N/A
<b>Podium height</b>	20.0m / three storey's plus three 'mezzanine' storey's = six storey's.



<b>Tower height</b>	18-storey's plus three 'mezzanine' storey's = 21 storey's, max. 72.10m to top of roof, 80.9m to top of lift overrun/roof plant. <i>Note: Natural ground level (NGL) = 3.85m AHD SW front corner, 4.01m AHD SE front cnr, 4.34m AHD NW rear cnr, 4.16m AHD NE rear cnr.</i>
<b>Commercial floor area</b>	440m <sup>2</sup> comprising 320m <sup>2</sup> retail (five tenancies: 108m <sup>2</sup> and 92m <sup>2</sup> , and 3 cafes x 40m <sup>2</sup> each) and 120m <sup>2</sup> office (3 tenancies x 40m <sup>2</sup> ) at ground floor level.
<b>Loading bay</b>	1 x min. 4.29m (w) x min 11.9m (l) x tba (h) @ ground floor (Level 00)
<b>Car parking</b>	185 spaces (178 resident (0.79/dwelling), 2 retail (1.0/100m <sup>2</sup> ) / 5 visitor).
<b>Motorcycle parking</b>	3 spaces @ ground level
<b>Bicycle parking</b>	70 (48 resident and 8 visitor internal, and 14 visitor external)
<b>Open space</b>	Varies.
<b>Stores</b>	253 (8 @ Ground, 147 @ 'Mezzanine' 1, 45 @ Level 01, 53 @ 'Mezzanine' 2 (total 634m <sup>3</sup> ))
<b>Communal facilities</b>	<b>Podium Level 02:</b> Resident Cinema, Health Club, Yoga Room, Dining room, Garden lounge and rear outdoor communal landscaped terrace (556m <sup>2</sup> ); <b>Podium 'Mezzanine' Level 03:</b> Resident sky lounge, library, business club and meeting room; <b>Podium Level 04:</b> Outdoor landscaped communal area; <b>Rooftop Level:</b> Skyline pool, Jacuzzi, changes rooms, deck and landscaped outdoor area.
<b>Community facilities</b>	Nil
<b>Vehicle access</b>	One x 6.4m wide crossing off Rocklea Drive.
<b>Dwelling access</b>	Lobby off Rocklea Drive
<b>Pedestrian path access</b>	Existing concrete footpaths along southern street abuttal and part of eastern street abuttal.
<b>Road widths</b>	N/A – no new road proposed
<b>Gross floor area / Floor area ratio</b>	<b>Gross Floor Area (GFA):</b> 17,915m <sup>2</sup> (Site area: 3,165m <sup>2</sup> ); <b>Floor Area Ratio (FAR):</b> 5.66.

- 3.9 The plans which are the subject of this report are those referred to as Project No. 16100, Drawing Nos. TP A0000 Rev D, A0001 Rev C, A0002 Rev D, A0100 Rev L, A0100A Rev J, A0101 Rev J, A0101A Rev J, A0102 Rev I, A0102A Rev I, A0103 Rev H, A0104 Rev G, A0112 Rev G, A0118 Rev F, A0400 Rev E, A0401 Rev D, A0401 Rev D, A0410, A0411, A0950 Rev H, A0955m, A0960, and Development Schedule, various dates, prepared by Ellenberg Fraser Architects, received by Council 08 June 2017 and 22 August 2017.

#### 4. SUBJECT SITE AND SURROUNDS

- 4.1 The subject site is a located on a north-west corner of Rocklea Drive, Port Melbourne.
- 4.2 The land has a southern frontage to Rocklea Drive of approximately 43m and an eastern side abuttal to Rocklea Drive of approximately 55m and for an overall area of approximately 3,165m<sup>2</sup>.
- 4.3 The subject lot was created circa 1999 as part of an industrial estate. The land (and all the other lots in the estate) is encumbered by a restrictive covenant in favour of the other lots in the estate which:



- Requires all setbacks to be paved entries, driveways or car parks or lawn and landscaping;
- Requires all buildings to have walls wholly (save for provision for windows, doors, fascias and gables) of brick, masonry, finished concrete or glass.
- Requires any goods stored on the land to be screened.
- Prohibits certain noxious or potentially noisy commercial or industrial uses.

The proposed metal cladding to the external walls would breach the covenant and would need to be deleted, or the covenant amended or deleted.

- 4.4 The land is generally flat with no discernible slope in any direction. Survey particulars show a minor rise of 0.15m from front to rear along the east side boundary, a rise of 0.5m front to rear along the west side, and a rise of 0.16m west to east across the frontage.
- 4.5 The land is developed with a circa 2001 two-storey concrete panel office / warehouse/industrial building occupied by Adshel signs.
- 4.6 The land has two existing vehicle crossings off its east and south street frontages.
- 4.7 Land surrounding the subject site is developed as follows:
- **North (rear):** One and two-storey office/warehouse/industrial buildings, the West Gate Freeway and municipal boundary with the City of Melbourne, and the FBURA Employment Precinct beyond.
  - **South (front) (Rocklea Drive):** One and two storey office/warehouse/ industrial buildings, and an overhead 275Kv power line and tower and further industrial buildings beyond.
- Three planning permits have been granted for medium rise mixed-use development to the south or south-east as follows:
- 320 Plummer Street (Cnr. Prohasky and Tarver Streets): 3, 12 and 15 level mixed-use building comprising retail and 536 dwellings.
  - 19 Salmon Street (Cnr. Plummer Street): Construct 135 x 3-4 level townhouses.
  - Lot 9A, 339 Williamstown Road: 10 level building comprising offices and seven dwellings;
  - Lots 10, 11, 12, 339 Williamstown Road: 12 level building comprising commercial tenancies and 50 dwellings.
- Two permit applications are pending to the south-east as follows:
- 365-391 Plummer Street (Cnr Salmon Street): Construct a mixed-use multi-storey building comprising three towers with retail, commercial and dwellings. Application for Review for failure to decide within 60 days.
  - **East (side) (Rocklea Drive):** One and two storey office/warehouse/ industrial buildings.
- One planning permit has have been granted to the east as follows:
- 101 Salmon Street: Construct a 12 level mixed-use building comprising retail and dwellings. This development has not started.



One permit application is pending to the north-east as follows:

- 112 Salmon Street: Construct a 12, 15 and 18 level mixed-use development. Considered by Council 02 August 2017. Application for Review for failure to decide within 60 days.
- **West (side):** One and two storey office/warehouse/ industrial buildings, and the freeway and freeway service centre and West Gate bridge beyond.

4.8 The nearest public transport is as follows:

- Bus Routes 235, 238 and 606 approx. 160m to the east along Salmon Street to the City, Port Melbourne and St Kilda.
- Bus Routes 232 and 253 approx. 600m to the south along Williamstown Road to the City and Western suburbs via the West Gate Freeway.

The nearest bicycle paths are along Salmon Street and Williamstown Road and adjacent to Todd Road.

4.9 The land is approximately 2.0km from the nearest activity centre on the Bay Street Port Melbourne, and approximately 3.3km from the South Melbourne Activity Centre including the South Melbourne Market.

4.10 Vehicle access to the Westgate Freeway is located approximately 1.2km from the site via Salmon, Plummer and Prohasky Streets.

**5. PERMIT TRIGGERS**

The zone and overlay controls, planning permit requirements and notice and appeal exemptions for the subject site and the proposal are as follows:

Planning Scheme Provision	Why is a planning permit required?
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<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 Accommodation (including a dwelling) if it does not meet the threshold distance from industrial and/or warehouse uses referred to in the Table to Clause 52.10. The land is proximate to warehouse and industrial uses and thus requires a permit under this clause.</p> <p>Pursuant to Clause 37.04-4 of the CCZ1 and Clause 3.0 of the Schedule to the CCZ1, a permit is required to construct a building or construct or carry out works in the Capital City Zone.</p> <p>Pursuant to Clause 37.04-4 of the CCZ1, and Clause 4.0 of Schedule 1 to the CCZ1, a permit and prior approval for the redevelopment of the site are required to demolish or remove a building or works.</p> <p>An application to:</p> <ul style="list-style-type: none"> <li>• Use land (other than for a nightclub, a tavern, a brothel or an adult sex bookshop);</li> <li>• Construct a building or construct or carry out works;</li> <li>• Demolish or remove a building or works; or</li> <li>• Erect or construct or carry out works for an advertising sign;</li> </ul> <p>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.</p> <p>Pursuant to Clause 6.0 of Schedule 1 to the CCZ1:  <i>Before a sensitive use (residential use, child care centre, pre-school centre, primary school, education centre or informal outdoor recreation) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, the developer must obtain either;</i></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 43.02 - Design and Development Overlay (DDO30)</b></p>	<p>The land is in Area A4 (18-storey max. height) of the DDO.</p> <p>Pursuant to Clause 43.02-2 of the DDO and Clause 2.0 of Schedule 30 to the DDO, a permit is required to construct a building or construct or carry out works in the Design and Development Overlay.</p> <p>An 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 the review rights of Section 82(1) of the Act.</p>





