



**17 ROCKLEA DRIVE PORT MELBOURNE**

**LOCATION/ADDRESS:** 17 ROCKLEA DRIVE PORT MELBOURNE  
**EXECUTIVE MEMBER:** LILI ROSIC, GENERAL MANAGER, CITY STRATEGY AND SUSTAINABLE DEVELOPMENT  
**PREPARED BY:** SIMON GUTTERIDGE, PLANNING TEAM LEADER FISHERMANS BEND

**1. PURPOSE**

1.1 To provide a Council position for an application to the Minister for Planning to prepare, adopt and approve an Amendment to the Planning Scheme under Section 20(4) of the Planning and Environment Act for 17 Rocklea Drive, Port Melbourne, including for the Fishermans Bend Standing Advisory Committee.

**2. EXECUTIVE SUMMARY**

**WARD:** Gateway

**TRIGGER FOR DETERMINATION BY COMMITTEE:** Accommodation (dwellings) in the Fishermans Bend Urban Renewal Area

**ADDRESS:** 17 Rocklea Drive, Port Melbourne

**APPLICATION NO:** **DELWP Ref:** PA17/00210 and PSA C183port  
**CoPP Ref:** 3/2017/MIN/A and PSA C183port

**APPLICANT:** La Esquina Pty Ltd C/- Urbis Pty Ltd

**EXISTING USE:** Two storey Office/Warehouse/Industrial building.

**ABUTTING USES:** One and two-storey Office/Warehouse/Industrial buildings and the West Gate Freeway.

**ZONING:** Capital City Zone (CCZ1)  
Abuts Road Zone Category 1 (RDZ1)

**OVERLAYS:** Design and Development Overlay (DDO33)  
Environmental Audit Overlay (EAO)  
Parking Overlay (PO1)  
Infrastructure Contributions Plan Overlay (ICO1)

**ABORIGINAL CULTURAL HERITAGE** The land is in an 'area of Cultural Heritage Sensitivity' under the Aboriginal Heritage Regulations 2018.

**STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL** Twenty (20) business days = 06-08-2020



- 2.1 This report is to provide Council's comments on a request to the Minister for Planning to prepare, adopt and approve a Section 20(4) Amendment to the Planning Scheme for a project which involves, amongst other matters, to demolish the existing buildings on the land and construct a 10 and 13-storey mixed-use building.
- 2.2 The application is an amendment to an application for a planning permit originally lodged with the Department in February 2017 for an 18-storey building with 224 dwellings.
- 2.3 Council and the Department raised concerns with the height and design of the 2017 proposal and requested further information.
- 2.4 In September 2017, the applicant lodged an application for review with the Victorian Civil and Administrative Tribunal (VCAT) against failure to decide the application within 60 days.
- 2.5 On 13 December 2017, Council considered the original application and resolved to advise the Planning List of VCAT, the Minister C/- DELWP and the applicant, that it did not support the application in its current form.
- 2.6 On 06 February 2018, a Compulsory Conference was held at VCAT, but did not result in settlement of the matter.
- 2.7 On 21 February 2018, the Minister called-in the application (and 20 other applications in CoPP).
- 2.8 On 06 September 2019, the applicant applied to the Minister to prepare a Planning Scheme Amendment (PSA) to demolish the existing buildings on the land and construct a 10 and 17-storey (including a four-storey podium) mixed-use building and have the proposal assessed by the Advisory Committee.
- 2.9 Council, Department and Fishermans Bend Taskforce officers raised concerns with the height and design. In response, the applicant further amended the proposal including reducing the height of the taller tower from 17 to 13 storeys.
- 2.10 The Department has formally notified Council of the request for a PSA. Council has 20 business days from the date of receiving notification to provide a written response.
- 2.11 The subject site is in:
  - The Non-core area of the Wirraway precinct of the FBURA.
  - Building Typology Precinct Area W1 (Mid-rise) of the Design and Development Overlay (DDO33) which has a preferred character of generally mid-rise (i.e. 7 to 15 storeys) developments;
  - A preferred maximum building height area of 30m (8 storeys) pursuant to DDO33 and the Fishermans Bend Framework October 2018.
- 2.12 The proposed street wall (podium) would comply with height requirements and setbacks from the south, side and rear, but seeks a variation in setback from the eastern street frontage.
- 2.13 The towers would exceed the preferred 30m / 8 storey height for the site and surrounds but would fall within the mid-rise (i.e. 7 to 15 storey) heights specified for the precinct.



- 2.14 Tower setbacks and separation would meet or slightly exceed minimum requirements.
- 2.15 Variations are supported for the setbacks and heights having regard to the degree of variations proposed and the sites location at the far end of the precinct abutting the freeway.
- 2.16 The application does not partly or fully meet requirements or policy for sustainable and water sensitive urban design, wind impacts, noise attenuation, car and visitor bicycle parking, and footpath works.
- 2.17 Officers recommend changes to the plans and/or reports including to:
- Require a high standard of noise attenuation measures in the buildings construction
  - Delete dwellings facing the freeway in lieu of commercial floor area such as offices which would not be as potentially adversely affected by noise;
  - Delete the proposed bluestone paving and fixed seating in the adjacent footpaths in lieu of asphalt and lawn and portable seating;
  - Altering the podium rooftop design to allow views down to the street for casual surveillance and neighbour-hood safety.
  - Correct inconsistencies between the Architectural drawings and Landscape plans.
  - Update the wind report including wind tunnel testing to confirm the proposal would satisfy the relevant standing and walking wind criteria abutting each site and for pedestrian areas within the site and at podium and tower rooftop levels and sitting wind criteria for areas designated for outdoor dining.
  - Articulate / architecturally resolve expanses of blank wall on the west (side) and north (rear) boundary's.
  - Provide one store per dwelling.
  - Reduce the number of car parking spaces for the uses to not more than the Parking Overlay maximum rates and show visitor bicycle parking.
  - Clarify and/or confirm Waste Management, car park design, loading, resident visitor bicycle parking, ESD, WSUSD, and floor levels to AHD.
- 2.18 The application offer of Affordable Housing totalling 6% of all dwellings is supported subject to the dwellings being dispersed throughout the podium and towers, the reference to 'one or two-bedroom dwellings' be changed to 'one and two-bedroom dwellings', the dwellings be provided in perpetuity, and if not, for at least 30 years by means of a legal agreement, and dwellings be provided in a manner that makes them affordable to persons in the very low and low and moderate-income bands as defined by the *Planning and Environment Act*.
- 2.19 If the proposal was to be supported, officers recommend that any Incorporated Document for the Amendment include conditions for these matters.
- 2.20 It is recommended that the Statutory Planning Committee resolve to advise the Department that
- The Council supports the application subject to amendments to the plans and reports to address Council's concerns as per Section 11 of this report.



- In the event that the application for a Planning Scheme Amendment is supported, the Incorporated Document for the amendment includes conditions to address Council's concerns.

### 3. RECOMMENDATION

#### 3.1 RECOMMENDATION – Part A

- 3.1.1 That the Statutory Planning Committee advise the Department of Environment, Land, Water and Planning that:
- 3.1.1-1 The Council supports the application subject to amendments to the plans and reports to address Council's concerns as per Section 11 of this report.
- 3.1.1-2 That in the event that the application for a Planning Scheme Amendment is supported, the Incorporated Document for the amendment includes conditions to address Council's concerns.

#### 3.2 RECOMMENDATION - PART B

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

### 4. RELEVANT BACKGROUND

- 4.1 The following relevant applications have previously been considered for the subject site:

Application No.	Proposal	Decision
P0190/2001	Warehouse/printing & associated office & car parking	<b>03-05-2001:</b> Permit
P1414/2007	Car parking dispensation and the construction of four (4) rainwater tanks to the rear (west) elevation of the existing building	<b>15-01-2008:</b> Permit
<b>3/2017/MIN (Lodged 28-02-2017)</b>	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 1 of Schedule 1 to the Parking Overlay.	<b>13-12-2017:</b> Council meeting <b>18-12-2017:</b> Council advice to Minister. Don't support podium / tower heights, lack of affordable housing/ dwelling sizes / diversity, car park, loading bay, access detail design wind impacts, etc. <b>21-02-2018:</b> Called in by Minister



- 4.2 The application for the current proposal was first lodged with the Department on 28 February 2017 and received by Council on 21 June 2017 and sought an 18 level (i.e. the maximum height allowed in 2017) tower including a 3-storey podium (with each level including a 'mezzanine') with 224 dwellings, 5 x retail tenancies and 3 x office tenancies at ground floor level and associated car and bicycle parking.
- 4.3 Council and the Department raised concerns with the height and design and requested further information.
- 4.4 In September 2017, the applicant lodged an application for review with the Victorian Civil and Administrative Tribunal (VCAT) against failure to decide the application within 60 days.
- 4.5 On 13 December 2017, Council considered the original application and resolved to advise the Planning List of VCAT, the Minister C/- DELWP and the applicant, that it did not support the application in its current form, including in particular because of:
  - Non-compliance with policy for housing size diversity and affordable housing;
  - The podium and tower heights would exceed mandatory height limits;
  - Undersized dwelling floor and open space areas;
  - Poor Sustainable and Water Sensitive Urban Design.
  - Non-compliance with noise attenuation guidance for buildings proximate to industry and major roads;
  - Excessive car parking and insufficient bicycle parking for the dwellings.
  - Insufficient details of car and bicycle access and parking design;
  - Poor vehicle access to and from the loading bay;
  - Wind impacts on abutting streets and the podium roof top open spaces;
- 4.6 On 06 February 2018, a Compulsory Conference was held at VCAT, but did not settle the matter.
- 4.7 On 21 February 2018, the Minister called-in the application (and 20 other applications in CoPP).
- 4.8 The permit applicant subsequently elected to revise the proposal.
- 4.9 On 06 September 2019, the applicant applied to the Minister to prepare a Planning Scheme Amendment (PSA) and have the proposal assessed by the Advisory Committee.
- 4.10 The Department has formally notified Council of the request for a PSA. Council has 20 business days from the date of receiving notification to provide a written response.
- 4.11 The PSA application proposed to demolish the existing buildings on the land and construct a 10 and 17-storey (including a four-storey podium) mixed-use building.
- 4.12 Council, Department and Fishermans Bend Taskforce (FBT) officers reviewed the plans and raised concerns.



- 4.13 In response, the applicants submitted amended plans reducing the height of Tower 2 from 17 to 13 levels.
- 4.14 This report assesses the amended reduced height 10 and 13 level PSA plans and reports.

## 5. PROPOSAL

5.1 It is proposed to:

- Demolish the existing buildings on the land.
- Construct 1 x ten (10) level and 1 x 13-level towers (including a shared four (4) level podium, mixed use commercial and residential building and associated car, motorcycle and bicycle parking and construct and/or carry out works.

**Note:** The application documents and plans refer to a nine (9) and 12-storey proposal. Communal lounges etc. proposed at rooftop level of the two towers count as storeys per the Planning Scheme controls and definitions. The proposal therefore needs to be considered as an application for a 10 and 13 storey building, or the communal rooms deleted or modified to be unroofed (such as a pergola covering only).

- Use land for Accommodation (Dwellings and Retail premises including Restaurant shop in the CCZ1.
- Provide more than the maximum parking provision specified for the 2BR Dwellings and the Restaurant.

5.2 The towers are proposed to have maximum heights as follows:

- **Tower 1 – 10 levels:** 31.5m (35.5m AHD) to roof top level, 32.7m (36.7m AHD) approx. to top of parapet, 35.9m (39.9m RL) to top of lift overrun and communal rooftop lounge canopy.
- **Tower 2 - 13 levels:** 40.90m (44.90m AHD) roof, 42.40m (46.4m AHD) top of parapet, 44.1m (48.1m AHD) approx. to top of roof top communal kitchen, dining room, lounge and 45.70m (49.70m AHD) to top of services/plant).

5.3 More particularly, the proposal comprises:

### **Level 1 (Ground floor level)**

Residential lobby, 1 x Retail tenancy (Restaurant), dwellings, car and bicycle parking, a loading bay, and building plant and services including a substation.

### **Levels 2, 3, 4 (Podium)**

Dwellings, car, motorcycle and stores inc. bicycle parking.

### **Level 5 (Podium roof top)**

Tower 1: Lounge, dining room, Gym and Yoga rooms, outdoor space, spa and pool.

Tower 2: Dwellings

### **Levels 6-9**

Dwellings.

### **Level 10**



Tower 1: Rooftop resident lounge, outdoor open space including a pergola, stair and lift access/overruns and building services,

Tower 2: Dwellings

**Levels 11-12**

Tower 2: Dwellings

**Level 13**

Tower 2: Rooftop resident lounge, dining room and kitchen, outdoor open space including a pergola, stair and lift access/overruns and building services including solar pv panels.

