



**6.5** **179 GLADSTONE STREET, SOUTH MELBOURNE**  
**LOCATION/ADDRESS:** **179 GLADSTONE STREET, SOUTH MELBOURNE**  
**EXECUTIVE MEMBER:** **LILI ROSIC, ACTING GENERAL MANAGER PLACE STRATEGY AND DEVELOPMENT, PLACE STRATEGY & DEVELOPMENT**  
**PREPARED BY:** **KATHRYN POUND, PRINCIPAL URBAN PLANNER**

**1. PURPOSE**

- 1.1 To consider and determine application P1049/2017 for demolition of existing structures, use and development of a four storey dwelling with rooftop terrace and provision of car parking in excess of the Parking Overlay.

**2. EXECUTIVE SUMMARY**

<b>WARD:</b>	Gateway
<b>TRIGGER FOR DETERMINATION BY COMMITTEE:</b>	Accommodation (dwelling) within the Fishermans Bend Urban Renewal Area
<b>APPLICATION NO:</b>	P1049/2017
<b>APPLICANT:</b>	All Extension Design Service
<b>EXISTING USE:</b>	Vacant land
<b>ABUTTING USES:</b>	Residential, commercial and light industrial
<b>ZONING:</b>	Capital City Zone – Schedule 1
<b>OVERLAYS:</b>	Design and Development Overlay – Schedule 30 Parking Overlay – Schedule 1 Development Contributions Overlay – Schedule 2
<b>STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL</b>	Expired

- 2.1 The application site is located within the Montague precinct of the Fishermans Bend Urban Renewal Area.
- 2.2 The City of Port Phillip is the responsible authority for the application pursuant to Section 2.0 of the schedule to Clause 61.01 of the Port Phillip Planning Scheme.
- 2.3 The site is located in the Capital City Zone (Schedule 1) and is affected by Design and Development Overlay (Schedule 30), Park Overlay (Schedule 1) and Development Contributions Overlay (Schedule 2).



- 2.4 The application was advertised (public notice) and five objections were received at the time of writing this report. The key issues raised are off-site amenity impacts (overshadowing, loss of light, overlooking, bulk and noise), built form, issuing of parking permits and impacts during construction.
- 2.5 An onsite information meeting was held on 8 June 2018. The meeting was attended by objectors and Planning Officers. No matters were resolved at the meeting.
- 2.6 Since the application was advertised, Council has received legal advice that the application is exempt from the notice and review requirements of the *Planning and Environment Act 1987*. This means that none of the objectors have the right to appeal Council's decision to VCAT. Therefore, if Council determines to support the application, a planning permit must be issued (not a Notice of Decision to Grant a Planning Permit). Notwithstanding this, Council must consider all issues raised in objections.
- 2.7 The proposal would have a good level of compliance with the existing Fishermans Bend controls and framework which prescribe a four storey height limit in this location. It would also have a good level of compliance with the proposed controls and framework which prescribe an eight storey height limit.
- 2.8 While some off-site amenity impacts would be caused to surrounding properties, these would not be unreasonable having regard to the strategic policy context for this area, in which significant change is encouraged.
- 2.9 The proposal has been reviewed by internal departments and no major objections have been raised. Some generally minor alterations to the plans and other documents required by the recommended conditions would address Urban Design, ESD and Drainage Engineering comments.
- 2.10 It is recommended that Council supports the application subject to the recommended conditions.