<p><b>Clause 45.06 - Development Contributions Plan Overlay (DCPO2)</b></p>	<p>Pursuant to Schedule 2 to the DCPO, a permit may be granted to subdivide land, construct a building or construct or carry out works before a precinct wide development contributions plan has been prepared to the satisfaction of the responsible authority if any of the following apply:</p> <ul style="list-style-type: none"> <li>• A site specific development contributions plan has been prepared by the developer to the satisfaction of the Minister for Planning;</li> <li>• An agreement under Section 173 of the Planning and Environment Act 1987 has been entered into with the responsible authority that makes provision for development contributions.</li> <li>• The permit contains a condition requiring an agreement under Section 173 of the Planning and Environment Act 1987 that makes provision for development contributions to be entered into before the commencement of development.</li> <li>• The permit allows for the construction of a building or construction or carrying out works for;             <ul style="list-style-type: none"> <li>- Additions or alterations to a single dwelling or development ancillary to use of land for a single dwelling.</li> <li>- A single dwelling on a lot</li> <li>- An existing use of land provided the gross floor of the existing use is not increased by more than 1000 square metres.</li> <li>- A sign.</li> </ul> </li> <li>• The permit only allows the consolidation of land or a boundary realignment.</li> </ul> <p>A 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 car parking spaces in excess of the rates specified in Table I of Schedule I to the Overlay.</p> <p>The proposed parking provision of two spaces for the three bedroom dwellings exceeds the maximum rate of one space per dwelling in the Table.</p> <p>A permit and notice are required under this clause.</p>
<p><b>Clause 52.10 - Uses with Adverse Amenity Potential</b></p>	<p>A planning permit is required to vary the threshold distances for use for Accommodation from industrial and/or warehouse uses referred to in the table to Clause 52.10.</p> <p>A permit is required under this clause.</p>
<p><b>Clause 52.06 - Car Parking</b></p>	<p>Car parking should meet the design requirements of Clause 52.06-8. A permit may be granted to vary any dimension or requirement of Clause 52.06-8 (Design standards for car parking).</p> <p>A permit is required under this clause.</p>
<p><b>Clause 52.07 Loading and Unloading Of Vehicles</b></p>	<p>A permit is required to waive or vary the loading bay requirements associated with buildings and works for the sale of goods.</p> <p>A permit is 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.</p> <p>A planning permit is required to vary, reduce or waive any bicycle facilities requirement of Clause 52.34-3 and Clause 52.34-4.</p> <p>A permit is required under this clause.</p>



<p><b>Clause 52.35 - Urban Context report and Design response for residential development of five or more storeys</b></p>	<p>An application for a residential development of five or more storeys must be accompanied by:</p> <ul style="list-style-type: none"> <li>• An urban context report.</li> <li>• A design response.</li> </ul>
<p><b>Clause 52.36 Integrated Public Transport Planning</b></p>	<p>An application for a development including 60 or more dwellings is required to be referred to Public Transport Victoria.</p>

**6. PLANNING SCHEME PROVISIONS**

**6.1 State Planning Policy Frameworks (SPPF)**

Provisions of the SPPF of particular relevance to the application include:

Clause 9: Plan Melbourne.

Clause 11: Settlement, inc. 11.02 Urban Growth, and 11.04 Metropolitan Melbourne.

Clause 13: Environmental Risks inc. 13.01: Climate change impacts, 13.02: Floodplains, and 13.04: Noise and air.

Clause 15: Built Environment and Heritage inc. 15.01-1: Urban Design, 15.01-2: Urban design principles, 15.01-3: Neighbourhood and subdivision design, 15.02: Sustainable Design and 15.03: Heritage, inc. Aboriginal cultural heritage.

Clause 15.01-2 requires planning must consider as relevant, the *Urban Design Guidelines for Victoria* (Department of Environment, Land, Water and Planning, 2017), *Apartment Design Guidelines for Victoria* (Department of Environment, Land, Water and Planning, 2017), and the *Urban Design Charter for Victoria* (Department of Planning and Community Development, 2009).

Clause 16: Housing inc. 16.01-4: Housing diversity and 16.01-5: Housing affordability.

Clause 17: Economic Development.

Clause 18: Transport.

Clause 19: Infrastructure.

**6.2 Local Planning Policy Framework (LPPF)**

The Municipal Strategic Statement (MSS) contains a number of clauses that are relevant to these applications as follows:

Clause 21.03 Ecologically Sustainable Development, including Clause 21.03-1: Environmentally Sustainable Land Use and Development and Clause 21.03-2: Sustainable Transport

Clause 21.04: Land Use

Clause 21.05 Built Form, including Clause 21.05-2: Urban Structure and Character, Clause 21.05-3: Urban Design and the Public Realm and Clause 21.05-4: Physical Infrastructure



Clause 21.06 Neighbourhoods, including Clause 21.06-8: Fisherman's Bend Urban Renewal Area

The following clauses of the LPPF are also relevant:

Clause 22.12 Stormwater Management (Water Sensitive Urban Design)

Clause 22.13 Environmentally Sustainable Development

Clause 22.15 Employment and Dwelling Diversity within the Fishermans Bend Urban Renewal Area

### 6.3 Other relevant provisions

#### Fishermans Bend Strategic Framework Plan (September 2016)

6.3.1 The *Fishermans Bend Strategic Framework Plan* July 2014 (Amended September 2016) (FBSFP) is an incorporated document in and pursuant to Clause 81 and the Schedule to Clause 81.01 of the Planning Scheme.

Any decision within the FBURA must have regard to the Framework Plan including the Design Guidance provisions.

#### Fishermans Bend Framework – Draft for Consultation (October 2017)

6.3.2 On 21 October 2017, a draft revised Framework Plan was released by the State Government for consultation.

6.3.3 On 31 October 2017, associated draft Planning Scheme policy, zone, overlay and general provisions for Fishermans Bend were released.

6.3.4 The Framework Plan is discussed at Section 8 of this report.

### 6.4 Relevant Planning Scheme Amendments

**Amendments GC50 and GC59** effective 14 and 29 November 2016 respectively, changed the Planning Scheme to include:

- New Local Planning Policy, Clause 22.15 *Employment and Dwelling Diversity within the Fishermans Bend Urban Renewal Area* encouraging large developments to prepare a master plan, include at least 30% of dwellings as 3-bedroom dwellings, and allocate at least 6% of dwellings as affordable housing, and for developments to provide for non-residential uses.
- A new Design and Development Overlay, Schedule DDO30, which specifies mandatory maximum street wall and tower heights, and mandatory minimum tower street, side and rear boundary setbacks and tower separation distances.

The requirements of the overlay apply until 31 March 2018.

**Amendment VCI36** effective 13 April 2017 introduced new Clause 58 Apartment Developments provisions for application to construct or extend an apartment development, or to construct or extend a dwelling in or forming part of an apartment development.

Pursuant to the transitional provisions of the Capital City Zone, Clause 58 does not apply to this application because it was lodged on 28 February 2017, before the approval date of the amendment.



The proposal needs to be assessed against the Design Guidance of the Fishermans Bend Strategic Framework Plan (September 2016).

**Amendment VCI39** effective 29 August 2017 introduced the Urban Design Guidelines for Victoria (Department of Environment, Land, Water and Planning, 2017) as a reference document in Clauses 11 and 15 of the SPPF, and the Apartment Design Guidelines (Department of Environment, Land, Water and Planning, 2017) as a reference document in Clauses 11, 15 and 16 of the SPPF, (replacing the Guidelines for Higher Density Residential Development [DSE 2004], Activity Centre Design Guidelines [DSE 2005] and Safer Design Guidelines for Victoria [DSE 2005]).

## 7. PUBLIC NOTIFICATION / OBJECTIONS AND REFERRALS

### 7.1 Notice of application

Council is not required to give notice of Department applications.

DELWP is responsible for the giving of notice.

Notice is required to be given for:

- The proposal to provide car parking spaces in excess of the rates specified in Table 1 of Schedule 1 to the Overlay (i.e. two car spaces to the three-bedroom dwellings).

Notice is not required for:

- The proposal to demolish or remove a building or works, construct a building or carry out works in the Capital City Zone and the Design and Development Overlay; and
- The proposed use of the land for Accommodation (dwellings);

as they are exempt from the notice requirements of S52(1)(a), (b) and (d), the decision requirements of S64(1), (2) and (3) and the review rights of S82(1) of the Act.

Pursuant to S52.(1)(c) of the Act and the Schedule to Clause 66.06 of the Planning Scheme, Notice of the application must be given to the Secretary, Department of Environment, Land, Water and Planning.

### 7.2 Objections

DELWP is yet to give notice.

### 7.3 Internal referrals

The application was internally referred. A summary of the responses is as follows:

#### 7.3.1 Traffic/Transport Matters

##### Parking Layout and Access Arrangements

- Access to off-street parking via proposed crossover is considered satisfactory.
- Car space dimensions of 2.6m x 4.9m via a 6.4m aisle are considered satisfactory.
- Proposed 38 parking spaces within 19 Wohn Parklift 450 systems provide a clear platform width of at least 2.4m and length of 5.3m. This is considered acceptable.
- **At least 25% of car stacker spaces should provide a height clearance of at least 1.8m in accordance with the planning scheme.**
- Need a swept path assessment for the parallel parking space located on the ground floor mezzanine. **If unable to provide suitable access for a B85, it is recommended providing as a tandem space.**



- Proposed tandem spaces on L1 podium (storey 02) shown as 9.8m long. Clause 52.06 of planning scheme requires 500mm between tandem spaces, which would require a total length of at least 10.3m. **Please update plans to show at least 4.9m for each space and an additional 500mm clearance between each space.**
- Vehicles can satisfactorily enter/exit the site in a forwards direction.
- Ramp Grades and transition changes are considered acceptable.
- **Please ensure minimum height clearance of 2.1m is provided above all parking spaces in accordance with Clause 52.06 of the planning scheme.**
- Access ways at the entrance are considered acceptable.

#### Parking Overlay and Parking Provisions

- FBURA target rate is 0.5 spaces/dwelling and maximum 1 space/100m<sup>2</sup> for retail.
- Proposed 179 resident parking spaces equates to 0.80 spaces/dwelling. This is considered high and not in line with the FBURA target rate. **It is recommended reducing the level of off-street parking for residents.**
- Two spaces for retail staff is in line with FBURA rates and is considered acceptable.

#### Traffic Generation

- Note traffic generation assumptions of 13 inbound and 33 outbound movements during AM peak and 31 inbound and 15 outbound movements during PM peak.
- Total traffic generation of 46 movements for entry and exit volumes during peak hours is considered satisfactory.
- SIDRA intersection analysis indicates the nearby critical intersection will operate in a satisfactory manner post development of the site.
- **Please note 0.25 trips per car space has been used. No cumulative trip generation for other developments have been considered.**

#### Pedestrian Sightlines

- Concern with lack of visibility of pedestrians on LH side of driveway exit. **Need pedestrian sight triangles in accordance with Clause 52.06 at the exit of the off-street car park to Rocklea Drive.**

#### Provisions for Loading & Waste Collection

- One loading dock has been provided within the car park. Swept path diagrams demonstrate access for an 8.8m vehicle. Loading dock is considered satisfactory.