5.4 A summary of the original and amended PSA plans is set out in Table 1 below, with differences underlined:

**Table 1:** Application Summary

	<b>Aug-Sept 2019 PSA Plans</b>	<b>10-02-2020 Amended PSA Plans</b>
<b>Application / Planning Scheme Amendment (PSA) No.</b>	Application No. CoPP Ref: 3/2017/MIN/A PSA No. C183port	Application No. CoPP Ref: 3/2017/MIN/A PSA No. C183port
<b>Plans assessed</b>	Project No. 161000, Drawing Nos. A0000 to A0110(B) dated 26-08-18, 03-09-19 and 05-09-19, prepared by Ellenberg Fraser Architecture.	Project No. 161000, Drawing Nos. A0000 (Rev A) to A2500 dated 10-02-2020, 26-08-19, 03-09-19 and 05-09-19, prepared by Ellenberg Fraser Architecture.
<b>Site area / Title particulars</b>	3,165m <sup>2</sup> (0.31ha). (Irregular), max. 42.69m/15.35m (w) x max. 54.56m (d) Lease L-1: Electrical sub-station (N-E rear cnr.) Covenant (Rocklea Gardens Industrial Estate)	3,165m <sup>2</sup> (0.31ha). (Irregular), max. 42.69m/15.35m (w) x max. 54.56m (d) Lease L-1 - Electrical sub-station (N-E rear cnr.) Covenant (Rocklea Gardens Industrial Estate)
<b>Minimum plot ratio not used for Dwelling (Core areas)</b> <b>Clause 22.15-4.1</b> <i>Note: Clause 73.01: Plot ratio: The GFA of all buildings on a site divided by the area of the site.</i> <i>(Includes any proposed road, laneway and pos.)</i>	Wirraway Non-Core area ratio – N/A	Wirraway Non-Core area ratio – N/A
<b>Non-residential floor area</b>	<b>224m<sup>2</sup></b> <b>Café/Restaurant: 224m<sup>2</sup> (1 tenancy)</b>	<b>224m<sup>2</sup></b> <b>Café/Restaurant: 224m<sup>2</sup> (1 tenancy)</b>
<b>CCZ1 Dwelling Density</b>	Wirraway - Non-Core area @ 174 dw/ha x 0.31ha = <b>53 (53.94) dwellings</b>	Wirraway - Non-Core area @ 174 dw/ha x 0.31ha = <b>53 (53.94) dwellings</b>



<p><b>Clause 22.15-3</b> <b>Dwelling density</b> (dw/ha) means the number of dwellings on the site divided by the <u>total site areas (hectares) including any proposed road, laneway and public open space.</u></p>	<p><b>Note #1:</b> Dwelling density does not apply under Terms of Reference.</p>	<p><b>Note #1:</b> Dwelling density does not apply under Terms of Reference.</p>
<p><b>No. dwellings</b> Wirraway: Should provide 30% 3BR</p>	<p><b>194</b> (12 / 6.18% x 1BR; 153/ 78.86% x 2B; 29 / 14.94% x 3BR</p>	<p><b>154</b> (12 / 8% x 1BR, 121 / 79% x 2BR &amp; 21 / 14% x 3BR)</p>
<p><b>Affordable housing</b> <b>Clause 22.15-4.3</b> Development should provide at least 6% of dwellings permitted under the dwelling density requirements in the CCZ (excluding any Social housing uplift dwellings) as Affordable housing</p>	<p>6% of dwellings - Build to rent for key workers and low to moderate income earners - rented @ 80% of market value for 10 years, managed by a registered Housing Association or Provider <b>(Note:</b> 6% of 194 = 11 (11.64) dwellings).</p>	<p>Six (6)% of dwellings:  <ul style="list-style-type: none"> <li>transferred to a registered housing agency (or other housing provider or trust) at a discount of 70% of market value, or</li> <li>placed in management of a registered housing agency (or other housing provider or trust) for not less than 20 years for leasing as Affordable Housing at 80% of market rent; or</li> <li>In lieu payment of no less than the total cumulative value of all dwellings required in options above.</li> </ul> <p><b>Note:</b> 6% of 154 dwelling density = 9 (9.24) dwellings.</p> </p>
<p><b>Social housing</b> <b>Clause 4.2 of Schedule 1 to the CCZ.</b> ...at least 1 Social housing dwelling for every 8 dwellings provided above the no. of dwellings allowable under the specified Dwelling density</p>	<p>Not specified <b>Note #1:</b> Social housing does not apply under Terms of Reference. <b>Note #2:</b> If applicable, 194 dwellings - 53 dwellings = 141 dwellings @ 1 per 8 = <b>17 (17.62) social housing dwellings would be required for uplift.</b></p>	<p>Not specified <b>Note #1:</b> Social housing does not apply under Terms of Reference. <b>Note #2:</b> If applicable, 154 dwellings - 53 dwellings = 101 dwellings @ 1 per 8 = <b>12 (12.62) social housing dwellings would be required for uplift.</b></p>
<p><b>Basement</b></p>	<p>Nil</p>	<p>Nil</p>
<p><b>Street wall (podium) height</b></p>	<p><b>Four (4) levels:</b> 16m (20m RL) to podium roof top, 17.2m (21.2m RL) to parapet level. <b>Note:</b> NGL = 4.13m AHD to Rocklea Drive (centre south elevation) (Drawing A0002)</p>	<p><b>Four (4) levels:</b> 16.0m (20.0m AHD) to podium roof top, 17.2m (21.2m AHD) to parapet level. <b>Note:</b> Natural ground level (NGL) = 4.13m AHD Rocklea Drive (southern frontage), 4.00m AHD Rocklea Drive (eastern side), 4.340m AHD (western side), 4.20m AHD (northern rear) (all centre). Plans measure heights from Rocklea Drive eastern side.</p>
<p><b>Maximum height (Tower)</b></p>	<p><b>10 levels:</b> 31.5m (35.5m AHD) to roof top level, 32.7m (36.7m AHD) approx. to top of parapet, 35.9m (39.9m RL) to top of lift overrun and communal rooftop canopy. <b>17 levels:</b> 53.3m (57.3m RL) to roof top level, 54.8m (58.8m RL) to top of parapet, 58.1m (62.1m RL) to top of lift overrun.</p>	<p><b>10 levels:</b> 31.5m (35.5m AHD) to roof top level, 32.7m (36.7m AHD) approx. to top of parapet, 35.9m (39.9m RL) to top of lift overrun and communal rooftop canopy. <b>13 levels:</b> 40.90m (44.90m AHD) roof, 42.40m (46.4m AHD) top of parapet, 45.70m (49.70m AHD) top of roof plant)</p>





	<b>Note:</b> NGL = 4.13m AHD to Rocklea Drive (centre south elevation) (Drawing A0002)	<b>Note:</b> Natural ground level (NGL) = 4.13m AHD Rocklea Drive (southern frontage), 4.00m AHD Rocklea Drive (eastern side), 4.340m AHD (western side), 4.20m AHD (northern rear) (all centre). <i>Plans measure heights from Rocklea Drive eastern side.</i>
<b>Street wall (podium) Setbacks</b>	<b>North (rear):</b> 0.0m, <b>South (front - Rocklea Drive):</b> Min. 0.0m <b>East (side - Rocklea Drive):</b> Min. 0.0m <b>West (side):</b> 0.0m	<b>North (rear):</b> 0.0m, <b>South (front - Rocklea Drive):</b> Min. 0.0m <b>East (side - Rocklea Drive):</b> Min. 0.0m <b>West (side):</b> 0.0m
<b>Tower Setbacks</b>	<b>North (rear):</b> Min. 5.0m <b>South (front) (Rocklea Drive):</b> Min. 5.0m <b>East (side) (Rocklea Drive):</b> Min. 5.0m <b>West (side):</b> Min. 5.0m.	<b>North (rear):</b> Min./Max. 5.0m <b>South (front) (Rocklea Drive):</b> Min. 5.0m, Max. 6.1m <b>East (side) (Rocklea Drive):</b> Min. 5.0m, Max 6.2m <b>West (side):</b> Min. 5.0m, Max. 6.1m
<b>Building (podium) separation below the max. street wall</b>	N/A	N/A
<b>Building (tower) separation above the max. street wall</b>	Min. 10.0m	Min. 10.0m
<b>Loading bay</b>	<u>Level 00 (ground):</u> One loading bay (5.09m (w) x 8.86m (l) x 3.8m (approx.) (h)). <b>Note:</b> Loading bay remote from residential bin room and dwelling lobbies.	<u>Level 00 (ground):</u> One loading bay (5.09m (w) x 8.86m (l) x 3.8m (approx.) (h)). <b>Note:</b> Loading bay remote from residential bin room and dwelling lobbies.
<b>Car parking</b>	<b>149</b> (142 + 7 Car share) (128 resident [0.66/dwelling]; 7 Restaurant /Café, [1:32m2 / 3.5:100m2]) <b>Car share:</b> 7 <b>EV charging spaces:</b> No details	<b>142</b> (inc 7 Car share) (128 resident [0.5:1BR dwellings, 0.83:2BR dwellings, 1:1 3BR dwellings, 0.83/dwelling O/A]; 7 Restaurant /Café, [1:32m2 / 3.5:100m2]) <b>Car share:</b> 7 <b>EV charging spaces:</b> No details
<b>Motorcycle parking</b> 1: 50 dwellings req.	<b>6 spaces</b> (1:32 dwellings)	<b>6 spaces</b> (1:25 dwellings)
<b>Bicycle parking</b>	<b>197</b> (No details of apportionment).	<b>197</b> (No details of apportionment) (98 [54 horizontal rails and 44 vertical hanging racks] @ ground level, 99 [33 each @ levels 1, 2 and 3) storage cages inc. vertical bike hanger) Nil end-of-trip facilities
<b>Open space</b>	<b>Varies. 1BR:</b> Min. 8m <sup>2</sup> with min. dimension 2.4m., <b>2BR:</b> Min. 8m <sup>2</sup> with min.	<b>Varies. 1BR:</b> Min. 8m <sup>2</sup> with min. dimension 2.4m., <b>2BR:</b> Min. 8m <sup>2</sup> with min. dimension



	dimension of 2.01m and 2.2m., <b>3BR:</b> Min. 12m <sup>2</sup> with min. dimension of 2.75m.	of 2.01m and 2.2m., <b>3BR:</b> Min. 12m <sup>2</sup> with min. dimension of 2.75m.
<b>Stores*</b> <i>*Note: Excludes storage in Apartments per BADS.</i>	<b>99</b> (0.51/dwelling)	<b>99</b> (0.64/dwelling)
<b>Communal facilities</b>	<b>1,982m<sup>2</sup></b> (515m <sup>2</sup> internal, 1,467m <sup>2</sup> open space): <u>Level 04 (podium rooftop):</u> Lounge, dining room, Gym and Yoga rooms, outdoor space, and pool. <u>Levels 10 and 17:</u> Tower rooftop open space	<b>1,982m<sup>2</sup></b> (515m <sup>2</sup> internal, 1,467m <sup>2</sup> open space): <u>Level 04: (podium rooftop):</u> Lounge, dining room, Gym and Yoga rooms, outdoor space, <u>spa</u> and pool. <u>Levels 10 and 13:</u> Tower rooftop open space
<b>Community (public) facilities</b>	Nil	Nil
<b>New Roads / Laneways</b>	N/A	N/A
<b>Vehicle access</b>	<u>Ground and podium car park and loading bay:</u> 1 x 6.1m (approx.) (w) crossing off south (Rocklea Drive)	<u>Ground and podium car park and loading bay:</u> 1 x 6.1m (approx.) (w) crossing off south (Rocklea Drive)
<b>Dwelling access</b>	Lobby entry off south-east corner of Rocklea Drive, plus access from car park levels, plus individual entries to five (5) dwellings facing Rocklea Drive east side.	Lobby entry off south-east corner of Rocklea Drive, plus access from car park levels, plus individual entries to five (5) dwellings facing Rocklea Drive east side.
<b>Retail/commercial access</b>	South (front) off Rocklea Drive, and internally from lobby / lifts.	South (front) off Rocklea Drive, and internally from lobby / lifts.
<b>Staging</b>	N/A	N/A
<b>Gross floor area (GFA) / Plot ratio</b>	<b>Gross Floor Area (GFA):</b> 24,839m <sup>2</sup> <b>Site area</b> = 3,165m <sup>2</sup> (0.31ha). <b>Plot Ratio:</b> 7.84:1	<b>Gross Floor Area (GFA):</b> <u>21,225m<sup>2</sup></u> <b>Site area</b> = 3,165m <sup>2</sup> (0.31ha). <b>Plot Ratio:</b> <u>6.70:1</u>

- 5.5 The subject site is on a corner and presents to Rocklea Drive along both its south and east boundaries.
- 5.6 The design proposes a retail (restaurant) at ground floor level with dwellings above facing the south street frontage, a ground floor lobby with dwellings above to the corner, and townhouse dwellings with individual entries at ground floor level and apartments above facing the eastern (side) street abuttal.
- 5.7 The two towers above the podium are generally rectangular and orientated north-south, with a 10.0m separation between them.
- 5.8 Façade materials and finishes are proposed to be:
- Podium:** Concrete with a white paint or charcoal render finish, clear or blue/silver glass and charcoal steel balustrades, and
- Towers:** White oxide custom formed concrete, champagne glazing, dark grey rendered planters and dark green metal shading fins.
- 5.9 In addition, a lighting strategy is proposed using programmable LED lighting strips integrated into the façade to ‘.... accentuate the architectural expression while



activating and animating the facade though the evening’. Additional lighting is proposed in the landscape design to facilitate evening use of communal spaces and highlight planting elements. Illuminated signage is also proposed for the restaurant.