### 3. RECOMMENDATION

- 3.1 That the Responsible Authority issues a Planning Permit P1049/2017 for demolition of existing structures, use and development of a four storey dwelling with rooftop terrace and provision of car parking in excess of the Parking Overlay at 179 Gladstone Street, South Melbourne, subject to the following conditions:

#### RECOMMENDATION "PART A":

##### 1 Amended Plans Required

Before the use and/ or development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and an electronic copy must be provided. The plans must be generally in accordance with the plans prepared by All Extension Design Service Revision 1, dated December 2017 and received by Council on 23 April 2018, but modified to show:

- a) The front portion of the roof deck setback from both side boundaries to match the setbacks of the rear portion of the roof deck.
- b) Either a solid wall or screen on the south-western boundary of the third floor deck. Removal of the roof overhanging this portion of the third floor deck may also occur.
- c) Increased ground floor ceiling heights to a minimum of 3 m, with no increase in overall building height.
- d) Higher quality architectural treatment to the blank south west facing side wall forward of the light well. A texture or cladding treatment should be used, not a painted finish.
- e) Details of the front screen including the width, depth and spacing of the vertical members and the framing required to support the screening. The screen must allow some visual permeability into the dwelling.
- f) Details of the landscaping behind the front screen and along the first-floor balcony. Plants selected must allow some visual permeability into the dwelling.
- g) The glass brick material being Poesia Arctic Crystal Natural.
- h) The first floor habitable room windows which face onto the lightwell screened to limit downwards views.
- i) Shading devices to the second and third floor street facing (fully glazed) walls, or the use of a high performance solar control glass.
- j) Provision of operable windows to allow cross-ventilation and a minimum of one operable window sash to each habitable room in addition to any glazed door. Window and door format and sash operation must be clearly indicated.
- k) Any changes necessary to meet the requirements of the Sustainable Design Assessment in the corresponding condition(s) below.



- l) The location of essential services, such as power connections, switchboards and other critical services being located at or above the floor level of 2.4 m to AHD.
- m) Any changes necessary to meet the requirements of Melbourne Water in the corresponding conditions below.
- n) Any changes necessary to meet the requirements of the Water Sensitive Urban Design Response in the corresponding condition(s) below.
- o) Any changes necessary to meet the requirements of the Landscape Plan in the corresponding condition below.
- p) Any changes necessary to meet the requirements for Noise Attenuation in the corresponding condition below.

**2 No Alterations**

The layout of the use and the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason without the prior written consent of the Responsible Authority, unless the Port Phillip Planning Scheme exempts the need for a permit.

**3 No change to external finishes**

All external materials, finishes and colours as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

**4 Privacy Screens Must be Installed**

Privacy screens as required in accordance with the endorsed plans must be installed prior to occupation of the building and thereafter maintained to the satisfaction of the Responsible Authority.

**5 Walls on or facing the boundary**

Before the occupation of the development allowed by this permit, all new or extended walls on or facing the boundary of adjoining properties and/or a laneway must be cleaned and finished to a uniform standard to the satisfaction of the Responsible Authority. Unpainted or unrendered masonry walls must have all excess mortar removed from the joints and face and all joints must be tooled or pointed also to the satisfaction of the Responsible Authority. Painted or rendered or bagged walls must be finished to a uniform standard to the satisfaction of the Responsible Authority.

**6 No equipment or services**

Any plant, equipment or domestic services visible from the primary street frontage (other than a lane) or public park must be located and visually screened to the satisfaction of the Responsible Authority.

**7 Landscape Plan**

Before the development starts (other than demolition or works to remediate contaminated land), a detailed Landscape Plan must be submitted to, approved by and be to the satisfaction of the Responsible Authority. When the Landscape Plan is



approved, it will become an endorsed plan forming part of this Permit. The Landscape Plan must incorporate:

- a) Buildings and vegetation (including botanical names) on neighbouring properties within 3m of the boundary
- b) Significant trees greater than 1.5m in circumference, 1m above ground
- c) All street trees and/or other trees on Council land
- d) A planting schedule of all proposed vegetation including botanical names; common names; pot sizes; sizes at maturity; quantities of each plant; and details of surface finishes of pathways and driveways.
- e) Landscaping and planting within all open space areas of the site, and
- f) Water sensitive urban design.

All species selected must be to the satisfaction of the Responsible Authority.