#### Provisions for Bike Parking

- FBURA target rate for the provision of residential bicycle parking is 1 space/dwelling.
- Proposed = 48 residential/staff and 22 visitor bike spaces equates to 0.21 spaces/dwelling. This is considered very low and not in line with the FBURA target rate. **The level of bicycle parking on-site for residents should be increased. Note Aust Std requires min. 20% horizontal ground level spaces (not wall mounted).**
- Majority of resident/visitor bicycle parking spaces are proposed within a secure room (which is preferred), however, direct access to the car park and street has not been provided in the form of a clear 1.5m access aisle due to the reduced door widths (recommended widening doors to at least 1.5m) and location of parking space No. 21. **Plans should be amended to show a clear 1.5m access aisle to/from bicycle parking with direct access to the street and carpark.**
- The plans indicate a number of bicycle spaces for resident/visitor use. **Can the applicant please provide additional information in regards to the type of**



**bicycle spaces intended. Also update plans to show width, length and clear access aisle dimensions. Note bicycle parking must be provided in accordance with Australian Standards.**

### 7.3.2 Urban Design

#### Built Form

- *Height, form & mass*
  - Podium and tower built form typology consistent with interim Fishermans Bend controls. This includes height of the podium and the number of levels proposed for the tower, however the number of levels proposed for the podium exceeds the permissible level by one storey. It is unclear what the floor to ceiling heights will be in the podium apartments. Support for the additional level is contingent on reaching an agreed outcome with Council on the minimum floor to ceiling heights required to provide an acceptable level of amenity.
  - Built form mass is characterised by:
    1. Podium generally built to the boundary for first four levels (Ground to Level 01 Podium Mezzanine), excluding setback to the south east corner.
    2. Levels five to six (Level 02 Podium to Level 02 Podium Mezzanine), the depth of the podium is reduced to accommodate residential use, creating a podium deck for communal use to the rear of the site. The building mass increases in depth at the corner (adjacent the core) creating very deep floor plates and a poor outcome for the internalised communal spaces.
    3. At the Rocklea Drive interface, the podium creates a strong built form edge and is divided into three segments which are separated by strong vertical recesses.
    4. The proposed tower in plan addresses the SE corner in its form and location. The tower incorporates deep, continuous vertical recesses to break each face of the tower into thinner vertical segments.
  - The general approach to the location of the tower, articulation of the mass of the podium and tower are supported. However, the applicant should consider incorporating vertical recesses where the podium meets the adjoining side boundaries to continue the design language at the edges of the site and provide a successful transition to neighbouring properties if they develop in the future.
- *Setbacks, tower separation*
  - The proposed built form complies with setback and tower separation requirements in the interim controls.
- *Impact on views from adjoining area*
  - The tower will be clearly visible from the surrounding area. The applicant should provide views of the building from the West Gate Freeway and Salmon Street Bridge to illustrate the impact of views on the surrounding area and the design of the tower when viewed from the west.

#### Public realm & ground floor

- *Minimising pedestrian and vehicular conflict*
  - The vehicular access in the SW corner and proposed location of the sub-station to the NE are supported.
  - The applicant should improve access to the bicycle storage area from the car park





by widening the path between the car space and bicycle storage door.

- *Legibility and access to entry and lobby areas*
  - The recess above the podium entrance provides a clearly legible building entry and is supported.
  - Direct access from Rocklea Drive into the SoHo apartments is supported, however, the applicant should provide level (i.e. step free) access from the lift lobby to all apartment entries.
- *Ground floor activation*
  - Sleeving of the car park and loading area with apartments facing onto Rocklea Drive, and double height glazing to the proposed retail spaces adjacent the entry are supported.
  - The landscape plan for the SE corner proposes to mitigate wind impacts at the ground level with trees, however, it is unclear if this treatment will support the outdoor dining proposed at street level. The applicant should confirm how the proposed wind mitigation measures will impact the proposed street dining at the ground level entrance.
- *Landscape and open space requirements*
  - The proposed park to the south east corner of the site is supported. However, it is not clear which of the existing trees are to be retained/ removed. The applicant should confirm plans for tree retention and removal and justify proposed removal.
- *Laneway and servicing*
  - On site waste collection is supported.
  - The applicant should consider providing compost facilities on site to reduce waste, waste storage and collection.
- *Compliance with CoPP Design & Tech Standards*
  - The approach to integrate the material treatment of the development with the public realm is supported and the applicant is encouraged to comply with Council's Draft Design & Tech Standards.

Façade treatment & detail

- *Podium, tower and crown detailing*
  - The change in façade treatment differentiating the more transparent ground floor (levels 1 & 2) from the two levels above (levels 3-6) provides a successful demarcation at the street scale between the ground floor and upper podium levels.
  - The inclusion of apartment entries and balconies at street level would activate the façade and introduce a finer grain into the façade treatment. The proposed setback at ground level is supported and provides a defensible space for the apartment entries, however the drawings and 3D views do not clearly articulate the treatment of the ground level interface. The applicant should provide further information to demonstrate the degree of privacy/activation achieved.
  - The approach to the tower façade treatment is supported including the use of vertical recesses of varying width and depth to articulate corners and accentuate the verticality of the façade treatment. The curved masonry walls soften the edges of the tower and terminate in the roof capping or crown of the building.





- While the acoustic report recommends material treatment of the façade to address noise issues from the adjacent West Gate Freeway, the applicant should consider how the balcony space and natural ventilation can be provided without compromising the acoustic ratings specified for apartments.
- *Materials and reflectivity*
  - The podium provides a good balance between solid/masonry and transparent and translucent materials. The use of integrally coloured white concrete, powder coated black metal balustrades and silver wire mesh is supported. The lighter colour palette will improve daylight amenity inside the building. The use of pewter silver glazing is questionable from a reflectivity and façade activation point of view. The applicant should demonstrate the degree of transparency and reflectivity in the pewter silver glazing.
  - The use of white textured concrete panels in the tower is supported. The applicant should consider how to integrate openings into the textured pattern (as illustrated in the precedent image in the Urban Context Report) to introduce cross ventilation into the apartments.

#### Amenity

- *Outlook and access to daylight*
  - The applicant should improve the amenity of the communal facilities by removing the five apartments located to the west of the communal spaces and providing an external wall with glazing and outdoor space to improve daylight, outlook, natural ventilation and flexibility of the communal spaces.
  - The podium is comprised of narrow, single aspect apartments accessed from a central corridor. Each apartment comprises two levels accessed via an internal stair. The applicant should consider widening these apartments to a minimum of 4.0m to improve amenity (daylight and functionality) and support the adaptability of these spaces such as the proposed SOHO apartments at ground level. In addition, the applicant should diversify the apartment offer by increasing the number of bedrooms from one to two.
  - Bedrooms to podium level apartments do not have direct access to external windows for natural ventilation. The applicant should revise the floor plans to provide windows to external walls.
- *Private open spaces*
  - Private open space is to comply with the Better Apartments Standards.
- *Communal open spaces*
  - The general approach to the landscape design is supported, however, the applicant should consider providing a compost area for residents; relocating the herb and vegetable garden to a location where it will receive more sunlight (north end of the podium deck); and provide more of a balance between passive and active recreational activities.
  - The approach to planting is also supported, however the applicant should carefully address wind in their choice and location of plants.
  - The landscape design is also to address planting proposed in the proposed corridor recesses.



Other (ie; apartment sizes, bicycle storage):

- The inclusion of more three bedroom apartments is supported.

**7.3.3 Waste Management**

- Residential and commercial bin storage (including hard waste storage for each) should not be shared and need to be separated. Residents need to be able to access bins for larger waste items and drop off hard waste without coming into contact with the commercial businesses.
- There is insufficient space for hard waste storage.
- The plans and WMP should show one or more on-site charity bins.
- The retail waste estimates are much higher than necessary.
- The thrice weekly commercial waste collection is likely higher than necessary; 1 x 1100L is likely to be enough.
- There is an inconsistency in the size of the waste collection vehicle proposed to be used between the WMP (6.4m long x 2.1m high) and the Traffic Report (8.8m long x 2.5 wide and unknown height). Need to know the vehicle height to confirm clearance of vehicle entering and exiting site and manoeuvring within the car park (noting the loading bay swept paths show truck reversing path would encroach onto the internal ramp).
- The Traffic Report swept path for a Waste Vehicle is marginal; a chamfer may be appropriate to the south-west corner. Concerned truck movements will block all car entry /exit during reversing manoeuvres.

**7.3.4 Subdivision Officer**

Question mezzanines. They would be considered as separate levels in a plan of subdivision.

Note covenant on title restricts materials and construction within setbacks, and the substation is controlled by a lease and caveat.

**7.3.5 Community Health & Service Planning**

The site is located outside of (albeit a short distance from) the proposed commercial centre of Wirraway.

The subject site is not specifically identified for the delivery of community infrastructure.

**7.3.6 Open Space and Recreation**

Note applicant is proposing to undertake streetscape works within the property boundary in consultation with Council officers to ensure it is consistent with Council's streetscape works.

The plans do not detail existing trees on or adjacent to the site which are proposed to be removed. Removal of any street tree would require Council consent and a tree valuation in accordance with Council's *Greening Port Phillip – An Urban Forest Approach 2010*.

**7.3.7 Housing Officer**

This application does not address the affordable housing provision under section 22.15 of the PPPS. To meet the intent of the provision, the following should apply:

- There must be 6% community housing. Based on the 224 dwellings, that equates to



13.4 community housing dwellings.

- These can be largely 1 bedroom but say up to 5 dwellings should be 2 and 3 bed to enable family housing.
- Suitable priority target groups are older persons, in particular older single women; low income families, including larger families, and low income wage earners / key workers.
- Dwellings should be tenure blind
- Community housing dwellings to be transferred to a housing trust to the satisfaction of the RA and Council, for the Trust to arrange management by a registered Housing Association or Housing Provider to the satisfaction of the RA and Council (ie. not the developer's responsibility to identify and arrange that).
- 1 bicycle space must be allocated / community housing dwelling

### 7.3.8 Sustainable Design

The proposal as it stands requires clarification and further detail before it would be supported.