## 6. SUBJECT SITE AND SURROUNDS

### 6.1 Existing conditions are as follows:

<p><b>Site description and area</b></p>	<p>The subject site is located on a north-west corner of Rocklea Drive, Port Melbourne.</p> <p>The land has a southern frontage to Rocklea Drive of approximately 43m, an eastern side abuttal to Rocklea Drive of approximately 55m and a maximum depth of 79m for an overall area of 3,165m<sup>2</sup>. (0.31ha.) approx.</p> <p>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.</p>
<p><b>Existing building &amp; site conditions</b></p>	<p>The land is developed with a circa 2001 two-storey concrete panel office / warehouse / industrial building.</p> <p>The land has two existing vehicle crossings; one each off its east and south street frontages.</p> <p>Rocklea Drive is a 20.0m wide cul-de-sac local access street with a 10.7m (w) carriageway which accommodates a single lane for through traffic in each direction, unrestricted parallel parking and lawn nature strips on both sides. Concrete footpaths are constructed along the south and east frontages of the site, but not opposite. Access to and from Rocklea Drive is solely via two intersections with Salmon Street to the east.</p>
<p><b>Surrounds / neighbourhood character</b></p>	<p>The subject site is part of an industrial estate developed circa 1999. Land surrounding the subject site is developed as follows:</p> <ul style="list-style-type: none"> <li>• <b>North (rear):</b> A one and two-storey office/warehouse/industrial building, the West Gate Freeway and municipal boundary with the City of Melbourne, and the FBURA Employment Precinct beyond.</li> <li>• <b>South (front) (across Rocklea Drive):</b> A one and two storey office/warehouse/ industrial building, an overhead 275Kv power line and tower with open space below and further industrial buildings beyond.</li> <li>• <b>East (side) (Rocklea Drive):</b> One and two storey office/warehouse/ industrial buildings.</li> <li>• <b>West (side):</b> One and two storey office/warehouse/ industrial buildings, and the freeway and freeway service centre and West Gate bridge beyond.</li> </ul> <p>The nearest public transport is as follows:</p> <ul style="list-style-type: none"> <li>• Bus Routes 235, 238 and 606 approx. 160m to the east along Salmon Street to the City, Port Melbourne and St Kilda.</li> <li>• Bus Routes 232 and 253 approx. 600m to the south along Williamstown Road to the City and Western suburbs via the West Gate Freeway.</li> </ul> <p>The nearest bicycle paths are along Salmon Street and Williamstown Road and adjacent to Todd Road.</p> <p>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.</p>



	<p>Vehicle access to the Westgate Freeway is located approximately 1.2km from the site via Salmon, Plummer and Prohasky Streets.</p>
<p><b>Fishermans Bend Framework October 2018</b></p>	<p>The Fishermans Bend Framework and the Planning Scheme propose:</p> <p><b>For the subject site:</b></p> <ul style="list-style-type: none"> <li>• No specific provisions.</li> </ul> <p><b>For the surrounding area:</b></p> <ul style="list-style-type: none"> <li>• Demolition of the existing Office/Warehouse building across Rocklea Drive to the south and development of a new public open space park (consolidating with the existing open space area beneath the high voltage power line and tower further to the south). The Strategy Plan does not list a time frame for this project.</li> <li>• An on-road cycling path added to the north-south alignment of Rocklea Drive along the east side of the site (no time frame for this project).</li> <li>• The north-south alignment of Rocklea Drive along the east side of the site extended for a new pedestrian and cycle bridge over the freeway (Long-term i.e. 2025+ project).</li> <li>• Widening and lengthening (i.e. reducing the steepness) of the Salmon Street bridge to include pedestrian and cycling lanes (Long-term i.e. 2025+ project).</li> <li>• A new 6.0m (w) lane to the east across Rocklea Drive to Salmon Street (indicative location - no time frame for this project). Land for part of this lane is proposed to be set aside as part of amended plans for the planning permit for 101 Salmon Street.</li> <li>• New road linkages from Rocklea Drive to the south to Plummer Street and across Salmon Street (no time frame for these projects).</li> <li>• A potential new elevated heavy-rail and road freight corridor from the Port of Melbourne International Container Terminal to a new bridge over the Yarra River to the west side and rear of the site (no time frame for this project).</li> <li>• New linear parks beneath the high voltage power line alignment (no time frame for this project).</li> <li>• A new Wirraway North park (Land bounded by Salmon St, Woolboard Rd and Thackray Rd (Long-term i.e. 2025+ project).</li> </ul>

6.2 Council records show the following applications, permits, commencements and completions abutting or near the subject site have been lodged for the Wirraway precinct of the FBURA since 2013 (**Permits in bold**):

**North**

- Nil applications or permits.

**South**

- **320 Plummer Street (Cnr. Prohasky and Tarver Streets): 3, 13 and 15 level mixed-use building comprising retail and 428 dwellings. This building has been constructed.**
- **19 Salmon Street (Cnr. Plummer Street): Construct 135 x 3-4 level townhouses. Site works for this development have started.**
- **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.**



- **343 Williamstown Road: 4 level building comprising 16 dwellings. Construction started.**
- **365-391 Plummer Street (NW cnr. Salmon Street):** Construct a mixed-use multi-storey building comprising three towers with retail, commercial and dwellings. Amended plans under assessment.
- **18-22 Salmon St (SE cnr. Plummer Street):** Construct a mixed-use multi-storey building comprising three towers with retail, commercial and dwellings. Amended plans under assessment.

**East**

- **101 Salmon Street: Construct a 12-level mixed-use building comprising retail and dwellings. Amended plans being assessed. This development has not started.**
- **112 Salmon Street:** Construct a 12, 15 and 18 level mixed-use development. Considered by Council 02 August 2017. Called-in by the Minister 19-12-2017. On-hold.

**West**

- **187-201 Williamstown Road (Cnr. Todd Road): Construct 122 x 3-storey townhouses. This development has not started.**

**7. PERMIT TRIGGERS**

While the following zone and overlay controls apply to the site, with planning permission required as described, any incorporated document issued via the s20(4) process will prevail over any of the planning controls outlined below.

Planning Scheme Provision	Why is a planning permit required?
<b>Clause 36.04: Road Zone Category 1</b>	<p>Pursuant to 36.04-2, a permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 36.04-1.</p> <p>Pursuant to 36.04-4, a permit is required to display a sign over the road formation or over land within 600 millimetres of the road formation.</p> <p>Pursuant to Section 2 of Clause 52.29-2, a permit is required to create or alter access to a road in a Road Zone, Category 1.</p> <p>No works are proposed in the Road Reserve, no signs are proposed within 600mm of the road formation and no alteration to the vehicle access is proposed, therefore <b>no permit is required</b> under this clause.</p>
<b>Clause 37.04: Capital City Zone (CCZ1)</b>	<p>Pursuant to the Table of uses at Clause 37.04-1 of the CCZ and Clause 1.0 of the Schedule to the CCZ1, a planning permit is not required to use land for:</p> <ul style="list-style-type: none"> <li>• <b>Accommodation, Child care centre and Residential hotel (inc. Serviced apartments)</b> if it meets the following conditions: <ul style="list-style-type: none"> <li>○ Must not be within an Amenity buffer shown on Map 4.</li> <li>○ Must not be within 450m of the South Melbourne to Brooklyn or Dandenong to West Melbourne pipeline as shown on Map 5.</li> </ul> </li> </ul>



	<ul style="list-style-type: none"> <li>○ Must not be within 100m of the Port Melbourne to Symex Holdings pipeline as shown on Map 5.</li> <li>● <b>Dwelling</b> if it meets the following conditions:                         <ul style="list-style-type: none"> <li>○ Must be in a Non-core area.</li> <li>○ Must not be within an Amenity buffer shown on Map 4.</li> <li>○ Must not be within 450m of the South Melbourne to Brooklyn or Dandenong to West Melbourne pipeline as shown on Map 5.</li> <li>○ Must not be within 100m of the Port Melbourne to Symex Holdings pipeline as shown on Map 5.</li> </ul> </li> <li>● <b>Retail premises (other than Hotel, Shop and Tavern (i.e. Bar) (including Restaurant)</b> if it meets the following conditions:                         <ul style="list-style-type: none"> <li>○ Must not exceed 1000m<sup>2</sup> gross leasable floor area, and be located in a Core area.</li> <li>○ Must not be within 450m of the South Melbourne to Brooklyn or Dandenong to West Melbourne pipeline as shown on Map 5.</li> <li>○ Must not be within 100m of the Port Melbourne to Symex Holdings pipeline as shown on Map 5.</li> </ul> </li> </ul> <p>The land is in a Non-core Area and is not in an Amenity or Gas Pipeline Buffer. <b>A permit is not required to use the land for Accommodation or Dwelling.</b></p> <p><b>A permit is required to use the land for a Retail premises (other than Hotel, Shop and Tavern) (including a Restaurant)</b> under this clause.</p> <p>Pursuant to Clause 37.04-4 of the CCZ and Clause 4.0 of the Schedule to the CCZ1, a permit is required to construct a building or construct or carry out works, with the exception of an addition of, or modification to a verandah, awning, sunblind or canopy of an existing dwelling.</p> <p>Pursuant to Clause 37.04-4, an apartment development must meet the requirements of Clause 58. This does not apply to:</p> <ul style="list-style-type: none"> <li>● An application lodged before the approval of Amendment VC136 (02-Feb-2017).</li> <li>● An application for amendment of a permit under S72, if the original application was lodged before the approval of Amendment VC136.</li> </ul> <p>The application was first lodged on 28 February 2017 and so <b>must meet Clause 58.</b></p> <p>Pursuant to Clause 37.04-4 of the CCZ and Clause 4.1 of Schedule 1 to the CCZ1, a permit is required to demolish or remove a building or works, except for:</p> <ul style="list-style-type: none"> <li>● The demolition or removal of temporary structures;</li> <li>● The demolition ordered or undertaken by the responsible authority in accordance with the relevant legislation or local law.</li> </ul> <p>An application to use land, demolish or remove a building, construct a building or construct or carry out works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act. This does not apply to an application to use land for a nightclub, tavern, hotel or adult sex product shop.</p> <p><b>A planning permit is required under this clause.</b></p>
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<p><b>Clause 43.02: Design and Development Overlay - Schedule 30 - Fishermans Bend - Montague Precinct (DDO30)</b></p>	<p>The land is in Precinct Area W1 of DDO33 which encourages a mid-rise building typology and a preferred maximum building height of 30 metres (8-storeys).</p> <p>Pursuant to Clause 43.02-2 of the DDO and Clause 2.0 of Schedule 33 to the DDO, a permit is required to construct a building or construct or carry out works in the Design and Development Overlay.</p> <p>An application to construct a building or construct or carry out works in DDO 30 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>A planning permit is required under this clause.</b></p>
<p><b>Clause 45.03: Environmental Audit Overlay (EAO)</b></p>	<p>Pursuant to Clause 45.03-1 of the EAO, before a sensitive use (residential use, child care centre, pre-school centre, primary school, education centre or informal outdoor recreation) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, the developer must obtain either;</p> <ul style="list-style-type: none"> <li>• A certificate of environmental audit issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or</li> <li>• A statement in accordance with Part IXD of the Environment Protection Act 1970 by an accredited auditor approved under that Act that the environmental conditions of the land are suitable for the sensitive use.</li> </ul> <p><b>A planning permit is not required under this clause.</b></p>
<p><b>Clause 45.09: Parking Overlay (P01)</b></p>	<p>Pursuant to Clause 45.09-1, the Parking Overlay operates in conjunction with the requirements of Clause 52.06.</p> <p>Table 1 of Schedule 1 to the Parking Overlay specifies maximum rather than minimum parking rates for <b>Dwelling</b> and <b>Retail premises (including Restaurant)</b>.</p> <p>A planning permit is required to provide car parking spaces in excess of the rates specified in Table 1.</p> <p>The application proposes to provide car parking for the 2BR dwellings and the Restaurant in excess of the Parking Overlay rates.</p> <p><b>A planning permit is required under this clause.</b></p>
<p><b>Clause 45.11: Infrastructure Contribution Overlay (IC01)</b></p>	<p>Pursuant to Clause 45.11-2, a permit must not be granted to subdivide land, construct a building or construct or carry out works until an infrastructure contributions plan has been incorporated into the Planning Scheme.</p> <p>Pursuant to Clause 45.11-6, land or development of land is exempt from the ICO if it is for:</p> <ul style="list-style-type: none"> <li>• A non-government school;</li> <li>• Housing provided by or on behalf of the Department of Health and Human Services;</li> <li>• Any other land or development of land specified in a Schedule to the ICO.</li> </ul> <p>Pursuant to Schedule 1 to the ICO, a permit may be granted to subdivide land, construct a building or construct or carry out works before an infrastructure contributions plan has been incorporated into the scheme for:</p> <ul style="list-style-type: none"> <li>• An existing use of land provided the site coverage is not increased.</li> </ul>