#### **8 Completion of Landscaping**

The landscaping as shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority before the occupation of the development and/or the commencement of the use or at such later date as is approved by the Responsible Authority in writing.

#### **9 Landscaping Maintenance**

The landscaping as shown the endorsed Landscape Plan must be maintained, and any dead, diseased or damaged plant replaced in accordance with the landscaping plan to the satisfaction of the Responsible Authority.

#### **10 Sustainable Design Assessment**

Before the development starts (other than demolition or works to remediate contaminated land) a Sustainable Design Assessment that outlines proposed sustainable design initiatives and responds to the issues raised by Council's ESD Advisor (including but not limited to improving the energy rating) must be submitted to, be to the satisfaction of and approved by the Responsible Authority. When approved, the Assessment will be endorsed and will then form part of the permit and the project must incorporate the sustainable design initiatives listed.

#### **11 Incorporation of Sustainable Design initiatives**

The project must incorporate the sustainable design initiatives listed in the endorsed Sustainable Design Assessment to the satisfaction of the Responsible Authority.

#### **12 Implementation of Sustainable Design Initiatives**

Before the occupation of the development approved under this permit, a report from the author of the Sustainable Design Assessment approved pursuant to this permit, or similarly qualified person or company, must be submitted to the satisfaction of the Responsible Authority. The report must confirm that all measures and recommendations specified in the Ecologically Sustainable Design report have been implemented and/or incorporated in accordance with the approved report to the satisfaction of the Responsible Authority.



**13 Water Sensitive Urban Design**

Before the development starts (other than demolition or works to remediate contaminated land) a Water Sensitive Urban Design Report that outlines proposed water sensitive urban design initiatives and responds to the issues raised by Council's ESD Advisor must be submitted to, be to the satisfaction of and approved by the Responsible Authority. The report must demonstrate how the development meets the water quality performance objectives as set out in the Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO) or as amended.

When approved, the Report will be endorsed and will then form part of the permit and the project must incorporate the sustainable design initiatives listed.

**14 Maintenance Manual for Water Sensitive Urban Design Initiatives (Stormwater Management)**

Before the development starts (other than demolition or works to remediate contaminated land) a Maintenance Manual for Water Sensitive Urban Design Initiatives must be submitted to and approved by the Responsible Authority.

The manual must set out future operational and maintenance arrangements for all WSUD (stormwater management) measures. The program must include, but is not limited to:

- a) Inspection frequency
- b) Cleanout procedures, and
- c) As installed design details/diagrams including a sketch of how the system operates.

The WSUD Maintenance Manual may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Building User's Guide or a Building Maintenance Guide.

**15 Contaminated Land**

Before the development starts (other than demolition or works to remediate contaminated land), the Responsible Authority must be provided with:

- a) A certificate of Environmental Audit for the land issued in accordance with Section 53Y of the Environment Protection Act 1970; or
- b) A Statement of Environmental Audit for the land issued under Section 53Z of the Environment Protection Act 1970 confirming that the environmental conditions of the land are suitable for the use and development allowed by this permit.

**16 Compliance with Statement of Environmental Audit**

Where a Statement of Environmental Audit is issued for the land, the buildings and works and the use(s) of the land that are the subject of this permit must comply with all directions and conditions contained within the statement.

Where a Statement of Environmental Audit is issued for the land, before the commencement of the use, and before the issue of a Statement of Compliance under the Subdivision Act 1988, and before the issue of an occupancy permit under the Building Act 1993, a letter prepared by an Environmental Auditor appointed under Section 53S of the Environment Protection Act 1970 must be submitted to the



Responsible Authority to verify that the directions and conditions contained within the statement have been satisfied.