#### General Comments

Green Star standard: The SMP notes a five star Green Star standard is “considered achievable”. The application should include a clear commitment to attain the standard and provide a description of what is to be provided for each point to be claimed.

If the project is not to be registered with the GBCA, consideration should be given to a commitment to an appropriately qualified and experienced, independent person certifying the credits claimed.

Roof level: Limited plan details provided. Plans show photovoltaic panels. Potential to add solar hot water panels, a communal garden, green waste, and clothes drying areas.

Terrace design: Outdoor terrace design should: provide wind sheltered outdoor areas with exposure to as much mid-winter sun between 9am and 3pm as possible (many apartments virtually no direct sunlight); shade (trellis or other devices to provide shade in warmer months and reduce Urban Heat Island effect); incorporate indigenous species, food production and enhance biodiversity.

Compost: provide compost/worm farm facility for resident composting of green waste.

#### Management

Building users guide: Consider providing a building users guide for residents and owners' corporation, inc. green living information inc. real-time utility usage, recycling options beyond conventional waste streams, and green travel information, inc. real-time public transport information.

#### Indoor Environment Quality

Ventilation of communal areas: Need details of how corridors on each level would achieve FBSFP Obj 7.4 Std 4 to naturally ventilate communal areas, including removal of hot air at night in commercial buildings.

Apartment ventilation: Need details: Council's Best Practice Standard is for dwellings to be naturally ventilated, via operable windows doors etc., cross ventilation, single-sided ventilation or a combination.

Daylight: Plans do not detail how adequate daylight would be provided. Need details of:

Apartment daylight levels: Dwellings should achieve a min. daylight factor of 1% for 90% of the floor area in each living area inc. kitchens, and a min. daylight factor of 0.5% for



90% of the floor area for each bedroom.

Non-residential daylight levels: Non-residential uses should achieve a daylight factor of at least 2.0% for at least 30% of the floor area of regularly occupied primary spaces.

Sun access: Living areas and private open spaces of at least 70% of apartments should receive min. three hours direct sunlight between 9am and 3pm in mid-winter (Council Best Practice and FBSFP Obj 7.4 Std 2). The proposed building achieves only 55%.

Skylights: Encourage inclusion of small insulated skylights to bathrooms on the top floor to reduce the need for artificial lighting.

Double glazing: Encourage use of double glazing to manage heat loss and external noise.

### **Energy**

Electrical appliances: Consider 5 star rated cooling system rather than the proposed 4 star rated system.

Clothes drying: Consider provision of external natural clothes drying facilities in individual apartment courtyards/balconies/terraces OR in the apartment utility rooms OR in a communal facility.

General energy efficiency: Recommend the proposal achieve an energy efficiency standard at least 10% above minimum NCC compliance.

NatHERS performance: The application should provide a preliminary NatHERS assessment of sample units or provide information on how energy efficiency requirements will be achieved.

Carpark ventilation: The car park design should allow for natural ventilation, and/or low energy use mechanical optimisation (e.g. such as utilisation jet-fans to minimise ductwork, and energy usage) or a mix of these.

Optimise glazed areas: Concerned with the extent of full-height glazed walls without adequate measures to control solar heat loads entering room. Need details of glazing specification, or consider reduce the window to wall ratios (WWR).

Shading: All glazed façades should incorporate shading relative to their orientations respective to increase thermal comfort and energy efficiency, Refer: FBSFP Obj 7.4 Std 2 for developments to provide external shading to facades to reduce summer heat loads and Council's Best Practice Standard for external shading devices to allow winter sun, while blocking summer solar heat gains.

Photovoltaics: Plans should show more details of the position and generation capacity of photovoltaic panels. Application should consider adoption of solar hot water heating or pre-heating.

### **Water**

Water Efficient Landscaping: Consider water efficient species choices for landscaping.

Plans should show the size and location of any fire safety system water re-use tank, and include a notation that test water is to be reused for toilet flushing.

### **Stormwater**

Rainwater capture: The plans should show the location and capacity of rainwater tanks, the size and location of raingardens, and include notations that captured water will be reused for toilet flushing and irrigation.

### **Transport**

Bicycle parking: Visitor parking spaces should be adjacent to pedestrian entry points to



rather than far corners of the site.

Car share parking: The plans should nominate the location of car share parking on site.

Low emission vehicles: The proposal / plans should incorporate bike and car electrical charging bays.

**Waste**

Operational waste: Application and plans should provide additional details of waste management including details of Other Waste Streams (hard/electronic/liquid/polystyrene, batteries, paint, chemicals and detox items, etc), Food & Garden Waste and Green Waste.

**Urban ecology**

Urban Heat Island Effect: Encourage use of lighter colour roofing and/or paving to reduce UHI Effect..

Vegetation: Encourage landscaping that serves the amenity and environmental performance of the development.

**7.4 External referrals**

Council is not required to externally refer Department applications.

Officers note the application is required to be referred as follows:

**Director of Public Transport** - Clause 52.36 - S55 of the Act  
 An application to ... construct a building or construct or carry out works for ... A residential development comprising 60 or more dwellings or lots ...

**8. OFFICER'S ASSESSMENT**

**8.1 Strategic Context**

**Fishermans Bend Strategic Framework Plan (September 2016)**

8.1.1 The *Fishermans Bend Strategic Framework Plan* July 2014 (Amended September 2016) (FBSFP):

- States *Development in Wirraway must respond to the neighbourhood vision that seeks to create a family friendly inner city neighbourhood close to the Bay and Westgate Park (Obj 1.1, Std 5)*;
- Does not identify the subject site for a particular use;
- Notes Rocklea Drive along the east side of the site as an existing local street;
- Includes the rear of the land in the Westgate Interface Buffer, relative to noise impacts from (primarily freight) traffic on the Westgate Freeway.

The Westgate Interface Buffer does not prohibit the development and use of land for accommodation / dwellings. The Framework Plan notes the buffer seeks '.... to protect freight operations in Fishermans Bend, as well as ensure new development provided appropriate amenity for the new community'.

**Fishermans Bend Draft Framework (October 2017)**

8.1.2 On 21 October 2017, a draft revised Fishermans Bend Framework was released by the State Government for consultation.

On 31 October 2017, associated draft Planning Scheme policy, zone, overlay



and general provisions for Fishermans Bend were released.

8.1.3 Submissions regarding the draft Framework and Planning Scheme provisions can be made up to 15 December 2017, after which they and the Framework will be reviewed by an independent Panel.

8.1.4 The draft Framework Plan:

- Continues to:

- Not identify the subject site for any specific use.
- Include the land in a freight and logistics buffer (relative to freight traffic on Williamstown Road, Prohasky Street and Lorimer Street, including freight traffic to and from the Port of Melbourne [Webb Dock]).
- Notes Rocklea Drive as a local street.

- Proposes:

- The subject site designated as part of a potential future elevated freight route road / rail corridor from Webb Dock to the south-west to Swanson/Appleton Docks and Dynon Freight Terminal and the State rail network to the north (via an alignment generally along the south side of the freeway till Thackray Road, and then generally parallel to the west side of the Bolte Bridge across the Yarra River).
- Including the site in the Wirraway mixed use medium Non-Core activity precinct.
- Deletion of the existing mandatory 18 storey height limit and replacement with a preferred building height control of six storeys.
- Introduction of a Floor Area Ratio (FAR) control of 2.1:1 (current application FAR = 5.66:1).
- Introduction of a Floor Area Uplift (FAU) control requiring developments to provide affordable housing or community infrastructure or public open space (or a mix of these) in return for development exceeding the FAR (generally up to the preferred maximum height)
- Designation of Rocklea Drive along the east side of the site as a part on-road, and part off-road cycling path;
- Construction of a pedestrian and bicycle bridge extension of Rocklea Drive to the north over the freeway.
- Recognition of Salmon Street as an existing bus route and designation as a strategic cycling corridor.
- Recognition of Williamstown Road as an existing on-street cycling route and Todd Road as including an existing off-road cycling path.
- Designation of Plummer Street as a proposed tram route and potential Metro alignment (with a possible station at the corner of Salmon and Plummer Streets).
- Possible undergrounding of the high voltage overhead power line to the south.



- 8.15 Draft Planning Scheme provisions include:
- Municipal Strategic Statement (MSS) encouragement of mid-rise (6 storey) development in the Wirraway Precinct non-core area.
  - MSS encouragement of a preferred character for the site and surrounds of generally mid-rise developments with potential for commercial uses, including campus style developments and smaller scale commercial spaces that support creative industries; Provision of private and communal open spaces within developments with good access to sunlight to provide high levels of amenity for residents and workers.
  - Local Planning Policy Framework (LPPF) encouragement for minimum non-residential floor area ratio of 1.9:1 (i.e. 6,013.5m<sup>2</sup>) (current application non-residential FAR = 0.13:1 (i.e. 440m<sup>2</sup>).
  - LPPF encouragement of a maximum dwelling density in the Wirraway non-core area of 131 dwellings/hectare (current application = 707 dwellings/ha.).
  - Maximum street wall (podium) heights of four storeys/15.4m, six storeys/23m or eight storeys/30m for streets of up to 12, 22 or more than 22 metres width.
  - Varying setbacks above the street for walls with or without habitable rooms.
  - Controls to prevent overshadowing of existing and proposed open space;
- 8.16 The draft framework and planning scheme provisions have no force or effect at this time.
- 8.17 It is estimated the new framework and controls will not be resolved or implement before circa mid-2018.

#### **Fishermans Bend Vision September 2016**

- 8.1.8 The Fishermans Bend September 2016 sets out the State Governments ambitions for the whole of the FBURA and the individual precincts. The vision for the Wirraway precinct is:
- A family friendly inner city neighbourhood close to the bay and Westgate Park, with:
    - Small parks, plaza and playgrounds throughout the neighbourhood linked by leafy streets lined with different types of shops, businesses and homes;
    - A choice of diverse housing including small to medium scale apartment buildings;
    - Residential developments incorporating intimate scaled green spaces where people can meet, gather and relax;
    - Contemporary architecture which sensitively references the area's cultural and industrial heritage; and
    - Higher densities around the intersection of Plummer and Salmon Street.