	<ul style="list-style-type: none"> <li>• A sign.</li> <li>• Consolidation of land or a boundary realignment.</li> <li>• Subdivision of buildings and works approved by a permit granted before the approval date of Amendment GC81.</li> <li>• Subdivision of an existing building used for non-residential purposes provided each lot contains part of the building and each lot is not intended for a residential purpose</li> </ul> <p><b>A planning permit cannot be granted for the proposal.</b></p> <p>The application for a Planning Scheme Amendment allows consideration of the application by an alternative process whilst the Infrastructure Contributions Plan is being prepared.</p>
<b>Clause 52.06: Car Parking</b>	<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><b>A planning permit is not required under this clause.</b></p>
<b>Clause 52.34: Bicycle Facilities</b>	<p>A new use must not commence, or the floor area of an existing use must not be increased until the required bicycle facilities have been provided on the land pursuant to Clause 52.34-1.</p> <p>A planning permit is required to vary, reduce or waive any bicycle facilities requirement of Clause 52.34-3 and Clause 52.34-4.</p> <p><b>A planning permit is not required under this clause.</b></p>

## 8. PLANNING SCHEME PROVISIONS

Planning Scheme provisions, Relevant Planning Scheme Amendments and Strategic Matters are set out at Appendix 1 of this report.

## 9. REFERRALS

### 9.1 External referrals

The Minister for Planning C/- the Department is responsible for external referrals, including to Council. Council needs to provide a response.

#### Melbourne Water

9.1.1 The application documentation does not include advice of a formal referral to Melbourne Water.

9.1.2 Correspondence on file shows Melbourne Water advised the applicant in 2017 that the property was not subject to flooding from Melbourne Water's drainage system, based on a 1/100 year probability flood level.

Refer to assessment at 11.19 of this report.

### 9.2 Internal referrals

The application was internally referred for comment.

Referral responses are at Appendix 2 of this report.





**10. PUBLIC NOTIFICATION**

- 10.1 The Department has formally advised Council that the Minister for Planning has received a request to prepare, adopt and approve a draft planning scheme amendment for the proposal.
- 10.2 The Department is seeking Council’s views in relation to the proposal to assist in identifying key issues and whether referral to the Fishermans Bend Standing Advisory Committee is warranted.
- 10.3 The Department has given Council 20 business days from the date of receiving the notice to provide a written response (i.e. Thursday 06 August 2020).

**11. OFFICER’S ASSESSMENT**

**Fishermans Bend Standing Advisory Committee Terms of Reference**

An assessment of the application against the Fishermans Bend Standing Advisory Committee Terms of Reference is as follows:

**11.1 Responding to Local Policy**

Clause 22.15: Fishermans Bend Urban Renewal Area Policy

Clause 22.15 Fishermans Bend Urban Renewal Area Policy	Officer Assessment
<p><b>22.15-4.1 Providing for employment floor area</b> Development in a Core area <u>should</u> provide a minimum floor area ratio not used for dwelling of: Montague: 1.6:1; Sandridge 3.7:1; Wirraway 1.9:1. Exceptions apply.</p>	<p><b>Not applicable:</b> The site is not in a Core area and is not required to provide employment floor area. Nonetheless, the proposed 224m<sup>2</sup> Restaurant at ground floor level facing the future park would provide activation at street level and is supported. Noting the harsh existing abutting interface of the site to the freeway (and possible future freight route) to the rear and the poor amenity of some of the dwellings facing the freeway, officers would support an increase in Commercial / Office floor area in lieu of dwellings along the north and west of the building.</p>
<p><b>22.15-4.2 Community and diversity.</b> Proposals of &gt; 100 dwellings <u>should</u> provide 3BR dwellings: Montague: 25%; Sandridge: 20%; Wirraway: 30%.</p>	<p><b>Not achieved - Variation supported:</b> <b>Recommended:</b> 30% of 154 dwellings = 46 x 3BR <b>Proposed:</b> 14% / 21 x 3BR. The applicant’s further information response submitted that the proposed number of 3BR dwellings was appropriate to meet current market demand, however the dwellings have been designed to enable the consolidation of 52 x two-bedroom dwellings into 26 additional three-bedroom dwellings should the market allow in future, prior to construction. This would increase the number of 3BR dwellings from 21 to 47 which would equate to 30 (30.5%) of dwellings. This is considered satisfactory.</p>



<p><b>22.15-4.3 Providing for Affordable housing</b>  <b>Affordable housing</b>                  Developments <u>should</u> provide at least 6% of dwellings permitted under the dwelling density requirements in CCZ (excluding any Social housing uplift dwellings) as Affordable housing, unless:</p> <ul style="list-style-type: none"> <li>• The site makes it impractical to do so;</li> <li>• It can be demonstrated the policy objectives can be met by a lesser provision; or</li> <li>• It can be demonstrated meeting the objective would render the proposal economically unviable</li> </ul>	<p><b>Achieved in part - Condition(s) required:</b>  <b>Recommended:</b> 6% of 154 dwelling density = 9 (9.24) dwellings.  <b>Proposed:</b> Six (6) per cent of dwellings in the form of one or two-bedroom dwellings with one allocated bicycle parking space per dwelling:</p> <ul style="list-style-type: none"> <li>• transferred to a registered housing agency (or other housing provider or trust) at a discount of 70% of market value, or</li> <li>• placed in management of a registered housing agency (or other housing provider or trust) for not less than 20 years for leasing as Affordable Housing at 80% of market rent; or</li> <li>• In lieu payment of no less than the total cumulative value of all dwellings required in options above.</li> </ul> <p>The discounts of 70 or 80% from market value do not demonstrate affordability per the very low and low and moderate-income bands as defined by the <i>Planning and Environment Act</i>. The offer should be revised to clearly demonstrate how the proposed affordable housing would achieve this.</p> <p>The 20 years leasing offer is inadequate. Affordable housing should be provided in perpetuity, and if not, for at least 30 years by means of a legal agreement.</p> <p><b>Refer also to assessment at Clause 11.14 of this report.</b></p>
<p>Affordable housing <u>should</u> be mix of 1, 2 and 3BR, internally match other dwellings, be externally indistinguishable from other dwellings.</p>	<p><b>Not achieved - Condition required:</b>  <b>Proposed:</b> Six (6) per cent of dwellings in the form of one or two-bedroom dwellings.                  The reference to 'one <u>or</u> two-bedroom dwellings' needs to be changed to 'one <u>and</u> two-bedroom dwellings'.</p>
<p><b>Social housing</b>  <u>Encourage</u> Social housing in addition to 6% Affordable housing – Social housing uplift: allow 8 additional private dwellings of equivalent size for each Social housing unit provided.</p>	<p><b>None proposed - Not applicable:</b> Pursuant to the FBSAC Terms of Reference, Social Housing provisions do not formally apply.</p>
<p><b>22.15-4.4 Design Excellence</b>  <u>Encourage</u> varied built form that aligns with precinct character areas in DDO.</p>	<p><b>Achieved in part - Variation supported subject to conditions:</b>  <b>Recommended:</b> Precinct character area W1 encourages a generally mid-rise (i.e 7-15 level) building typology, the potential for commercial uses and landscaped spaces at ground level and communal open space for residents and workers.  <b>Proposed:</b> Two towers of 32.7m (10 storeys), and 42.4m (13 storeys) including a four (4) storey podium.  <b>Assessment</b></p>



	<p><b>Height:</b> The building height would fall within the 7-15 storey parameter of mid-rise development (but would exceed the preferred maximum 30m (8-storey) building height for the site and surrounds).</p> <p><b>Commercial uses:</b> Minimal commercial floor area is proposed. There is considerable opportunity to increase commercial / office floor area along the north and west interfaces with the Freeway and possible future elevated freight corridor as a means of providing jobs in the precinct and managing the high potential for very poor amenity for dwellings facing north and west.</p> <p><b>Landscaped space at ground level:</b> It is proposed to landscape the Rocklea Drive footpaths and the corner entry forecourt including bluestone paving, trees (mature heights of 5, 8 and 9m) and under storey painting, fixed bench seats, on-street bicycle parking (12 spaces) and areas for outdoor dining associated with the proposed restaurant. The trees and bicycle parking are supported. The bluestone paving, and fixed benches are not supported within the road reserve as they would not comply with Council's preferred footpath materials, street furniture guidelines and permeability/water sensitive urban design (WSUD) objectives. Bluestone paving would be acceptable in the recessed entry forecourt within the title boundary, subject to the final design incorporating satisfactory WSUD (such as draining to raingardens or the base of the proposed trees). This could be provided for by conditions of any Incorporated Document.</p> <p><b>Communal Open Space:</b> Communal open space and associated amenities are proposed at the podium roof top level and the roof top level of both towers. These areas are considered generally satisfactory. Council's Landscape Architect noted there were inconsistencies between the Architectural drawings and the Landscape plans and recommended changes to the podium rooftop design to allow views down to the street for casual surveillance and neighbour-hood safety.</p>
<p><b>22.15-4.5 Achieving a climate adept, water sensitive, low carbon, low waste community</b></p> <p><b>Energy:</b> Assess against:</p> <ul style="list-style-type: none"> <li>• <b>Should</b> achieve a 20% improvement on current National Construction Code energy efficiency standards including for building envelopes, lighting and building services.</li> </ul>	<p><b>Achieved in part – Condition required:</b></p> <p>The SMP notes only:</p> <ul style="list-style-type: none"> <li>• <i>The retail space on the ground floor will meet or exceed the NCC / BCA energy efficiency requirements by 20% for building envelop and glazing, with minimum efficiencies to be required for lighting, ventilation, air conditioning and domestic hot water systems through a Tenant Fitout Guide.</i></li> <li>• <i>The development proposes to demonstrate that its predicted peak electricity demand will be at least 20% below that of a Reference Building.</i></li> </ul>



	The whole building should achieve the target for all energy efficiency standards.
<ul style="list-style-type: none"> <li>Residential development <u>should</u> achieve an average 7 star NatHERS rating for each building.</li> </ul>	<p><b>Achieved:</b></p> <p>The SMP refer to targeting an 8-star average NatHERS rating and exceeding the minimum 7-star average NatHERS rating.</p>
<ul style="list-style-type: none"> <li>Developments <u>should</u> incorporate renewable energy generation, on-site energy storage and opportunities to connect to a future precinct wide or locally distributed low-carbon energy supply.</li> </ul>	<p><b>Achieved in part – Condition required:</b></p> <p>Roof mounted Solar PV panels totalling 5- to 65 kW are proposed in the SMP.</p> <p>Council’s Sustainable Design officer requested evidence on plan drawings to confirm the rooftops could accommodate the necessary panels.</p>
<p><u>Urban heat island: Assess against:</u></p> <ul style="list-style-type: none"> <li>At least 70% of total site <u>should</u> comprise building or landscape elements that reduce impact of urban heat island effect including:                             <ul style="list-style-type: none"> <li>- Vegetation, green roofs and water bodies;</li> <li>- Roof materials, shade structures, solar panels or hard scaping materials with high solar reflectivity index.</li> </ul> </li> </ul>	<p><b>Not achieved – Condition required:</b></p> <p>The SMP and plans do not provide details of the roof solar reflectance index (SRI) material.</p> <p>Council’s Sustainable Design officer requested evidence on plan drawings to confirm the proposal would meet this requirement.</p>
<ul style="list-style-type: none"> <li>Non-glazed façade materials exposed to summer sun <u>should</u> have a low solar absorptance.</li> </ul>	<p><b>Not achieved – Condition required:</b></p> <p>The SMP and plans do not provide details of the reflective index of façade materials including non-glazed façade materials exposed to summer sun.</p> <p>Council’s Sustainable Design officer requested shading to the north, east and west façades to reduce unwanted heat gains from large spans of unshaded glazing.</p>
<p><u>Sea level rise, flooding and water recycling and management:</u></p> <p>Raise internal floor levels above street level as a last resort, except where other measures and evidence / risk management necessitates it.</p>	<p><b>Achieved in part - Conditions required:</b></p> <p>The ground floor plans show parts of the building would exceed Melbourne Water’s flooding and sea level rise recommendations.</p> <p>The plans should be amended to add levels for all parts of the ground floor to confirm full compliance. Levels should be expressed to AHD rather than RLs.</p>
<p>Assess proposals in flood prone areas against:</p> <ul style="list-style-type: none"> <li>Design elements and materials <u>should</u> be resilient inc. water proof doors and windows, elevated power outlets and the like.</li> </ul>	<p><b>Achieved:</b></p> <p>The plan and elevation drawings show the ground floor would be above the applicable flood levels.</p>
<ul style="list-style-type: none"> <li>Land uses at ground level <u>should</u> be able to easily recover from temporary flooding.</li> </ul>	<p><b>Achieved:</b></p> <p>The plan and elevation drawings show the ground floor would be above the applicable flood levels.</p>
<ul style="list-style-type: none"> <li>Any level changes required between street level and internal ground floor <u>should</u> be integrated into the building design to maintain good physical and visual connection between street and interior.</li> </ul>	<p><b>Achieved:</b></p> <p>The plan and elevation drawings show no material level change between street level and internal ground floor</p>