Where a Statement of Environmental Audit is issued for the land, and any condition of that statement requires any maintenance or monitoring of an ongoing nature, the owner(s) must enter into an agreement with the Responsible Authority pursuant to Section 173 of the Planning & Environment Act 1987, which must be executed before the commencement of the permitted use and before the certification of the Plan of Subdivision under the Subdivision Act 1988. All such expenses related to the Section 173 Agreement including drafting, negotiating, lodging, registering, execution and ending of the Agreement, including those incurred by the Responsible Authority, must be met by the owner(s).

**17 Remediation Works Plan**

Before any remediation works are undertaken in association with the environmental audit, a 'remediation works plan' must be submitted to and approved by the Responsible Authority. The plan must detail all excavation works as well as any proposed structures such as retaining walls required to facilitate the remediation works. Only those works detailed in the approved remediation works plans are permitted to be carried out before the issue of a Certificate or Statement of Environmental Audit.

**18 Vehicle Crossings**

Before the occupation of the development allowed by this permit, vehicle crossings must be constructed in accordance with Council's current Vehicle Crossing Guidelines and standard drawings to the satisfaction of the Responsible Authority. All redundant crossings must be removed and the footpath, naturestrip, kerb and road reinstated as necessary at the cost of the applicant/owner and to the satisfaction of the Responsible Authority.

**19 Applicant to Pay for Reinstatement**

Before the occupation of the development allowed by this permit, the applicant/owner must do the following things to the satisfaction of the Responsible Authority:

- a) Pay the costs of all alterations/reinstatement of Council and Public Authority assets necessary and required by such Authorities for the development.
- b) Obtain the prior written approval of the Council or other relevant Authority for such alterations/reinstatement.
- c) Comply with conditions (if any) required by the Council or other relevant Authorities in respect of alterations/reinstatement.

**20 Agreement under Section 173 of the Planning and Environment Act 1987 Re: Developer Contribution**

Before the development starts (other than demolition or works to remediate contaminated land), the applicant must:

- a) Enter into an agreement under Section 173 of the Planning and Environment Act 1987 with the Responsible Authority;



- b) Register the agreement on the title(s) for the land in accordance with Section 181 of the Planning and Environment Act 1987; and
- c) Provide the Responsible Authority with the dealing number confirming the registration of the title.

The agreement must be in a form to the satisfaction of the Responsible Authority, and the applicant must be responsible for the expense of the preparation and registration of the agreement, including the Responsible Authority's reasonable costs and expense (including legal expenses) incidental to the preparation, registration, enforcement and ending of the agreement. The agreement must contain covenants to be registered on the Title of the property so as to run with the land, and must provide for the following:

- d) The developer to pay a development contribution of:
  - e) • \$15,900 per dwelling
  - f) • \$180 per sqm of gross commercial floor area
  - g) • \$150 per sqm of gross retail floor area
  - h) or other amount outlined within an approved development contribution plan to the satisfaction of the Responsible Authority.
- i) Require that development contributions are to be indexed quarterly from 1 July 2015 using the Price Index of Output of the Construction Industries (Victoria) by the Australian Bureau of Statistics.
- j) Require registration of the Agreement on the titles to the affected lands as applicable.
- k) Include a schedule of the types of infrastructure to be delivered by the Development Agency using development contributions.
- l) Confirm that contributions will be payable to the Metropolitan Planning Authority.
- m) Confirm that the contributions will be used by the Development Agency as stipulated by the Metropolitan Planning Authority to deliver the schedule of types of infrastructure.
- n) Require that a bank guarantee to the value of 50% of the development contribution must be deposited with the Responsible Authority prior to the commencement of any works. The bank guarantee will be returned upon full payment of the development contribution.
- o) Confirm the procedure for reducing the contribution paid if the permanent development contributions plan for the area is less than the amount stipulated in the Section 173 Agreement.
- p) Require that payment of 10% of the contribution is at the time of issue of the building permit and 90% to be made prior to the issue of a Statement of Compliance in accordance with the Subdivision Act 1988.
- q) The agreement must make provision for its removal from the land following completion of the obligations contained in the agreement.