The proposal would be inconsistent with the above dot points.

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





- 8.1.9 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 diversity.
- 8.1.10 An assessment of the proposal against the local policy is as follows:

Policy Measure	Officer Assessment
<p><b>Dwelling Diversity and Affordable Housing</b>                      Encourage development on sites greater than 3,000m<sup>2</sup>, proposing more than 300 dwellings or proposing more than 1 building, to prepare a master plan for the whole site that includes provision for:                      Publicly accessible spaces that accommodate local passive recreation that are consistent with the Open Space Key Element of the Strategic Framework Plan;                      Diversity of land uses, including non-residential floor space (see 'Employment');                      Diversity of dwelling types and sizes, including an affordable housing component; and                      Diversity of built form typologies, including low and medium rise buildings.</p>	<p><b>Achieved in part</b> - The site has an area of 3,165m<sup>2</sup> approx. is proposing 228 dwellings, in two podiums and six towers. The application documents includes a plan of the whole site showing provision for:                      ○ A mix of SoHo, one, two and three bedroom dwellings.                      The plan does not show provision for:                      ○ A publicly accessible space for local passive recreation consistent in part with the Open Space Key Element of the Strategic Framework Plan;                      ○ Diversity of land uses: &gt;98% of the floor area is residential; &lt; 2% of the floor area is non-residential.                      ○ An affordable housing component.                      ○ Diversity of built form typologies: Only a podium and tower typology is proposed. No low-rise buildings are proposed.</p>
<p>Encourage all new development that proposes accommodation uses and is over 12-storeys in height should provide at least 30% of dwellings as 3-bedroom units.</p>	<p><b>Not achieved - Condition required</b> - Proposal provides 12% of dwellings as 3-bedroom units.                      The Urban Context Report proposes that 1 x 1BR and 1 x 2BR dwelling on Levels 3 and 12 to 17 (7 levels = 7 x 3BR), and 3 x 1BR and 3 x 2BR dwellings on Levels 4 to 11 (8 levels = 24 x 3BR) could be amalgamated to create up to 31 additional 3BR dwellings in response to market demand.                      This would reduce the number of dwellings from 224 to 193 and change the dwelling mix from:                      •<b>224:</b> 131 x 1BR (58.5%), 66 x 2BR (29.5%), 27 x 3BR (12%); to:                      •<b>193:</b> 100 x 1BR (51.8%), 35 x 2BR (18.2%), 58 x 3BR (30%).                      Any such arrangement would need to be confirmed by a condition of any approval that may issue for the proposal.</p>
<p>Encourage all new development that proposes accommodation uses and is over 12 storeys in height, to allocate at least 6% of dwellings as affordable housing to a registered housing association or provider.</p>	<p><b>Not achieved</b> - No affordable housing proposed.</p>



<p><b>Employment</b> Encourage all development to provide opportunities for street level home occupation and non-residential use.</p>	<p><b>Achieved in part</b> - Street level SoHo offices and dwellings and two retail tenancies proposed facing Rocklea Drive. A variation is supported because the site is not on a main road or in an area designated in the strategy plan as a preferred area for retail or commercial use.</p>
<p>Encourage all development over 40 metres in height within the Montague neighbourhood to provide a minimum amount of non-residential floor space equivalent to at least 15% of total habitable gross floor area.</p>	<p><b>Not applicable</b> - Site is not in the Montague Precinct. <b>Note:</b> Proposed approx. 440m<sup>2</sup> non-residential floor space = 2.45% of total habitable gross floor area.</p>
<p>Encourage all development on sites along Normanby Road, Williamstown Road, Fennell Street, Plummer Street, Buckhurst Street, Ingles Street, Montague Street and Salmon Street should provide non-residential uses along at least 60% of the ground level street frontage.</p>	<p><b>Not applicable</b> - Site is not on one of the designated roads.</p>

**8.2 Building Height and Setbacks**

Podium

- 8.2.1 Schedule 30 to the DDO limits podium street wall height to 20m or 5 storeys, whichever is the lesser.
- 8.2.2 Objective 3.1, Standard 2 of the SFP Design Guidance (Sep 2016) encourages a degree of parapet / wall height variation along streets, especially on large sites, albeit generally no lower than four storeys.
- 8.2.3 The proposed 20.0m and ostensibly three-storey height of the podium would not exceed the permissible maximum height of the DDO, but would be inconsistent with the design guidance standards for a podium to generally be no lower than four storeys and uniform in height across the whole of the street frontages.
- 8.2.4 The three podium levels feature floor to floor heights of 6.1m, 6.1m and 7.1m, which are approximately twice the typical residential floor to floor height of 3.0m. Each of the three levels incorporates an additional level marked as a 'mezzanine' level on the various plans.
- 8.2.5 The Planning Scheme defines a Storey as (Officer emphasis added) 'That part of a building between floor levels. If there is no floor above, it is the part between the floor level and ceiling. It may include an attic, basement, built over car parking area, and mezzanine.'
- 8.2.6 Mezzanine is not defined in the Planning Scheme or the *Planning and Environment Act*, and so reference must be made to its common meaning from the Dictionary as follows:
  - The Macquarie Dictionary: 'A low storey between two other storeys of greater height, esp. when the low storey and the one beneath it form part of one composition.'
  - The Concise Oxford Dictionary: 'A low storey between two others, typically between the ground and first floors.'



- Merriam-Webster Dictionary: ‘A low-ceilinged storey between two main storeys of a building; especially: an intermediate storey that projects in the form of a balcony.’

8.2.7 The dictionary definitions present a problem in that they all refer to a mezzanine as a storey, and the height controls limit the number of storeys in the podium to five and 18 overall. A reading of the plans relying on the three definitions above must conclude that the podium comprises six levels and would not comply with the mandatory height limit and at least one level needs to be deleted.

This could be provided for by a condition of any approval that may issue for the proposal.

#### Tower

8.2.8 Schedule 30 to the DDO limits the overall height of the building to 18 storeys.

8.2.9 Fifteen levels of tower are proposed above the six storey podium, resulting in a 21 storey building overall. Three levels need to be deleted to bring the building into compliance with the mandatory height limits.

This could be provided for by a condition of any approval that may issue for the proposal.

#### **Setbacks:**

#### Podium

8.2.10 Schedule 30 to the DDO does not specify a minimum setback for podium street walls (or side or rear boundaries), or define street wall, although it is generally accepted that street wall refers to a wall built to or very close to a street boundary.

8.2.11 Podium setbacks are proposed to be:

- **North (rear):** 0.0m.
- **South (Rocklea Drive):** Min. 1.75m at Ground and 0.0m at First and Second levels,
- **East (Rocklea Drive):** Min. 1.75m at Ground and 0.0m at First and Second levels
- **West (Side):** 0.0m.

### **8.3 Dwelling Layout, Amenity and Diversity.**

8.3.1 All podium retail and office tenancies and dwellings would be single aspect and would face the southern (front) or eastern (side) alignments of Rocklea Drive, and from Level 02 upwards the north (rear) and west (side) boundaries (generally facing the freeway).

8.3.2 The tower apartments are proposed to be a mixture of single and dual (corner) aspect, facing north, south, east and west.

8.3.3 Dwelling floor areas and terrace open space areas range from:

- 35m<sup>2</sup> floor area + 7m<sup>2</sup> open space for six ground / ‘mezzanine’ floor level



Café/SoHo one bedroom, type dwellings (with associated commercial tenancies of 40m<sup>2</sup>);

- 75m<sup>2</sup> floor area + 7m<sup>2</sup> open space for four ground / 'mezzanine' floor one bedroom, town house type dwellings;
- 78m<sup>2</sup> floor area + 9m<sup>2</sup> open space for one ground / 'mezzanine' floor one bedroom, town house type dwelling;
- 50m<sup>2</sup> floor area + 6m<sup>2</sup> open space to 88m<sup>2</sup> floor area + 18 m<sup>2</sup> open space for one bedroom apartments (with most approx. 60m<sup>2</sup> + 6m<sup>2</sup>);
- 66m<sup>2</sup> floor area + 38m<sup>2</sup> open space to 120m<sup>2</sup> floor area + 35m<sup>2</sup> open space for two bedroom apartments (with most approx. 75m<sup>2</sup> + 7m<sup>2</sup>);
- 87m<sup>2</sup> floor area + 47m<sup>2</sup> open space to 107m<sup>2</sup> floor area + 10m<sup>2</sup> open space for three bedroom apartments (with most approx. 94m<sup>2</sup> + 8m<sup>2</sup>).

The six 35m<sup>2</sup> one bedroom café/SoHo dwellings, 66m<sup>2</sup> two bedroom dwellings and 87m<sup>2</sup> three bedroom dwelling floor areas and minimum 6m<sup>2</sup>, 7m<sup>2</sup> and 8m<sup>2</sup> open space areas for 1, 2 and 3BR dwellings respectively are considered undersized and should be increased.

An appropriate benchmark would be for the dwelling living and bedrooms and open space areas to demonstrate compliance with the on-site amenity and facilities and dwelling dimension provisions of Clauses 58.05 and 58.07 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 other dwelling and open space areas would be satisfactory.

The above changes could be provided for by a condition of any approval that may issue for the proposal.

- 8.3.4 Council's Sustainable Design Officer raised concerns with summer heat gain and winter heat loss from the extent of glazing and lack of external shading to dwelling facades. Further details of façade treatments and materials and/or external shading to north, east and west glazing as applicable is required.
- 8.3.5 The 'mezzanine' level bedrooms in the podium levels would be setback 3.0m from the street façade and would lack operable external windows for light and ventilation and would require mechanical ventilation.
- 8.3.6 The tower apartments would all have external windows and greater opportunity for natural light and ventilation; particularly the corner dual aspect dwellings.
- 8.3.7 The building proposes a range of resident communal amenities including a Cinema, Health Club, Yoga Room, Dining room, Garden lounge and outdoor communal landscaped terrace at Podium level 02, a resident lounge, library, business club and meeting room at Podium 'Mezzanine' Level 03, a further outdoor landscaped communal area at Podium Level 04 and a skyline pool, Jacuzzi, changes rooms, deck and landscaped outdoor area at roof top level.