<ul style="list-style-type: none"> <li>Essential services such as power connections, switchboards and other critical services <u>should</u> be located to address flooding impacts.</li> </ul>	<p><b>Not achieved - Condition(s) required:</b> The plan and elevation drawings do not show details of this.</p>
<ul style="list-style-type: none"> <li>Developments and public realm layout and design <u>should</u> integrate best practice WSUD.</li> </ul>	<p><b>Achieved in part - Condition required:</b> It is proposed to capture stormwater from non-trafficable areas and store it on site for reuse. Council's Sustainable Design officer requested amendments to the plans and SMP to confirm the proposal would collect stormwater from all podium and tower roofs, and tank sizes be increased to meet FBURA requirements.</p>
<p><b>22.15-4.6 Communal open spaces</b> <u>Encourage</u> developments to landscape all public, communal and private open space.</p>	<p><b>Achieved:</b> The application includes a landscape plan for all communal and private open space.</p>
<p>Landscape areas <u>should:</u></p> <ul style="list-style-type: none"> <li>Contribute to creation of sense of place and identity and preferred character for the precinct.</li> </ul>	<p><b>Achieved in part - Condition required:</b> The proposed landscape plantings to the building entry, abutting streets and on-site would be visually pleasing and would improve on and off-site amenity.  The extent, materials and design of proposed paving of the Rocklea Drive footpaths would not comply with Council's preferred materials and standards for water sensitive urban design.</p>
<ul style="list-style-type: none"> <li>Incorporate innovative approaches to flood mitigation and stormwater run-off, and best practice WSUD.</li> </ul>	<p><b>Not achieved - Conditions required:</b> The landscape plan and SMP do not propose innovative approaches to flood mitigation and stormwater run-off, and best practice WSUD for the landscaped areas.</p>
<ul style="list-style-type: none"> <li>Incorporate opportunities for community gardens.</li> </ul>	<p><b>Not achieved:</b> No community garden is proposed.</p>
<ul style="list-style-type: none"> <li>For POS, interpret and celebrate heritage and culture inc. Aboriginal cultural heritage.</li> </ul>	<p><b>Not achieved:</b> The open space does not interpret and celebrate heritage and culture inc. Aboriginal cultural heritage.</p>
<p>Plant selection <u>should:</u></p> <ul style="list-style-type: none"> <li>Support complex and biodiverse habitat including native and indigenous flora and fauna.</li> </ul>	<p><b>Achieved in part:</b> The landscape plan features a mixture of native and exotic plantings.  Council's Landscape Architect raised concerns with two proposed species noting:</p> <ul style="list-style-type: none"> <li><i>Ficus pumila</i> is a known environmental weed.</li> <li><i>Nandina domestica</i> is a sleeper weed.</li> </ul>
<ul style="list-style-type: none"> <li>Balance provision of native and indigenous plants with exotic climate resilient plants that provide opportunity for biodiversity.</li> </ul>	<p><b>Achieved in part:</b> The planting schedule includes some climate resilient species.</p>
<ul style="list-style-type: none"> <li>Support creation of vegetation links within FB to surrounding areas of biodiversity, plant selection design.</li> </ul>	<p><b>Not applicable:</b> The site does not adjoin an area of biodiversity.</p>
<p>Buildings <u>should:</u></p>	<p><b>Achieved in part:</b></p>



<ul style="list-style-type: none"> <li>• Include deep soil zones of at least 1.5m or planter pits for canopy trees.</li> </ul>	<p>The landscape plan shows canopy trees at the ground floor lobby entry and along Rocklea Drive, and smaller trees at podium rooftop level, but with pits to depths of 700mm and 1000mm only.</p>
<ul style="list-style-type: none"> <li>• Incorporate green facades, rooftop, podium or terrace planting that is water efficient, located and designed to be sustainable, viable and resilient and appropriate to micro-climate conditions.</li> </ul>	<p><b>Achieved in part – Condition required:</b></p> <p>The landscape plan proposes a mixture of climbing plants to walls and cascading plantings from balconies and podium and tower rooftop landscaping.</p> <p>The plan does not detail whether the landscape areas are water efficient, or located and designed to be sustainable, viable and resilient and appropriate to micro-climate conditions, or how they will be maintained.</p>
<p><b>22.15-4.8 New streets, laneways and pedestrian connections</b></p> <p>New streets, laneways and pedestrian connections <u>should</u> be spaced:</p> <ul style="list-style-type: none"> <li>• Core areas: not more than 50-70m apart in preferred direction and 100m apart in the other direction in a block.</li> <li>• Non-core areas: not more than 100m apart and orientated in the preferred direction.</li> </ul> <p>The preferred direction for new pedestrian connections and laneways is north-south.</p>	<p><b>Not applicable:</b> No new streets, laneways or pedestrian connections required to be proposed.</p>
<p>Sites &gt;3000m<sup>2</sup> <u>should</u> provide new streets, laneways or paths to create mid-block through links and define and separate buildings.</p>	<p><b>Not achieved - Variation supported:</b></p> <p>The site has an area of 3165m<sup>2</sup>. A variation is supported because:</p> <ul style="list-style-type: none"> <li>• The site is on a corner and abuts the Freeway to the rear. A through-block link to the freeway reservation is not appropriate.</li> <li>• The Planning Scheme and Framework Plan does not require a new street, laneway or pedestrian connection for the site.</li> </ul>
<p>New streets, laneways and pedestrian connections <u>should</u>:</p> <ul style="list-style-type: none"> <li>• Be aligned with and connected to existing and proposed streets as per relevant Maps in CCZ1.</li> </ul>	<p><b>Not applicable:</b> The Planning Scheme and Framework Plan does not require a new street, laneway or pedestrian connection for the site.</p>
<ul style="list-style-type: none"> <li>• Provide direct access to existing or proposed public transport stations and routes, and existing or proposed public open space.</li> </ul>	<p><b>Not applicable:</b> Refer above.</p>
<p>New shared streets or lanes <u>should</u> prioritise pedestrian movement and safety.</p>	<p><b>Not applicable:</b> Refer above.</p>
<p>New streets and lanes <u>should</u> be designed to: Enable views through the street block; Have active frontages in a core area; Be open to the sky; Allow for canopy tree planting.</p>	<p><b>Not applicable:</b> Refer above.</p>
<p><b>22.15-4.9 Sustainable transport</b></p>	<p><b>Achieved:</b></p>



Ensure development does not compromise the delivery of future PT inc, new tram, train and bus routes.	The development would not compromise the delivery of future PT inc, new tram, train and bus routes.
Reduce impacts of new vehicle access points on pedestrian, PT and bicycle priority routes.	<b>Achieved:</b> The vehicle access crossing would not prejudice a pedestrian, PT or bicycle priority route.
Design internal connections to give priority to pedestrians and bicycles.	<b>Achieved:</b> Bicycle parking is located forward of car parking at ground level and separate from car parking at upper levels. Pedestrian and vehicle access is separate.
Provide high levels of and easy access to bicycle parking facilities, inc. change rooms, showers and lockers.	<b>Achieved:</b> Access to the Ground floor level bicycle parking would be satisfactory and access to the Level 1, 2 and 3 bicycle parking would be primarily by lift and acceptable. Bicycle change rooms, showers and lockers are not required for the proposal.
Encourage developments to provide less than preferred max. no. car spaces.	<b>Not achieved:</b> The proposal seeks to provide more than the preferred maximum number of car spaces for the 2BR dwellings and the restaurant.
Encourage developments to provide for future conversion of car parking to alternative uses.	<b>Achieved:</b> Podium car park floor-to-floor levels would achieve the 3.8m requirement.
<b>22.15-4.10 Land use transition</b> Ensure new uses and expansion of existing uses with potential adverse amenity impacts do not prejudice the urban renewal of Fishermans Bend.	<b>Not applicable:</b> The proposed residential and restaurant uses would not prejudice the urban renewal of Fishermans Bend.
Applications that may be affected by adverse amenity impacts, require the preparation of an Amenity Impact Plan that includes measure to mitigate adverse amenity impacts.	<b>Not achieved – Condition required:</b> The application Noise Impact Assessment does not satisfactorily address noise from the adjacent freeway or respond to the potential adjacent future elevated freight route. An Amenity Impact Plan that includes measure to mitigate adverse amenity impacts should be prepared.

## 11.2 Clause 37.04: Capital City Zone (CCZ1)

### 11.2.1 Use of Land

Use for **Accommodation** and **Dwelling** does not require a permit because the land is in a Non-core area and is not within an Amenity or gas pipeline buffer.

Use for a **Retail premises (other than Hotel, Shop and Tavern)** (including **Restaurant**) requires a permit because the land is not in a Core area. It is noted that use for a **Shop**, including a **Convenience shop** does not require a permit.



The proposed uses are considered satisfactory for the site, subject to the building including a high standard of noise attenuation measures in its construction to protect residents from noise from the abutting freeway and possible future elevated freight corridor (Refer 12.2.3 below).

This should be provided for by a condition of any Incorporated Document for the proposal.

#### 11.2.2 Dwelling Density

Pursuant to the FBSAC Terms of Reference, the dwelling density provisions of the CCZ do not apply to the application.

#### 11.2.3 Buildings and Works Requirements

Buildings and works must be generally in accordance with the Urban Structure, Amenity Buffer, Pipeline Buffer and Transport and Infrastructure maps of the Schedule to the CCZ. This does not apply to a new road or laneway marked as indicative.

**Map 3: Wirraway Urban Structure** does not specify any particular provisions for the subject site. The Map does note that the land to the south across Rocklea Drive is designated new public open space.

**Map 4: Amenity buffers** does not include the land in any buffer. Notwithstanding this, the subject site abuts the Westgate Freeway and abuts a potential future elevated road and rail freight corridor (Refer to assessment at Map 6 below). The building needs to include a high standard of noise attenuation measures in its construction.

This should be provided for by a condition of any Incorporated Document for the proposal.

**Map 5: Pipeline buffers** does not include the land in any pipeline buffer.

**Map 6: Transport Infrastructure shows:**

- The north-south alignment of Rocklea Drive along the east side of the site is identified for a new bridge over the freeway. P32, Figure 5 of the Framework Plan shows the new bridge as being for a proposed off-road cycling path. The Wirraway Precinct Infrastructure Delivery guidance at pp 74 and 75 of the Framework Plan note the bridge could include walking paths and lists it as a long-term (i.e. 2025+) project.
- A potential new heavy-rail freight alignment from the Port of Melbourne International Container Terminal to a new bridge over the Yarra River runs to the west side and rear of the site. P34, Figure 7 of the Framework Plan shows the freight route could potentially be elevated and include a road and rail corridor. The Infrastructure Delivery guidance at pp 74 and 75 of the Framework Plan do not list a time frame for the freight route project.

The amenity of any development on the land could be adversely impact by the freight route project.

#### 11.2.4 Bicycle, Motorcycle and Car Share Parking





(Note: See also assessment at 11.4 of this report).

Clause 4.2 of Schedule 1 to the Capital City Zone requires bicycle, motorcycle and car share parking spaces (unless the responsible authority is satisfied a lesser number is sufficient).

A summary of the requirements and provision (based on the Development Schedule) is set out below:

**Table 12.2.4-1: Bicycle, Motorcycle and Car share parking**

Measure	Bicycle Spaces Required	Bicycle Spaces Proposed	Motorcycle Spaces Required	Motorcycle Spaces Proposed	Car Share Spaces Required	Car Share Spaces Proposed
Development of more than 50 dwellings	1 space per dwelling x 154 dwellings = <b>154 spaces</b>	197	1 per 50 dwellings x 154 dwellings = <b>3 spaces</b>	6 spaces	2 spaces + 1 per 25 car spaces x 128 residential car parking spaces = <b>7 spaces</b>	7 spaces
	1 visitor space / 10 dwellings x 154 = <b>15 spaces</b>	None specified	None specified	N/A	None specified	N/A
<b>Subtotal:</b>	<b>169 spaces</b>	<b>197 spaces</b>	<b>3 spaces</b>	<b>6 spaces</b>	<b>7 spaces</b>	<b>7 spaces</b>
Development with > 10,000m <sup>2</sup> non-residential floor space	N/A ( <i>&lt; 10,000m<sup>2</sup> non-residential floor space proposed</i> )	N/A	N/A	N/A	N/A	N/A
<b>Total:</b>	<b>169 spaces</b>	<b>197 spaces</b>	<b>3 spaces</b>	<b>6 spaces</b>	<b>7 spaces</b>	<b>7 spaces</b>

Bicycle parking

The development would provide more than the total number of resident and resident visitor bicycle parking spaces required but proposes to allocate all the spaces to the dwellings and not designate any spaces to resident visitors.