**21 Noise Attenuation for Apartments**

External traffic noise intrusion within apartment bedroom and living areas (upon completion; with furnishing within the spaces and with windows and doors closed) and measured in accordance with AS/NZS2107/2000 Acoustics – Recommended Design Sound levels and Reverberation Times for Building Interior shall comply with the following:

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

**22 Melbourne Water Condition 1**

The finished floor levels of the building must be constructed no lower than 2.4 metres to Australian Height Datum (AHD).

**23 Melbourne Water Condition 2**

The finished floor levels of the garage must be constructed no lower than 2.1 metres to Australian Height Datum (AHD).

**24 Time for Starting and Completion**

This permit will expire if one of the following circumstances applies:

- a) The development is not started within two (2) years of the date of this permit.
- b) The development is not completed within two (2) years of the date of commencement of works.
- c) The use is not commenced within two (2) years of the completion of the development.

The Responsible Authority may extend the periods referred to if a request is made in writing:

- before or within 6 months after the permit expiry date, where the use or development allowed by the permit has not yet started; and
- within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

**NOTES**

**Building Approval Required**

This permit does not authorise the commencement of any demolition or construction on the land. Before any demolition or construction may commence, the applicant must apply for and obtain appropriate building approval from a Building Surveyor.

**Building Works to Accord with Planning Permit**

The applicant/owner will provide a copy of this planning permit to any appointed Building Surveyor. It is the responsibility of the applicant/owner and Building Surveyor to ensure that all building development works approved by any building permit is consistent with this planning permit.



### **Drainage Point and Method of Discharge**

The legal point of stormwater discharge for the proposal must be to the satisfaction of the responsible authority. Engineering construction plans for the satisfactory drainage and discharge of stormwater from the site must be submitted to and approved by the Responsible Authority prior to the commencement of any buildings or works.

### **Other Approvals May be Required**

This Planning Permit represents the Planning approval for the use and/or development of the land. This Planning Permit does not represent the approval of other departments of the City of Port Phillip or other statutory authorities. Such approvals may be required and may be assessed on different criteria from that adopted for the approval of this Planning Permit.

### **Days and Hours of Construction Works**

Except in the case of an emergency a builder must not carry out building works outside of construction hours:-

- i. Monday to Friday: 7.00am to 6.00pm; or
- ii. Saturdays: 9.00am to 3.00pm.

An Out of Hours permit cannot be obtained for an appointed public holiday under the Public Holidays Act, 1993.

### **Broadband, Communications and Digital Economy**

The development must provide for and meet the requirements of the Australian Government Department of Broadband, Communications and Digital Economy publication Fibre in new developments; policy update updated dated 22 June 2011 (as amended).

### **Melbourne Water's notes**

The applicable 1 % ARI flood level for the property is 1.60 metres to the Australian Height Datum (AHD).

If further information is required in relation to Melbourne Water's conditions shown above, please contact the Customer and Planning Services team on 9679 7517 quoting Melbourne Water's Reference MWA-1025160.

### **RECOMMENDATION "PART B":**

- 3.2 Authorise the Manager City Development to instruct Council's Statutory Planners and/ or Solicitors on any future VCAT application/s for review.

## **4. RELEVANT BACKGROUND**

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



Application No.	Proposal	Decision	Date of Decision
<i>MINRA0001/2013 (Ministerial permit)</i>	<i>Demolition of buildings and works and the use and development of the land for multi storey dwellings (8 in total) and a ground floor art gallery</i>	<i>Approved</i>	<i>18 January 2014</i>
<i>P1235/2011/B (Council permit)</i>	<i>Demolition of existing buildings and the development and use of a seven level building comprising dwellings (16 in total) and associated car parking</i>	<i>Approved</i>	<i>24 April 2015</i>