The indoor and roof top facilities are considered satisfactory.



The podium roof top communal landscaped open space areas would be generally satisfactory, except for:

- The majority of the Level 02 open space would be partly overshadowed at 10.00am at the September equinox (clearing by approx. 12.15pm);
- The Level 03 open space would be fully overshadowed between 10.00am and 11.00am and partly overshadow till approximately 12.30pm at the September equinox.
- The wind study for the application did not test the wind conditions of the communal outdoor areas.

It is considered the level of shadow would be reasonable because the outdoor areas would receive full afternoon and evening sun.

A revised wind study should be carried out to test and if necessary, mitigate wind impacts on the outdoor areas to a satisfactory level (Refer also to Section 8.11 of this report).

- 8.3.8 The width of Rocklea Drive and minimum 10.0m setbacks of the tower would ensure satisfactory separation between existing and future buildings and would exceed the ResCode benchmark 9.0m overlooking measure between windows.
- 8.3.9 The subject site abuts a freeway and is proximate to the port and a number of industrial uses. Any approval should include a condition for all dwellings to incorporate noise attenuation methods in their construction to ensure reasonable internal amenity day and night. Noise issues are discussed further at Section 8.4 of this report.

**8.4 Noise**

Introduction

- 8.4.1 The subject site abuts the West Gate Freeway at the rear and is proximate to a number of industrial uses and the Port of Melbourne.
- 8.4.2 The Fishermans Bend Strategic Framework Plan includes the land in the *Westgate Interface Buffer*, relative to noise impacts from (primarily freight) traffic on the Westgate Freeway. The buffer does not prohibit the development and use of the land for dwellings, or specify the nature or measures of protection works.

Applicant’s Submission

- 8.4.3 The application documentation included an acoustic Assessment Report prepared by Acoustic Logic consultancy Pty Ltd.
- 8.4.4 The report stated the dominant noise source for the site is traffic noise from the West Gate Freeway and set out noise attenuation objectives for the proposal as follows:

Location	Required Internal Noise Level (Apt furnished and windows and doors close)	
	dB(A) <sub>Leq (15hr)</sub> (7am-10pm)	dB(A) <sub>Leq 9hr</sub> (10pm-7am)
<b>Bedrooms</b>	-	35-40



<b>Living rooms</b>	35-45	N/A
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8.4.5 The report recommended construction techniques and materials to achieve the noise attenuation objectives within the above ranges.

Planning Practice Note

8.4.6 In August 2017, the Department of Environment, Land, Water and Planning (DELWP) issued Planning Practice Note 83: Assessing External Noise Impacts for Apartments.

8.4.7 The Practice Note recommends more stringent noise attenuation levels of:

- Bedrooms: Not greater than 35dB(A) LA<sub>eq, 8hr</sub> (10pm to 6.00am);
  - Living areas: Not greater than 40dB(A) LA<sub>eq, 16hr</sub> (6.00am to 10.00pm);
- for dwellings:
- Within 300m from an Industrial 1, 2 or 3 Zone (the site is within 180m of an Industrial 1 Zone across the freeway); and/or
  - Within 300m of a freeway or other road carrying 40,000 annual average daily traffic volume (The site abuts the freeway).

Assessment

8.4.8 The proximity of the site to external noise from traffic and industry justifies the development meeting the more stringent standards set out in the Practice Note.

This could be provided for by conditions of any approval that may issue for the proposal.

**8.5 Transport and parking**

**Car Parking**

Parking Overlay

8.5.1 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 as follows:

REQUIREMENT:	COMPLIANCE:
Car parking provision	



<p><u>Dwelling</u>: Maximum 1 space per dwelling x 224 dwellings = 224 spaces. (Clause 45.09 - Parking Overlay)</p>	<p><b>Complies in part - Condition required:</b> 178 spaces are proposed for the 224 dwellings, plus five visitor spaces. The 178 resident spaces equates to 0.79 spaces/dwelling. The 178 resident and 5 visitor spaces equates to 0.81 spaces/dwelling. The gross number of resident and visitor spaces would not exceed the Parking Overlay maximum of one space per dwelling, but would exceed the FBSFP target rate of 0.5 spaces per dwelling. Public transport proximate to the site currently comprises buses along Salmon Street and Williamstown Road. Future public transport is proposed to comprise additional bus services, a tram along Plummer Street to the City, and a possible Metro underground train line beneath Plummer Street (with a station at the corner of Salmon Street). Having regard to the long-term development of the area, the gross number of car parking spaces should be reduced to, or close to the FBSFP target rate of 0.5 spaces per dwelling. The application does not fully detail car parking allocation to the different sized dwellings, but does seek permit approval to allocated two spaces to the three bedroom dwellings. It is considered that for an apartment building, a maximum of one car space per dwelling is appropriate. This could be provided for by a condition of any approval that may issue for the proposal. It is noted that one new on-street car space would be created by removal of the existing vehicle crossing along the east side of the site. New dwellings would not be eligible for resident or visitor parking permits to park in permit zone on-street spaces on Council roads.</p>
<p><u>Office</u>: Maximum 1 space per 100m<sup>2</sup> of gross floor area x 144m<sup>2</sup> = 1 space (Clause 45.09 - Parking Overlay)</p>	<p><b>Complies:</b> No car spaces are proposed exclusively for the office components of the 5 x SoHo dwelling/offices.</p>
<p><u>Retail premises</u>: Maximum 1 space per 100m<sup>2</sup> of gross floor area x 200m<sup>2</sup> = 2 spaces. (Clause 45.09 - Parking Overlay)</p>	<p><b>Complies:</b> Two spaces are proposed to be provided for the retail premises.</p>
<p><b>Motorcycle parking</b></p>	
<p><u>Dwelling</u>: At least one space per 100 car parking spaces x 184 spaces = 1 (1.84) spaces.</p>	<p><b>Achieved:</b> The plans show three motorcycle spaces (<b>Note:</b> the Parking Overlay specifies a minimum rather than a maximum number of motorcycle parking spaces).</p>

**Design Standards for Car Parking**

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

<p><b>Design Standard 1: Accessways:</b></p>	
<p>Minimum of 3m wide</p>	<p><b>Achieved</b></p>
<p>Internal radius of at least 4m at changes of direction or intersection or be &gt;4.2m wide</p>	<p><b>Achieved</b> - intersections would be &gt; 4.2m wide.</p>
<p>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.</p>	<p><b>Not applicable</b></p>





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 - condition required</b>																										
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</b>
Angle of car parking spaces to access way	Access way width	Car park width	Car park length																								
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	5.2 m	3.0 m	4.9 m																								
Car spaces in garages or carports should be at least 6m long and 3.5m wide for a single space & 5.5m wide for a double space measured inside the garage/carport.	<b>Not applicable</b>																										
<p><b>Diagram 1 Clearance to car parking spaces</b></p> <p>Dimensions in millimetres</p> <ul style="list-style-type: none"> <li>Clearance required</li> <li>Tree or column permitted</li> </ul>																											
<b>Design Standard 3: Gradients</b>																											



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.	<b>Achieved</b>													
<table border="1"> <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%)	<b>Achieved</b>
Type of car park	Length of ramp	Maximum grade												
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	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%)												
<b>Design Standard 4: Mechanical Parking:</b>														
At least 25% of the mechanical spaces can accommodate a vehicle clearance height of at least 1.8m.	<b>Condition required</b>													
Spaces that require the operation of the system are not allocated to visitors unless used in a valet parking situation.	<b>Achieved</b>													
<b>Design Standard 5: Urban Design</b>														
Ground level parking, garage doors & accessways should not visually dominate public space.	<b>Achieved</b> - The ground level car park would be sleeved by dwellings, commercial uses and the building entry facing Rocklea Drive, and entry / exit would be via a single accessway.													
Car parking within buildings (including visible portions of partly submerged basements) should be screened or obscured where possible, including through the use of occupied tenancies, landscaping, architectural treatments and artworks.	<b>Achieved</b>													
Design of car parks should take into account their use as entry points to the site.	<b>Achieved</b>													
<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</b> (via lobby)													
Ped routes through parking areas/building entries & other destination points should be clearly marked & separated from traffic in high activity parking areas.	<b>Not applicable</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>

- 8.5.4 Car parking is proposed to be provided by a mixture of pit and overrun mechanical stackers and at-grade single spaces at ground level, and single and tandem at-grade spaces at three levels within the podium.
- 8.5.5 Council’s Traffic Engineers advised the car space and access aisle dimensions would be satisfactory, except for the length of the tandem spaces on the top two levels, which need to be increased in length by 500mm from 9.8m overall to 10.3m, and accessibility to the Level 3 parallel space.
- 8.5.6 Council’s Traffic Engineers raised additional concerns regarding:
  - The need for at least 25% of the car stacker spaces to have a height clearance of at least 1.8m (to accommodate 4WDs and vehicles with roof racks etc.);
  - Car park and ramp ceiling clearances;
  - An excessive number of car spaces for the dwellings;
  - Lack of pedestrian sightlines to Rocklea Drive for vehicles exiting the car park;
- 8.5.7 The applicant’s traffic consultant argued sightlines could be achieved by narrowing the access lane from 6.4m to 5.8m. This ‘solution’ is not supported because it would reduce manoeuvrability and clearances along the entry, particularly for trucks. The western front corner of the western most SoHo dwelling instead needs to be modified to incorporate a chamfer for the necessary sight line.  
  
These matters could be provided for by conditions of any approval that may issue for the proposal.

**8.6 Vehicle Crossings**

There are two existing vehicle crossing to the site (one off the south (front) alignment of Rocklea Drive and one off the east (side) alignment of Rocklea Drive. It is proposed to:

- Remove the existing crossing along the east side. This would realise an additional on-street car parking space.
- Modify the crossing at the front of the site, by moving it to the western front corner of the site.