It is noted that the landscape plan includes notations for 12 bicycle parking spaces on the southern and eastern footpaths.

Noting the need for security of bicycle parking spaces, fifteen (15) resident-visitor bicycle parking spaces should be shown on the Development Plans in a safe, secure or highly visible ground floor location(s) within and/or adjacent to the building. The landscape plan and development plans should be amended to consistently show these 15 spaces.

This could be provided for by a condition of any Incorporated Document for the proposal.

Motorcycle parking



The development would provide more than the required number of motorcycle spaces for the dwellings. This is satisfactory.

Car share spaces

The development would provide the required seven (7) car share spaces.

**11.2.5 Conditions on Permits**

Clause 4.3 of Schedule 1 to the CCZ sets out mandatory conditions to be included on permits (as relevant). The listed conditions for:

- Green star rating; and
- Third pipe and rain tank;

should be included in any approved Incorporated Document for the proposal.

**11.3 Clause 43.02: Design and Development Overlay - Schedule 33 - Fishermans Bend: Wirraway Precinct**

**11.3.1 Building Typologies**

The land is in Building Typology Precinct Area W1 (Mid-rise) of Schedule 33 to the Design and Development Overlay (DDO33) which has (relevant clauses highlighted):

- **A preferred precinct character of ‘Generally mid-rise (i.e. 7 to 15 storeys) developments that:**
  - Have the potential for commercial uses, including campus style developments and smaller scale commercial spaces that support creative industries, north of Woolboard Road.
  - Include block (such as courtyard and perimeter block developments), hybrid and narrow lot developments, south of Woolboard Road extension.
  - Retain and adaptively reuses heritage and character buildings.
  - Provide landscaped spaces at ground level through the provision of lanes and through block links, plazas, courtyards and communal open space to provide high levels of amenity for residents and workers.
  - Create a sense of address for properties fronting the Woolboard Road Linear Park and new Wirraway North Park.’

It is noted that pursuant to Clause 2.5 and Map 2 of DDO30 and the Fishermans Bend Framework October 2018, the preferred maximum building height for the site and most of Precinct Area W1 is 30m (8-storeys) (Refer to assessment at Section 12.3.3 below).

**Assessment**

Height: The proposed 10 and 13 storey heights would fall within the 7 to 15-storey height of the preferred generally mid-rise precinct character for the area



(but would exceed the preferred maximum 30m (8-storey) building height for the site and surrounds).

The proposed heights are supported having regard to:

- The sites location at the northern perimeter of the precinct where it would, over time, not be a dominant element in the character of the area;
- The application was originally lodged in 2017 before the current planning scheme controls.
- The 10<sup>th</sup> and 13<sup>th</sup> levels of the two-towers would be setback from the front and sides of the towers such that the two towers would predominantly read as 9 and 12-storeys
- A 9-storey tower would be a minor variation from the preferred 8-storey height;
- The 13-storey tower is setback on the site behind the 9-storey tower, which would reduce its prominence.

Commercial uses: Minimal commercial floor area is proposed. There is considerable opportunity to increase commercial / office floor area along the north and west interfaces with the Freeway and possible future elevated freight corridor as a means of providing jobs in the precinct and managing the high potential for very poor amenity for dwellings facing north and west.

Landscaped space at ground level: It is proposed to landscape the Rocklea Drive footpaths and the corner entry forecourt including bluestone paving, trees (mature heights of 5, 8 and 9m) and under storey panting, fixed bench seats, on-street bicycle parking (12 spaces) and areas for outdoor dining associated with the proposed restaurant. The trees and bicycle parking are supported. The bluestone paving, and fixed benches are not supported within the road reserve as they would not comply with Council's preferred footpath materials, street furniture guidelines and permeability/water sensitive urban design (WSUD) objectives. Bluestone paving would be acceptable in the recessed entry forecourt within the title boundary, subject to the final design incorporating satisfactory WSUD (such as draining to raingardens or the base of the proposed trees). This could be provided for by conditions of any Incorporated Document.

Communal Open Space: Communal open space and associated amenities are proposed at the podium roof top level and the roof top level of both towers. These areas are considered generally satisfactory. Council's Landscape Architect noted there were inconsistencies between the Architectural drawings and the Landscape plans and recommended changes to the podium rooftop design to allow views down to the street for casual surveillance and neighbour-hood safety.

### 11.3.2 Overshadowing



Buildings must not cast any additional shadow above the shadows cast by hypothetical buildings built to the Maximum street wall height and existing buildings over:

- The existing residential zoned land south of Williamstown Road between the hours of 11.00am and 2.00pm on 22 September.
- The existing or new public open spaces shown in **Map 4** of this schedule between the hours of 11.00am and 2.00pm on 22 September.

The proposal would not overshadow the specified existing residential zoned land between 11.00am and 2.00pm on 22 September.

The land opposite to the south across Rocklea Drive is designated as existing public open space on Map 4 to the schedule.

The proposal would not exceed the overshadowing measures to the proposed park between 11.00am and 2.00pm on 22 September.

### 11.3.3 **Building Height**

#### Street Wall Height

The DDO does not specify a preferred street wall (i.e. podium) height for the site but does specify a maximum street wall height of **six storeys**.

A uniform four-storey street wall is proposed to both frontages.

#### **Assessment**

The consistent four-storey street wall is considered satisfactory, noting it is broken up vertically into a series of separate modules with alternating fenestration to relieve building mass and provide visual interest, and would provide a human scale and not cause overshadowing facing the proposed park opposite to the south.

Officers would also support a taller street wall up to the maximum six-storeys along the east side of Rocklea Drive.

#### Tower Height

The 10 and 13-storey tower heights exceed the preferred 30m / 8-storey height for the site and surrounds but fall within the preferred mid-rise 7-15 storey height precinct character for the land.

#### **Assessment**

Council's Urban Designers and City Strategy planners recommended:

- Reducing the height of the building to four or five levels to correspond to the dwelling density provisions of the planning scheme, and otherwise to no more than 8-storeys;
- Reducing the height of the northern tower relative to the height of the southern tower to reduce shadow impacts on the rooftop open space of the southern tower.

Pursuant to the Fishermans Bend SAC Terms of Reference, the dwelling density provisions of the Planning Scheme do not apply to the application.



Clause 19 of the Standing Advisory Committee Terms of Reference (April 2020) requires consideration of matters including:

- (b) The content and purposes of the planning controls introduced under Amendment GC81.
- (c) The compliance of the proposal with the requirements of the permanent planning controls set out in paragraphs 14-15 ... of (the) Terms of Reference, as applicable;
- (d) Whether any departure from the Fishermans Bend Framework compromises the objectives of the Framework; and
- (e) The cumulative effect on the preferred character of the relevant precinct or the ability to achieve the objectives of Fishermans Bend arising from any departures from the Framework or the requirements of the permanent planning controls.

Having regard to the above, the proposed building heights are supported for the reasons set out at Section 12.3.1 of this report.

#### 11.3.4 **Street wall setbacks**

Street walls should be built to the boundary except for dwellings in Non-core areas not on a street identified as having a Secondary active frontage. Dwellings on these streets should be setback 3.0m from the street to facilitate a landscaped transition from the street to ground floor apartments.

Rocklea Drive is in the Non-core area and is not on identified as a Secondary active frontage.

##### **Assessment**

A variation from the 3.0m setback is supported because the five (5) ground floor apartments along the eastern street frontage are not primarily accessed from Rocklea Drive. The entry to these dwellings, like their counterparts in the podium levels above, is through the corner lobby and along internal corridors. The dwellings feature slightly elevated open space balconies off the living room and secondary access via three steps only off Rocklea Drive.

The southern street wall on the boundary incorporating the ground floor level retail (Restaurant) tenancy would comply.

#### 11.3.5 **(Tower) Setbacks Above the Street Wall / Side and Rear Setbacks**

The preferred setback of towers above the street wall and from side and rear boundaries is 10.0m and the minimum allowed setback is 5.0m. The towers do not meet the preferred setbacks but meet or slightly exceed (up to 6.1m from the south and west boundaries and up to 6.2m from the east boundary) the minimum setbacks.

##### **Assessment**

Council's Urban Designers and City Strategy planners:



- Supported the angled and stepped edges of the towers because it would enhance articulation and provide a more dynamic reading of the building edge and parapet.
- Recommended a 10.0m street setback if the building was more than eight-storeys;
- Supported 5.0m setbacks from the side boundaries.

Variations for the reduced tower setbacks above the street wall as proposed are supported for similar reasons as to why variations for the proposed height were supported as follows:

- The sites location at the northern perimeter of the precinct would not establish a dominant element in the character of the area;
- The application was originally lodged in 2017 before the current planning scheme controls.
- The 10<sup>th</sup> and 13<sup>th</sup> levels of the two-towers would be setback from the front and sides of the towers such that the two towers would predominantly read as 9 and 12-storeys
- A 9-storey tower would be a minor variation from the preferred 8-storey height;
- The preferred and minimum setbacks above the street wall for an 8-storey building are 5.0m and 3.0m respectively

#### 11.3.6 **Building Separation**

##### Podium

Not applicable. The design features a single podium.

##### Tower

The preferred and minimum building separation above the street wall is 20.0m and 10.0m respectively. The two towers would be setback the minimum 10.0m.

##### **Assessment**

A variation to support the minimum setback is supported because:

- The southern (10-storey) tower is narrow and dwellings within that tower are predominantly oriented to the south, east and west away from the northern (13-storey) tower except for two bedrooms on each level.
- The 10.0m setback would exceed the 9.0m benchmark separation for overlooking between dwellings.

#### 11.3.7 **Wind Effects on the Public Realm**

A Pedestrian Wind Environment Study including wind tunnel assessment was prepared for the 10 and 17-storey plans. That report concluded that ground level wind amelioration treatments were required to achieve satisfactory wind



conditions within and around the development at ground level for pedestrian comfort and safety including:

- Dense evergreen tree planting capable of growing to 3-5m in height with a minimum canopy width of 4.0m along the eastern aspect of the development.
- Stepping the north-east and south-east corners of the building.
- Inclusion of portable localised impermeable screens with a height of at least 1.2m to be placed in between the tables located along the southern façade of the development.
- Inclusion of an approx. 30% porous wall for the southern substation entrance door.
- Inclusion of an approx. 30% porous wall for the car park entrance door.
- Inclusion of an approx. 50% porous wall/screen to be placed along the south-eastern corner of the development.
- Inclusion of an approx. 30% porous wall along the western car park façade for the Ground Level and Level 01.
- Inclusion of approx. 20-30% porous screens along the western and southern edges of the proposed planting cut-outs, with the screens to extend to approximately the bottom of the tree canopies.

With the inclusion of these treatments to the final design, the Wind Consultant expected that wind conditions for all Ground Level outdoor trafficable areas within and around the development would be suitable for their intended uses.

The amended 10 and 13-storey proposal has not been wind tunnel tested and no additional analysis has been provided regarding what if any difference in wind conditions might be expected from the reduction in height.

It is noted that the wind tunnel testing:

- Only measured at points on the ground floor or nearby;
- Only measured walking criteria and not standing and sitting criteria relevant to outdoor dining for the restaurant; and
- Did not measure wind impacts at the podium or roof top open space areas of the building.

### **Assessment**

The subject site is on the far western edge of the FBURA and is highly exposed to wind impacts. There are no existing or likely future tall buildings nearby that might ameliorate wind impacts to the site.

As a first principle, it is considered that reliance on trees on or abutting a site or considerable retrofitting of screens for ameliorating wind impacts is indicative of poor design.



The wind assessment showed most of the street frontages, including areas designated for outdoor dining for the restaurant would not achieve satisfactory wind conditions as proposed.

Any Incorporated Document for the proposal must include conditions for:

- An updated wind report, including wind tunnel testing to confirm the proposal would satisfy the relevant standing and walking wind criteria abutting each site and for pedestrian areas within the site and at podium and tower rooftop levels, and sitting wind criteria for areas designated for outdoor dining.
- The proposal to incorporate all the recommendations of the revised wind reports before the building is occupied.