## 5. PROPOSAL

- 5.1 This proposal is for the demolition of existing structures, use and development of a four storey dwelling with rooftop terrace and provision of car parking in excess of the Parking Overlay.
- 5.2 The existing structures on the site would be demolished. These comprise the brick wall on part of the south west boundary, and its associated support props.
- 5.3 The new dwelling would comprise foyer, study, cinema, laundry, bathroom, toilet and double garage on the ground floor, kitchen/ living and lounge/ dining on the first floor, three bedrooms, three bathrooms and rumpus on the second floor and two bedrooms, bathroom and lounge room on the third floor. There would be a central lift and stair well providing access to all floors.
- 5.4 Several balconies at the first, second and third floors would provide private open space, in addition to a large roof terrace with pool and pergola.
- 5.5 The dwelling would have a maximum height of 16.99 m and be largely built to all boundaries. The building would be progressively setback from the rear boundary. It would also have a small light well on the south west boundary.
- 5.6 The dwelling would have a contemporary appearance, with materials being a combination of vertical timber battens, metal Alucabond cladding, timber vertical cladding, glass brick, concrete panels and clear glazing.
- 5.7 The garage would be accessed via the rear laneway.
- 5.8 The plans under assessment are those prepared by All Extension Design Service Revision 1, dated December 2017, received by Council on 23 April 2018 and subsequently advertised.

## 6. SUBJECT SITE AND SURROUNDS

Description of Site and Surrounds	
Site Area	The site is rectangular in shape with a frontage to Gladstone Street of 8.84 m, depth of 24.38 m and overall area of 218.3 sqm.



7.

Existing building & site conditions	<p>The site is vacant apart from a small section of brick wall on the south west boundary and its associated support props. Vehicle access is via the rear laneway.</p> <p>The site was previously occupied by a single storey dwelling, which was demolished around September 2015.</p>
Surrounds/ neighbourhood character	<p>The site and surrounds are located in the Montague precinct of the Fishermans Bend Urban Renewal Area and comprises predominantly commercial and light industrial uses. The built form context is highly varied, comprising original terrace dwellings, 1950s and 1960s brick warehouses and more recent multi storey office and residential buildings.</p> <p>To the immediate south west is a row of original, single storey, brick terrace dwellings at 181-187 Gladstone Street. Beyond that abutting Boundary Street at 189 Gladstone Street is a relatively recent double storey terrace dwelling. Properties on the other side of Boundary Street are zoned Neighbourhood Residential and are not located in the Fishermans Bend Urban Renewal Area.</p> <p>The terrace dwelling which immediately abuts the subject site, 181 Gladstone Street, is built to the shared boundary, has two habitable room window facing the subject site, has a small rear yard and has a covered car port abutting the laneway.</p> <p>To the immediate north east at 173-175 Gladstone Street is a single storey brick building occupied by an automotive repair business. It is built to all side boundaries. This includes a 5.5 m high (approximate) wall on the shared boundary. It has vehicle access from a crossover on Gladstone Street as well as from the rear laneway. Beyond that at 169 Gladstone Street is a double storey brick building also occupied by an automotive repair business. Beyond that at 165-167 Gladstone Street is a newly constructed eight storey building containing retail premises at ground level and dwellings above (approved under P1140/2014).</p> <p>To the immediate rear of the site is a 2.9 m wide laneway which runs off Boundary Street and connects with Gladstone Street further to the north east. To the rear of the site beyond the laneway is double storey brick office building at 50 Boundary Street.</p> <p>To the immediate north west on the opposite side of Gladstone Street is a three storey brick office building at 194 Gladstone Street. Other nearby properties on that side of Gladstone Street are also commercially used. Built form styles are varied and heights are between one and three storeys.</p>

**PERMIT TRIGGERS**

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

Zone or Overlay	Why is a permit required?
Clause 37.04 Capital City Zone - Schedule 1 (CCZ1)	Pursuant to Clause 37.04-1 and Section 1.0 of Schedule 1 to the CCZ, a permit is required to use the land for a dwelling. This is because the threshold distance from industrial and warehouse uses referred to in the table to Clause 52.10 are not