The changes to the vehicle crossings would be satisfactory subject to conditions for construction to Council’s standards and removing and making good all redundant crossings.



**8.7 Bicycle Facilities**

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

Use, and Bicycle parking rate	No. dwellings / floor area	No. of spaces / facilities required	No. of spaces proposed
Dwellings (in developments of four or more storeys) must provide: - One (1) employee/resident bicycle space / 5 dwellings; and - One (1) visitor bicycle space / 10 dwellings	224 dwellings	44 (44.8) resident and 22 (22.4) visitor	70 (48 resident, 8 visitor internal and 14 visitor external) spaces
Shop requires: - 1 employee/resident space per 600m <sup>2</sup> of leasable floor area if the leasable floor area exceeds 1,000m <sup>2</sup> . - 1 visitor/shopper space per 500m <sup>2</sup> of leasable floor area if the leasable floor area exceeds 1,000m <sup>2</sup> . If > 5 employee spaces required, 1 employee shower for first 5 spaces, + 1/10 spaces thereafter 1 employee change room or combined shower/change room to each shower	320m <sup>2</sup> floor area	Nil  Nil	Nil  Nil
Office requires: - 1 employee/resident space per 300m <sup>2</sup> of leasable floor area if the leasable floor area exceeds 1,000m <sup>2</sup> . - 1 visitor/shopper space per 1,000m <sup>2</sup> of leasable floor area if the leasable floor area exceeds 1,000m <sup>2</sup> . If > 5 employee spaces required, 1 employee shower for first 5 spaces, + 1/10 spaces thereafter 1 employee change room or combined shower/change room to each shower	120m <sup>2</sup> floor area	Nil  Nil	Nil  Nil
<b>Totals</b>		<b>66 spaces</b>	<b>70 spaces</b>

The number of bicycle parking spaces would exceed the minimum number of spaces required, but would be less than the 1 space per dwelling rate recommended in the Fishermans Bend Strategic Framework Plan.

Council’s Traffic engineers raised concerns regarding:

- An insufficient number of bicycle parking spaces; and
- Below standard access to the bike store from the street and the car park;
- Insufficient details of the type of bicycle parking spaces to Australian Standards.

These matters could be provided for by conditions of any approval that may issue for the proposal.

**8.7 Loading / Waste Management**

Loading

The Planning Scheme requires one on-site loading bay with minimum dimensions of 3.6m (w) x 7.6m (l) x 4.0m (h), accessed off a driveway of at least 3.6m width and 6.0m internal radius for the retail tenancies.

One loading bay is proposed in the ground floor level of the car park for the shops and for collection of waste. It could also be used by residents for moving house and deliveries etc. and for tradesperson parking.



The min. 3.85m (w) x 11.9m (l) of the loading bay would be satisfactory, but the plans do not show the height. The Traffic Report for the application states the car park would have a minimum ceiling height of 2.2m, and extrapolation of the original drawings, and cross-section drawings submitted as further information show the loading bay can achieve a ceiling clearance of 4.0m. A condition of any approval would need to confirm this.

#### Waste Management

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

Waste is proposed to be stored in a central bin room accessed from a service corridor and the car park at ground level and chutes from the levels above, and collected on-site (during non-peak hours) by a private contractor using a rear lift (nominal 6.4m long x 2.1m high / 2.5m operational clearance) vehicle.

Council's Waste Management Section:

- Recommended waste storage for the dwellings and the commercial uses be separated and additional storage area be provided for hard waste;
- Raised concerns about the swept path and height clearance of trucks using the loading bay; and
- Sought clarification of the dimensions of the proposed waste collection vehicles.

Officers agree the swept paths for truck access to the loading bay would be marginal regards a column along the northerly side, and in particular, the rear corner of the western most SoHo dwelling. The column and corner of this dwelling need to be modified to achieve a 6.0m internal radius at the change of direction from the loading bay to the access lane.

These matters could be provided for by a condition of any approval that may issue for the proposal.

#### **8.10 Shadow Impacts**

The subject site is in a former industrial area, now transitioning to mixed use. There is an area of open space approximately 77m to the south of the site (beneath the power lines).

Plans show shadow from the proposal would fall over adjacent commercial buildings and associated car parking areas or roads and would meet the requirements of FBSFP Design Guidance Obj 3.3 Stds 3 and 4 to not overshadow the public open space to the south between 11.00am and 2.00pm at the September equinox.

#### **8.11 Wind Impacts**

A Pedestrian Wind Environment Study, incorporating wind tunnel testing of a model of the proposal was lodged with the application.

The Study noted:

- The site is exposed, with minimal shielding from neighbouring buildings;
- The pedestrian footpath areas along the southern frontage of the site would be affected by westerly winds; and
- The pedestrian footpath areas along the eastern side of the site would be affected by



northerly and southerly winds.

The testing determined that for the building to achieve the recommended pedestrian comfort and safety criteria of the FBSFP, wind mitigation treatment would be needed. The report proposed:

- The addition of a 40% open 4.0m high screen along the first 10.0m of the western side boundary (adjacent to the driveway entry/exit);
- Densely foliating shrubs 1.0 to 1.5m high along the entire perimeter of the landscaped area; and
- Retention of proposed densely foliating trees of 3-4m height and 4.0m width canopy along the south-eastern corner of the site.

Objective 4.2, Standard 2 of the FBSFP Design Guidance states *'The addition of protective screens and other incidental add-ons to buildings and landscaping within open spaces are not acceptable design responses to wind mitigation'*.

The screen along the west side would be satisfactory because it would be integral to the west side wall and not an add-on. However, the wind mitigation measures for the front of the building should be revised to achieve the recommended safe and comfortable wind conditions without reliance on add-on screens etc. and landscaping.

The Wind Study did not test the wind conditions of the private and communal open space areas within the building.

Objective 4.2, Standard 3 of the FBSFP Design Guidance states *'Podiums and rooftops used for communal open spaces must be fit for purpose and similarly designed to mitigate against wind conditions'*.

A revised wind study needs to be carried out to demonstrate how satisfactory pedestrian comfort can be achieved adjacent to and within the proposal without relying on add-ons and landscaping. This could be provided for by a condition of any approval that may issue for the proposal.

#### **8.12 Sustainable design / Water Sensitive Urban Design**

A Sustainable Management Plan (SMP) was submitted with the application. The SMP emphasized:

- Dwelling designed to promote natural ventilation and natural daylight to living areas;
- Use of high performance glazing, external solar shading devices, and proportioning of glazing to non-glazed wall, and window and door sizes to control summer and winter thermal loads;
- High efficiency lighting to dwellings and common areas, including automatic lighting control to common areas;
- Use of a high efficiency gas instantaneous central domestic hot water system;
- Variable speed fans and CO monitoring for car park ventilation;
- Incorporation of photovoltaic solar panels (size tbc);
- WELS rated water fittings, and appliances;
- Water from fire sprinkler testing to be captured, filtered and reused;
- Rainwater collection from roofs and storage and use for flushing 20 toilets and





irrigation of landscaped areas (Total 16.5kL of storage);

- Incorporation of a third pipe system for toilet flushing, fire services and irrigation, and an associated connection point (FBSFP Obj 7.2 Std 2);
- Incorporation of rain-gardens;
- Selection of low embodied energy / sustainable / non-toxic construction materials;
- Provision of cycling facilities and a Green Travel Plan;
- Five % (9) of all car parking spaces to be provided with EV connection points;
- Intent to plant canopy trees along the street frontages (FBSFP Obj 5.3 Std 1);
- Achievement of a minimum NatHERS rating of 6.5 stars (average) (exceeding minimum requirement of the Building Code of Australia).
- The potential to achieve a five star Green Star rating;

Council's Sustainable Design Officer raised concerns (Refer Section 7.3.8 of this report).

A condition of any approval should require the SMP be revised to address Council's concerns.

A Water Sensitive Urban Design (WSUD) Response was not provided with the application. A further condition of any approval should require the preparation, submission and approval of a WSUD response.

### **8.13 Public Open Space**

No public open space is proposed on the site.

A landscaped setback is proposed to the south-east corner of the site in front of the main entry lobby. This area would provide resident amenity and a landscaped outlook, but would not provide sufficient area for leisure or recreation.

Public open space for the proposal would be best provided by an 8% cash contribution in accordance with the Planning Scheme, which could then be used to purchase or develop land identified in the Fishermans Bend Strategic Framework Plan as open space area.

### **8.14 Landscaping**

It is proposed to:

- Remove existing trees and landscaping along both street frontages;
- Landscape the front south-east corner setback with paths, lawn, shrubs and trees; and
- Landscape the podium roof level with lawn, planters, decking, pergolas, a lap pool and communal facilities such as bbqs, seating etc.

The design proposes Water Sensitive Urban Design (WSUD) principles of collection and re-use of roof water for irrigation, on-site detention to reduce run-off and peak flows, permeable pavement materials, grading of paths to direct rain water to tree pits and adjacent plantings.

Council's Parks division did not object to the proposal.

The landscape design is considered satisfactory, with the exception of references to carrying out associated works adjacent to the site, which need to be deleted.





There are a number of existing street trees on the adjacent properties and footpaths which will require protection during any construction process.

These matters could be provided for by conditions of any approval that may issue.

#### **8.15 Community Facilities**

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

The subject site is not in a preferred area for 'mixed used development' in Council's draft Fishermans Bend Community Infrastructure Plan. Based on the location of the site, and the nature, design and density of the development, Officers would not encourage accommodating any community infrastructure in the development.

The proposal would best provide for community infrastructure by a cash development contribution.

#### **8.15 Development Contributions**

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

Any approval should include a condition that development contributions be provided via a S173 Agreement, with 10% of contributions payable at the issue of the building permit, and 90% prior to the issue of a Statement of Compliance (for subdivision).

#### **8.16 Environmental Audit**

A Historical Background Assessment including an Environmental Records Review was submitted as part of the application. The Assessment noted:

- An environmental audit has not been undertaken for the land.
- The land was vacant until circa early 1950s, after which it was developed in stages, initially with a number of small buildings, and understood to be used for unspecified industrial purposes.
- Environmental audits have been undertaken for four adjacent sites, and revealed varying levels of contamination.
- Based on current and historical information, the site is considered to have a medium risk of being contaminated.