### 11.3.8 Active Street Frontages

Rocklea Drive is not designated as requiring an active frontage. Nonetheless, the proposed ground floor level restaurant on the south elevation and townhouse type dwellings with individual entries on the east elevation would provide satisfactory activation and visual interest.

Apartment balconies above ground floor level facing Rocklea Drive would also provide a degree of activation, as well as natural surveillance of the street and building entry.

### 11.3.9 Adaptable Buildings

Adaptable buildings should incorporate elements as follows:

Building element	Adaptability opportunity	Compliance
Lower levels up to the height of the street wall	At least 4.0m floor-to-floor height at ground level At least 3.8m floor-to-floor height for other lower levels	<b>Achieved:</b> Ground level floor-to-floor height: 4.0m Podium levels 1 to 3 floor-to-floor height: 3.8m
Car parking areas	<ul style="list-style-type: none"> <li>• In areas not in a basement: Level floors.</li> <li>• A floor-to-floor height at least 3.8m.</li> </ul> Mechanical parking systems to reduce the area required for car parking	<b>Achieved:</b> Level floors at podium levels 1, 2 and 3. Podium levels 1 to 3 floor-to-floor height: 3.8m No mechanical parking system proposed
Dwelling layout	The ability for one and two-bedroom dwellings to be combined or adapted into three or more-bedroom dwellings	<b>Achieved:</b> Drawing A2500 shows 52 x 2-bedroom dwellings can be amalgamated into 26 x 3-bedroom dwellings across the development.
Internal layout	Minimal load bearing walls to maximise flexibility for retail or commercial refits.	<b>Achieved</b> The principle load bearing elements would be the building floors and beams and columns allowing internal spaces back to be altered and adapted.

#### Assessment

The proposal incorporates the necessary criteria to allow for future adaptability.

### 11.3.10 Building Finishes and Lighting Strategy





Building façade materials and finishes and the lighting strategy are described at Paragraph 5.8 and 5.9 of this report.

**Assessment**

Podiums

Building façade materials and finishes and the lighting strategy facing Rocklea Drive are considered satisfactory and are supported.

The northern (rear) and western (side) walls feature expanses of blank wall. These sections of wall should be architecturally treated and/or articulated to

Towers

Tower façade materials and finishes and the lighting strategy are considered satisfactory and are supported.

**11.4 Clause 45.09: Parking Overlay and Clause 52.06: Car Parking**

**(Note: See also assessment at 11.2.4 of this report).**

**11.4.1 Car Parking**

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 parking rates for **Dwelling, Retail premises** (which includes a **Restaurant and Shop**). A permit is required to provide parking in excess of the Parking Overlay rates.

An assessment of car parking rates and provision is set out as follows:

**Table 11.4.1-1: Car parking rates and provision**

MAXIMUM CAR PARKING PROVISION	PROPOSED CAR PARKING PROVISION
<b>Dwelling:</b> (Clause 45.09) 1 or 2 BR dwelling: Max 0.5 spaces per dwelling 3 BR or more dwelling: Max. 1 space per dwelling	
<b>224 dwellings</b>	
12 x 1BR x 0.5 = Max. 6 spaces	6 spaces = 0.5 space/dwelling. <b>Complies</b>
121 x 2BR x 0.5 = Max. 60 (60.5) spaces	101 spaces = 0.84 space/dwelling. <b>Does not comply</b>
21 x 3BR x 1 = Max. 21 spaces	21 spaces = 1.0 space/dwelling. <b>Complies</b>
<b>Subtotal: Max. 87 spaces</b>	<b>Total: 128 spaces - does not comply</b> <b>Does not comply:</b> The gross number of spaces proposed for the 2BR dwellings exceeds the maximum number of spaces specified
<b>Retail premises (Restaurant):</b> (Clause 45.09) Max. 1 space / 100m <sup>2</sup> gross floor area	
224m <sup>2</sup> x 1/100 = Max. 2 (2.24) spaces	<b>7 spaces = 1/32m<sup>2</sup> gross floor area.</b> <b>Note:</b> Includes 2 DDA compliant spaces



<b>Note:</b> Application consultant Traffic Report assessed Restaurant using Clause 52.06 rate of 3.5 spaces/100m2 GFA = 7 spaces.	<b>Does not comply:</b> The gross number of staff spaces proposed exceeds the maximum number of spaces specified
<b>Car Share: 7 spaces required</b>	<b>7 spaces</b>
<b>Total: Max. 89 spaces</b>	<b>142 spaces (+ 53 spaces)</b> <b>Note:</b> Application consultant Traffic Report refers to + 41 spaces)

The gross number of resident spaces proposed for the 2BR dwellings and the restaurant would exceed the Planning Scheme maximums.

**Assessment**

Dwellings

The application submits additional car parking for the 2BR dwellings is warranted because:

- The rate, whilst more than the Parking Overlay rate, is still less than required for a 2BR dwelling outside of the FBURA and is less than existing ABS Census car ownership rates for 2BR dwellings elsewhere in Port Melbourne;
- The car park levels in the building have been designed to be adaptable to other uses in the future.
- The proposal makes satisfactory provision for car share, motorcycle and bicycle parking.
- The site is not well served by Public Transport at present.

Car parking rates and provision outside of the CCZ is not a valid point of comparison because the purpose of the policy and Planning Scheme provisions for car parking in the CCZ operate differently from most of the State including elsewhere in Port Melbourne. A more relevant comparison would be with the City of Melbourne Parking Overlay areas including their Schedule 13 for Fishermans Bend where car parking rates are similarly managed as in the FBURA.

It is considered that compliance with other FBURA Planning Scheme provisions for adaptable buildings and car share, motorcycle and bicycle parking do not justify varying the car parking requirement; these provisions should be achieved together with, rather than instead of a compliant level of car parking.

The limited level of public transport along the nearest route along Salmon Street is acknowledged, as is the indefinite final routes and construction date of the proposed tram line and Metro 2 train. However:

- Upgrades of bus routes in the area are under review (including a new route via Williamstown Road and Salmon Street) in response to increased residential and future university and job populations;
- The recent State budget announced funding for additional morning and evening peak time services for Fishermans Bend bus routes #235



(which runs along Salmon Street) and #237 (Lorimer Street) to address increasing demand in the area; and

- There is also the Route # 234/236 bus which operates on a 30-minute timetable from 6.00am to 11.40pm daily from a terminus at the Garden City shops approx. 1200m to the south to the City (Queen Victoria Market).

It is considered providing more car spaces than required would to some degree prejudice the future viability of increased public transport in the area and be contrary to the sustainable transport objectives of the FBURA.

The provision of car parking at the maximum rates of the Parking Overlay is considered an appropriate response to the sites location and current level of public transport; a variation to provide more car parking for the 2BR dwellings is not supported.

#### Restaurant

The application has incorrectly calculated the maximum provision of car parking for the restaurant as seven (7) spaces rather than two (2).

The provision of seven car spaces in a building for a restaurant, for patrons and/or staff is atypical, not just for the CCZ / FBURA, but generally in Port Phillip.

It is considered seven on-site spaces would be excessive, and the number of spaces should be reduced to two to comply with the Parking Overlay.

#### 11.4.2 **Design standards for car parking**

As per the internal referral comments set out at Section 9.2 of this report, Council's Traffic Engineers advised the vehicle access, car park design, car share, motorcycle and bicycle parking provision and loading arrangements were generally satisfactory except for:

##### Car park Layout and Access Arrangements

- The Traffic Report should include a swept path analysis to confirm:
  - Critical spaces including end spaces, spaces adjacent to columns/walls, DDA spaces etc. are accessible using a B85 design vehicle.
  - All internal car park access ramps can accommodate simultaneous two-way traffic flow of a B85 and B99 vehicle with suitable clearance.

##### Car share

- Can the Applicant provide more information about the Car Share arrangements including any intended / confirmed providers.

##### Loading and Waste Collection

- The Traffic Report (and plans) should provide details of how residents are expected to load and unload during moving in/out operations,



including swept paths for a typical residential loading vehicle, and convenient access to / from residential lobbies and elevators.

Bicycle Facilitates

- All bicycle spaces must be installed in accordance with the Australian standards, ensuring each space has a clear 1.5m access aisle, Ned Kelly spaces are spaced at 0.5m intervals (min.), ground level spaces (i.e. hoops) are spaced at 1m intervals (min.)

In addition to the above, officers note the Traffic Report and the plans do not show any electric car charging points. At least 50% of all car spaces on all car park levels should include an electric vehicle charging point, having regard to the economic life of the building, and existing and pending legislation for car manufactures to end new internal combustion engine (ICE) vehicle sales from 2025 (Norway), 2030 (Sweden, Denmark, Ireland, Israel, Netherlands and Slovenia), 2032 (Scotland), 2035 (England, Wales and Northern Ireland), 2040 (France and Sri Lanka), and China (tba).

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

**11.5 Noise Impacts inc. Residential Amenity**

- 11.5-1** The development is required to comply with BADS / PPN83 / Clause 58 for the dwellings and AS/NZS 2107:2016 as a minimum standard in other areas.

Building plant needs to comply with SEPP-N1, and music noise from any premises needs to comply with SEPP-N2.

- 11.5-2** Clause 58.04-3 ‘Noise Impact objectives’ of the Planning Scheme Apartment Developments provisions sets out noise levels for dwellings in a ‘Noise influence area’ as follows:

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

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

- 11.5-3** Buildings in these areas should be designed and constructed to achieve noise levels (assessed in unfurnished rooms with a finished floor and the windows closed) of:

- **Bedrooms:** Not greater than 35dB(A), assessed LAeq,8h 10pm to 6am.



- **Living areas:** Not greater than 40dB(A), assessed LAeq,16h 6am to 10pm.

**11.5-4** A consultant Noise Report for the application acknowledges the site abuts the freeway but incorrectly states the site is not within 300m of an Industrial Zone. The site is approximately 180m from the FBURA Employment Precinct Industrial Zoned land to the north across the freeway.

**11.5-5** The consultant report submits the dwellings facing the Freeway should meet the Clause 58 noise levels, but the dwellings facing Rocklea Drive could be:

- Measured to less stringent criteria; and
- Constructed to a lesser standard, as follows:

**Applicant Consultant Recommended Internal Noise Levels**

LOCATION	Required Max. Internal Noise Level <sup>1</sup>
<b>Bedrooms:</b> Road noise from West Gate Freeway	35 dB(A) <sup>3</sup> Leq(8hr) (10pm - 6am)
<b>Living Rooms:</b> Road noise from West Gate Freeway	40 dB(A) <sup>3</sup> Leq(16hr) (6am - 10pm)
<b>Bedrooms:</b> Road noise from other roads (i.e. Rocklea Drive)	35 - 45 dB(A) <sup>2</sup> Leq (15 hour) <sup>4</sup> (7am - 10pm) 35 - 40 dB(A) <sup>2</sup> Leq (9 hour) <sup>4</sup> (10pm - 7am)
<b>Living rooms:</b> Road noise from other roads (i.e. Rocklea Drive)	35 - 45 dB(A) <sup>2</sup> Leq (15 hour) (7am - 10pm)

**Note 1:** With external windows and doors closed; **Note 2:** Noise level within furnished room ready for occupation

**Note 3:** Noise Level within unfurnished room with finished floor; **Note 4:** Based on typical highest 1-hour noise level during period

**11.5-6** Officers disagree, noting:

- The whole of the building is in the Noise influence area and so will be subject to direct and indirect noise from the Freeway and Industry.
- The Fishermans Bend Framework and the Planning Scheme designate a possible new elevated heavy-rail and road freight corridor from the Port of Melbourne International Container Terminal to a new bridge over the Yarra River to the immediate west side and rear of the site. Port of Melbourne advice is that a future rail link to the container terminal would need to operate 24 hours a day throughout the year. Although no time frame for this project is specified, if it proceeds, it would significantly impact on the amenity of the building, and thus the building should make provision for it in its construction, because it would be physically difficult and expensive and possibly not achievable to retrofit the building.

**11.5-7** Appropriate noise levels for the building need to be provided for by conditions of any Incorporated Document that may be approved for the proposal.



**11.6 Transport Matters**

**11.6.1 Motorcycle Parking**

Motorcycle parking is assessed at Clause 11.2-4 of this report.

**11.6.2 Bicycle facilities**

Clause 52.34 of the Planning Scheme sets out different bicycle parking requirements to those specified at Clause 4.2 of Schedule 1 to the Capital City Zone.

Neither Clause 4.2 of the Schedule to the Capital City Zone or Clause 52.34 provides guidance as to whether either clause supersedes the other or the clauses should be read in conjunction with one another. For this assessment, officers have elected to:

- Use the bicycle parking rates specified at Clause 4.2 of the Schedule to the Capital City Zone because they are the most recent addition to the planning scheme and because they relate specifically to the Fishermans Bend Urban Renewal Area.
- Use the shower and change room requirements at Clause 52.34-5 and the Design of bicycle spaces and Bicycle signage requirements at Clauses 52.34-6 and 52.34-7 because Clause 4.2 of the Schedule to the Capital City Zone does not set out alternative requirements for these matters.