Pursuant to Clause 6 of the Schedule to the Capital City Zone:

*Before a sensitive use (residential use, child care centre, pre-school centre, primary school, education centre or informal outdoor recreation) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, the developer must obtain either;*

- A certificate of environmental audit issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or
- A statement in accordance with Part IXD of the Environment Protection Act 1970 by an accredited auditor approved under that Act that the environmental conditions of the land are suitable for the sensitive use.

This could be provided for by a condition of any approval that may issue for the



proposal.

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

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 equate to approximately 4.0m AHD which would exceed Melbourne Water’s recommendations and would be satisfactory.

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

**8.18 Electricity Transmission Line**

The subject site is approximately 91.0m north of the centreline of an overhead 275Kv power line and tower.

Guidelines for land use beneath and proximate to electricity transmission lines:

- Specify a 50m (i.e. 25m either side of centre line) easement / buffer for a 275Kv double circuit powerline.
- Prohibit use in the easement for dwellings and other buildings and structures.

The subject site is located beyond the easement and buffer and is deemed suitable for commercial and residential use under the Guidelines.

**9. COVENANTS**

The north-east corner of the land is encumbered by a caveat and lease in favour of CitiPower Ltd and is occupied by a sub-station. The proposal seeks to incorporate the substation into the north-east ground floor level corner of the building (generally in the same location as the existing).

The whole of the land is encumbered by a restrictive covenant which:

- Requires all setbacks to be paved entries, driveways or car parks or lawn and landscaping;
- Requires all buildings to have walls wholly (save for provision for windows, doors, fascias and gables) of brick, masonry, finished concrete or glass.
- Requires any goods stored on the land to be screened.
- Prohibits certain noxious or potentially noisy commercial or industrial uses on the land.

The proposed black powder-coated metal cladding, and silver mesh cladding to the external walls would breach the covenant and would need to be deleted, or the covenant amended or deleted.

Officers would support the amendment or deletion of the covenant for this matter.



**10. OFFICER DIRECT OR INDIRECT INTEREST**

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

**11. OPTIONS**

- 11.1 Approve the application as lodged, subject to conditions;
- 11.2 Approve the application subject to conditions for changes to the design.
- 11.3 Refuse the application.

**12. CONCLUSION**

- 12.1 The height in metres of the podium and the massing and architecture of the podium and tower would generally comply with the Design and Development Overlay and Fishermans Bend Strategic Framework Plan Design Guidance and would be satisfactory.
- 12.2 The height in storeys of the podium and tower is considered to be inconsistent with the Design and Development Overlay mandatory height limits because the three mezzanine levels constitute storeys or levels in their own right, and consequently result in the proposal exceeding the mandatory height limits.
- 12.3 The small level of non-residential floor area and predominantly residential use is considered reasonable given the sites location on a local street and outside of a designated activity area.
- 12.4 The mix of SoHo townhouse and apartment dwellings is supported, but the proportion of one, two and three bedroom dwellings is unduly biased towards smaller dwellings and would need to be adjusted to provide at least 30% 3BR dwellings to meet Local Policy for housing diversity.
- 12.5 At least 6% of all dwellings would also need to be allocated as affordable housing to a registered housing association or provider to meet Local Policy for affordable housing
- 12.6 The proposal was internally referred and officers raised concerns including regarding building height exceeding the mandatory maximum number of storeys, car park design detail, over provision of car parking and under provision of bicycle parking, loading bay access and design, lack of diversity in housing types and sizes, wind impacts adjacent to and within the site, lack of affordable housing, sustainable design detail including excessive glazing without adequate measures to control solar heat gain and loss, and natural light and ventilation, noise impacts from the freeway, materials and finishes, and protection of street trees and trees on abutting land.
- 12.7 Changes to the design would be needed to resolve these concerns.
- 12.8 Officer assessment concluded that conditions for (mostly detail) changes to the design were needed to:
  - 12.8.1 Confirm at least 30% of dwellings would be 3BR or capable of conversion to 3BR;
  - 12.8.2 Allocate at least 6% of all dwellings as affordable housing to a registered housing association or provider;
  - 12.8.3 Reduce the podium height to not more than five storeys;



- 12.8.4 Reduce the overall building height to not more than 18 storeys;
- 12.8.5 Increase the floor area of the 35m<sup>2</sup> 1BR SoHo dwellings, the 66m<sup>2</sup> 2BR dwellings and the 87m<sup>2</sup> 3BR dwellings to a suitable benchmark such as the dwelling dimension provisions of Clauses 58.05 and 58.07 of the Planning Scheme;
- 12.8.6 Increase the minimum private open space areas for the dwellings to the benchmark dimensions of the on-site amenity and facilities and dwelling dimension provisions of Clause 58.05-3 of the Planning Scheme;
- 12.8.7 Provide details of façade treatments and materials and/or external shading to north, east and west glazing (as applicable) to manage summer heat gain and winter heat loss;
- 12.8.8 Confirm natural light and ventilation to all bedrooms;
- 12.8.9 Achieve noise attenuation levels in accordance with State Government guidance for buildings proximate to industry and major roads;
- 12.8.10 Reduce the number of car parking spaces to, or close to the FBSFP target of 0.5 spaces/dwelling;
- 12.8.11 Confirm not more than one car space would be allocated to any dwelling;
- 12.8.12 Confirm not more than one car space per 100m<sup>2</sup> of gross floor area would be allocated to any retail or office use.
- 12.8.13 Provide a corner splay at the car park exit in accordance with the design requirements of Clause 52.06-8, with no reduction in the width of the car park entry/exit aisle;
- 12.8.14 Confirm at least 25% of the mechanical car parking spaces can accommodate a vehicle clearance height of at least 1.8m;
- 12.8.15 Tandem car spaces to have a minimum length of 10.3m;
- 12.8.16 Confirm accessibility to the Level 3 parallel parking space, or delete;
- 12.8.17 Confirm a minimum height clearance of 2.1m above all car spaces and car park ramps;
- 12.8.18 Vehicle crossing removal and construction to Council's standards;
- 12.8.19 Provide one bicycle parking space per dwelling;
- 12.8.20 Provide at least 1.5m wide access /doors between the street and the bike parking stores and the car park;
- 12.8.21 Provide details of the type of bicycle parking spaces to Australian Standards;
- 12.8.22 Confirm a minimum ceiling height of 4.0m above the loading bay;
- 12.8.23 Confirm a 6.0m internal radius at the change of direction from the loading bay to the access lane;
- 12.8.24 Provide separate residential and commercial bin stores;
- 12.8.25 Provide a revised wind study confirming satisfactory pedestrian comfort wind conditions adjacent to the building and within communal open space in the



- building without relying on add-on screens or landscaping;
- 12.8.26 Provide a revised Sustainable Management Plan;
- 12.8.27 Provide a Water Sensitive Urban Design Response;
- 12.8.28 Protect existing street trees and trees on abutting properties during construction;
- 12.8.29 Plan, elevation and sections drawings to show ground and floors levels expressed to Australian Height Datum (AHD) and confirm floor levels meet Melbourne Water requirements;
- 12.8.30 Changes to building materials to delete metal cladding (other than for windows, doors, fascias and gables).
- 12.9 Notwithstanding the relatively long list of concerns, it is considered that the above matters could be resolved by conditions to modify the proposal.
- 12.10 The applicant has lodged an application for review for failure to decide the application within the statutory time frame of the Act with the Planning List of the Victorian Civil and Administrative Tribunal (VCAT).
- 12.11 Council has engaged legal representation for the matter.
- 12.12 It is recommended that Council:
- Advise the Tribunal, the Minister, and the applicant that it does not support the application as proposed;
  - Provide the parties with draft conditions for changes to the design, and the construction and on-going management of the proposal, pursuant to which Council would support the proposal, or in the event the Tribunal was to determine to grant a permit;
  - Delegate the Manager City Development to instruct Council's Statutory Planners and/or Solicitors on the Tribunal Application for Review.



### 13. RECOMMENDATION

That the Council resolve:

- 13.1 That Council advise the Planning List of the Victorian Civil and Administrative Tribunal, the Minister for Planning C/- the Department of Environment, Land, Water and Planning and the applicant, that it does not support the application in its current form based on the matters set out in Sections 7 and 8 of this report, including in particular:
- (a) The proposal would not meet the policy objectives of Clause 22.15 for housing size diversity and provision of affordable housing in the Fishermans Bend Urban Renewal Area;
  - (b) The height of the podium and tower would exceed the five and eighteen storey mandatory height limit;
  - (c) A number of the dwelling floor and open space areas would be undersized;
  - (d) The proposal would not achieve a satisfactory level of sustainable design or Water Sensitive Urban Design.
  - (e) The proposal would not achieve noise attenuation levels in accordance with State Government guidance for buildings proximate to industry and major roads;
  - (f) The proposal would provide excessive car parking for the dwellings.
  - (g) The proposal would provide insufficient bicycle parking for the dwellings.
  - (h) The plans do not provide sufficient details of car space, ramp and loading bay ceiling heights, and mechanical car stackers.
  - (i) The car park exit lacks a corner splay in accordance with the design requirements of Clause 52.06-8 of the Planning Scheme;
  - (j) The tandem car spaces would be undersized;
  - (k) Vehicle access to and from the loading bay would be unsatisfactory;
  - (l) The application does not demonstrate satisfactory wind conditions on abutting streets and the podium roof top open spaces;
  - (m) The plans do not show satisfactory access to and from the bicycle store or details of the type of bicycle parking spaces to Australian Standards;
  - (n) The proposed metal cladding would breach a restrictive covenant on the Title.
- 13.2 In the event the Tribunal determines to grant a permit for the application, any permit should incorporate the conditions for changes to the design, and the construction and on-going management of the proposal, set out in the Attachment to this report.
- 13.3 Delegates the Manager City Development the discretion to object to the application as necessary if notice of the application is given.
- 13.4 Delegate the Manager City Development to instruct Council's Statutory Planners and/or Solicitors on the Tribunal Application for Review.