An assessment of the bicycle facility requirements determined that the proposal is not required to provide shower or change rooms as follows:

Bicycle facility	Use listed in Table 1:	Employee/Resident Requirement	Proposed
<b>Showers:</b>	<b>Dwelling:</b>	Nil - Showers not required for residents	N/A
	<b>Retail premises:</b> 224m <sup>2</sup> (Restaurant)	Nil - Bicycle parking not required if < 10,000m <sup>2</sup> floor space	N/A
<b>Subtotal</b>		<b>Nil</b>	N/A
<b>Change rooms:</b>	As above	Nil	N/A
<b>Total</b>		<b>Nil</b>	N/A

**11.7 Waste Management**

11.7.1 The Waste Management Plan (WMP) proposes:

- Collection of residential and commercial garbage, recyclable and charity waste twice weekly, and hard/electronic/liquid and other wastes (polystyrene, batteries, paint, chemicals and detox items, etc) at call. Green waste collocation frequency not specified.
- Waste to be collected by a private contractor at the onsite Loading Bay using rear lift vehicles (nom. 6.4m (l), 2.1m (h) and 6.4 tonnes gross



weight), needing max. 2.5m height clearance in operation. Green waste to be collected by landscape contractor.

- Waste shall be stored within the development (hidden from external view).
- Users shall sort their waste and dispose garbage and recyclables via the chutes and/or directly into collection bins.
- The collection contractor will be responsible for transferring waste bins from the bin stores to the ground floor loading bay.

Council's Waste Management officer advised:

- The allocation of waste and recycling bins for the apartments is inadequate; the number of bins or collections needs to be increased.
- The plans should designate space for food/organic bins for future council services.
- The plans should designate space for Hard Waste in the commercial bin store and E-Waste and Charity bins for all occupants.
- The plans should dimension the width of the residential bin room doors and the Tower 1 residential bin chute room.

### **Assessment**

#### **Tower 1 Residential Waste and Commercial Waste**

Subject to additional plan detail as recommended by Council's Waste Officer, it is considered waste arrangements for Tower 1 and the Restaurant and would be satisfactory.

#### **Tower 2 Residential Waste**

It is noted:

- The waste chutes do not align with the ground floor level Waste room. The plans need amendment or clarification.
- The residential bin store is remote from the loading bay and would require bins to be wheeled out of the bin store into a corridor, along the car park aisle, left along the main car park access aisle and past the ramp to/from the car park levels above and into the loading bay and past the Waste collection truck to allow loading.

Noting the design proposes too many car parking spaces, a solution may be to delete the car spaces closest to the T2 bin store and modify the Waste Management Plan to allow the collection vehicle to reverse down the car park aisle for loading nearer the T2 bin store. This change would also assist with loading for residents moving in/out of the apartments by allowing shorter and more direct access to the T2 lifts.



### 11.8 Loading

One loading bay is proposed at ground floor level. The 8.86m length, 5.09m width and 3.8m height of the loading bay would exceed the dimensions and operating height of the Waste collection vehicle and would be satisfactory. Swept path diagrams confirm that the proposed Waste collection vehicle and other trucks could satisfactorily reverse in and leave in a forward direction.

### 11.9 Stores

Ninety-nine stores (excluding storage provided pursuant to Clause 58 - Apartment Developments) is proposed for the 154 dwellings. This equates to 0.64 stores per dwelling.

One secure (i.e. solid wall/floor/door/roof rather than wire mesh) store of at least 6m<sup>3</sup> should be provided for each dwelling. Deletion of excess car parking spaces would provide room for stores.

This could be provided for by a condition of any Incorporated Document that may be approved for the proposal.

### 11.10 Public Open Space

No public open space is proposed. 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 parkland in the neighbourhood.

### 11.11 Sustainable design

A Sustainability Management Plan (SMP) was submitted with the application. The SMP proposes:

- The development achieve a certified **5-Star** Green Star rating under the Green Star - Design & As Built (v1.2) rating tool.
- Presenting to the relevant authority a Design Review rating prior to construction and a As-Built rating certificate within 9 months of practical completion.
- The development targeting an 8-Star average NatHERS rating, thereby exceeding the minimum 7-Star average NatHERS rating required under Clause 22.15-4.5.

Council's Sustainable Design officer raised concerns including:

- The Architectural Drawings needed to be amended to show:
  - Roof plans confirming the proposed 50-65kw solar PV array(s) can be accommodated.
  - Shading devices to the north, east and west façades to reduce unwanted heat gains from large spans of unshaded glazing.
  - Details of FBURA specific integrated water management (IWM) requirements, including tank sizing, third pipe and rain tank(s).
  - Details of compliance with Heat Island Effect requirements.





- The SMP did not meet requirements for third pipe and rain tank sizing, catchment of storm water from all roof and podium areas, connection to non-potable outlets throughout the building.
- The stormwater management relied on proprietary devices not supported by Council.
- The proposal should provide a Green Travel Plan.

These matters could be provided for by conditions of any Incorporated Document that may be approved for the proposal.

### 11.12 Community facilities

The application proposes six (6) per cent of all dwellings as Affordable Housing dwellings. This is considered satisfactory, subject to the conditions recommended below.

### 11.13 Affordable and Social Housing

11.13.1 Clause 22.15-4.3 of the Fishermans Bend Urban Renewal Policy states:

*Development should provide at least 6% of dwellings permitted under the dwelling density requirements in the CCZ (excluding any Social housing uplift dwellings) as Affordable housing unless:*

- *The built form envelope available on the site makes it impractical to do so*
- *It can be demonstrated that the development will contribute to the Affordable housing objectives of this policy while providing less than the minimum amount;*
- *It can be demonstrated that meeting the affordable housing objectives of this policy would render the proposed development economically unviable.*

#### Affordable Housing

11.13.2 The application proposes to provide Affordable Housing as follows:

- Six (6) per cent of dwellings, in the form of one or two-bedroom dwellings with one allocated bicycle parking space per dwelling:
- transferred to a registered housing agency (or other housing provider or trust) at a discount of 70% of market value, or
- placed in management of a registered housing agency (or other housing provider or trust) for not less than 20 years for leasing as Affordable Housing at 80% of market rent; or
- In lieu payment of no less than the total cumulative value of all dwellings required in options above.

Six (6) per cent of 154 dwelling density equals nine (9.24) dwellings.

#### **Assessment**

The 6% offer is consistent with Policy, however the reference to provision of one **or** two-bedroom dwellings and the discounts of 70 or 80% from market value do not demonstrate affordability per the very low and low and



moderate-income bands as defined by the *Planning and Environment Act*. The offer should be revised to clearly demonstrate how the proposed affordable housing would achieve this.

The 20 year leasing offer is inadequate. Affordable housing should be provided in perpetuity, and if not, for at least 30 years by means of a legal agreement.

**Officers recommend:**

- The offer of six per cent of dwellings be accepted;
- The reference to ‘one or two-bedroom dwellings’ be changed to ‘one and two-bedroom dwellings’.
- The dwellings be provided in perpetuity, and if not, for at least 30 years by means of a legal agreement.
- The dwellings be provided in a manner that makes them affordable to persons in the very low and low and moderate-income bands as defined by the *Planning and Environment Act*.
- The dwellings be dispersed throughout the podium and towers.

Social Housing

11.13.3 Pursuant to the FBSAC Terms of Reference, the dwelling uplift / Social Housing provisions of Clause 4.2 of Schedule 1 to the CCZ do not apply to the application.

**11.14 Environmental Audit**

An environmental audit has not been undertaken for the land.

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 conditions of any Incorporated Document that may be approved for the proposal.

**11.15 Infrastructure Contribution Overlay (ICO1)**

Amendments **VC146** (15 May 2018) and **GC81** (05 October 2018) introduced the Infrastructure Contributions Overlay and Schedule 1 to the ICO respectively.



Pursuant to Clause 45.11-2, a permit must not be granted to subdivide land, construct a building or construct or carry out works until an infrastructure contributions plan (ICP) has been incorporated into the Planning Scheme.

The application for a Planning Scheme Amendment allows assessment and approval of applications in the interim before an ICP has been incorporated into the Scheme.

Pursuant to the FBSAC Terms of Reference, the provision of appropriate development contributions is a matter for the Committee to determine.

### 11.17 Melbourne Water Floor/Flood Levels

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

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

The plan, elevation and section drawings:

- Show the ground floor level car park entry at RL 4.0m rising to a minimum floor level of RL 4.2m.
- Show the ground floor level entry lobby and Restaurant to have a minimum floor level of RL 4.0m.
- Show the ground floor level dwelling access corridor to have a minimum floor level of RL 4.6m.
- Do not confirm the ground floor level dwelling, substation and other building services floor levels.
- Do not show floor levels to AHD.

A condition of any Incorporated Document should require floor levels for all ground floor uses to be noted on the plans and be expressed to AHD rather than Reduced Levels (RLs).

### 11.18 Aboriginal Cultural Heritage

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

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



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

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

It is proposed that a condition requiring the preparation of a CHMP be included in any Incorporated Document that may be approved for the proposal.

## 12. COVENANTS

12.1 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, fascia's 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 materials and finishes would not breach the covenant.

12.2 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 relocate the substation to the south-west corner of the site/building (adjacent to the vehicle entry).

This is a civil matter that requires the agreement of the parties and amendment of the Title(s).

## 13. OFFICER DIRECT OR INDIRECT INTEREST

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

## 14. OPTIONS

14.1 Provide comments to the Department as recommended.

14.2 Provide changed or additional comments to the Department to those recommended.

14.3 Not provide comments.

## 15. CONCLUSION

15.1 The proposed street wall (podium) would comply with height requirements and setbacks from the south, side and rear, but seeks a variation in setback from the eastern street frontage.

15.2 The tower heights would both exceed the preferred 30m / 8 storey height for the site and surrounds but would fall within the mid-rise heights specified for the precinct.



- 15.3 Tower setbacks and separation would meet or slightly exceed minimum requirements.
- 15.4 Variations are supported for the setbacks and heights having regard to the degree of variations proposed and the sites location at the far end of the precinct abutting the freeway.
- 15.5 The application does not partly or fully meet requirements or policy for sustainable and water sensitive urban design, wind impacts, noise attenuation, car and visitor bicycle parking, and footpath works.
- 15.6 Officers recommend changes to the plans and/or reports including to:
- Require a high standard of noise attenuation measures in the buildings construction
  - Delete dwellings facing the freeway in lieu of commercial floor area such as offices which would not be as potentially adversely affected by noise;
  - Delete the proposed bluestone paving and fixed seating in the adjacent footpaths in lieu of asphalt and lawn and portable seating;
  - Altering the podium rooftop design to allow views down to the street for casual surveillance and neighbour-hood safety.
  - Correct inconsistencies between the Architectural drawings and Landscape plans.
  - Update the wind report including wind tunnel testing to confirm the proposal would satisfy the relevant standing and walking wind criteria abutting each site and for pedestrian areas within the site and at podium and tower rooftop levels and sitting wind criteria for areas designated for outdoor dining.
  - Articulate / architecturally resolve expanses of blank wall on the west (side) and north (rear) boundary's.
  - Provide one store per dwelling.
  - Reduce the number of car parking spaces for the uses to not more than the Parking Overlay maximum rates and show visitor bicycle parking.
  - Clarify and/or confirm Waste Management, car park design, loading, resident visitor bicycle parking, ESD, WSUSD, and floor levels to AHD.
- 15.7 The application offer of Affordable Housing totalling 6% of all dwellings is supported subject to the dwellings being dispersed throughout the podium and towers, the reference to 'one or two-bedroom dwellings' be changed to 'one and two-bedroom dwellings', the dwellings be provided in perpetuity, and if not, for at least 30 years by means of a legal agreement, and dwellings be provided in a manner that makes them affordable to persons in the very low and low and moderate-income bands as defined by the *Planning and Environment Act*.
- 15.8 If the proposal was to be supported, officers recommend that any Incorporated Document for the Amendment include conditions for these matters.
- 15.9 It is recommended that the Statutory Planning Committee resolve to advise the Department that



- The Council supports the application subject to amendments to the plans and reports to address Council's concerns as per Section 11 of this report.

15.10 In the event that the application for a Planning Scheme Amendment is supported, the Incorporated Document for the amendment includes conditions to address Council's concerns.

**TRIM FILE NO: PF19/45606**

**ATTACHMENTS**

1. **Appendix 1 - Strategic matters, Planning Scheme provisions**
2. **Appendix 2 - Internal referral responses**
3. **Attachment 1 - Location Plan**
4. **Attachment 2 - Plan drawings**
5. **Attachment 3 - Elevation drawings #1**
6. **Attachment 4 - Elevation drawings #2**
7. **Attachment 5 - Section drawings**
8. **Attachment 6 - Renders #1**
9. **Attachment 7 - Renders #2**