	<p>met. For instance, the site is located within 100 m of a panel beating business at 145 Gladstone Street.</p> <p>While a dwelling previously occupied the site, it was demolished over two years ago. Therefore any previous existing use rights for a dwelling have expired under Clause 63 Existing uses.</p> <p>Pursuant to Clause 37.04-4 and Section 3.0 of Schedule 1 to the CCZ, a permit is required to construct a building or construct or carry out works.</p> <p>Pursuant to Section 4.0 of Schedule 1 to the CCZ, a permit and prior approval for the redevelopment of the site are required to demolish or remove a building or works.</p> <p>Pursuant to Clause 6.0 of Schedule 1 to the CCZ1 before a sensitive use (including a residential use) 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>Clause 43.02 Design and Development Overlay – Schedule 30 (DDO30)</p>	<p>Pursuant to Clause 43.02-2 and Section 2.0 of Schedule 30 to the DDO, a permit is required to construct a building or construct or carry out works.</p>
<p>Clause 45.09 Parking Overlay – Schedule 1 (PO1)</p>	<p>Pursuant to Clause 45.09-3 and Section 3.0 of Schedule 1 to the PO, a planning permit is required to provide car parking spaces in excess of the rates specified in Table 1 of Schedule 1. Table 1 specifies a maximum rate of one car space per dwelling. This proposal includes two car spaces for one dwelling. Therefore a permit is required to provide one excess car parking space.</p>
<p>Clause 45.06 Development Contributions Plan Overlay – Schedule 2 (DCPO2)</p>	<p>The DCPO2 does not contain a permit trigger for this development. Rather, it enables levying contributions for works, services and facilities before development can commence.</p> <p>No development contributions plan has been incorporated into the scheme for Fishermans Bend. However, pursuant to Schedule 2 to the DCPO, a permit may be granted to construct a building or construct or carry out works before a precinct wide development contributions plan has been prepared to the satisfaction of the responsible authority if the permit contains a condition requiring an agreement under Section 173 of the <i>Planning and Environment Act 1987</i> that makes provision for development contributions to be entered into before the commencement of development.</p>



## 8. PLANNING SCHEME PROVISIONS

### State Planning Policy Framework (SPPF)

8.1 The following State Planning Policies are relevant to this application:

- 8.1.1 Clause 11 Settlement, including
  - Clause 11.02 Urban Growth
  - Clause 11.03 Activity Centres
  - Clause 11.06 Metropolitan Melbourne
- 8.1.2 Clause 13 Environmental Risks, including
  - Clause 13.01 Climate Change Impacts
  - Clause 13.03 Soil Degradation
- 8.1.3 Clause 15 Built Environment and Heritage, including
  - Clause 15.01 Urban Environment
  - Clause 15.02 Sustainable Development
- 8.1.4 Clause 16 Housing
- 8.1.5 Clause 18 Transport

### Local Planning Policy Framework (LPPF)

8.2 The following Local Planning Policies are relevant to this application:

- 8.2.1 Clause 21.03 Ecologically Sustainable Development, including
  - Clause 21.03-1 Environmentally Sustainable Land Use and Development
  - Clause 21.03-2 Sustainable Transport
- 8.2.2 Clause 21.04 Land Use, including
  - Clause 21.04-1 Housing and Accommodation
  - Clause 21.04-2 Activity Centres
- 8.2.3 Clause 21.05 Built Form, including
  - Clause 21.05-2 Urban Structure and Character
  - Clause 21.05-3 Urban Design and the Public Realm
- 8.2.4 Clause 21.06 Neighbourhoods, including
  - Clause 21.06-8 Fishermans Bend Urban Renewal Area

### Local Planning Policy Framework (LPPF)



- 8.3 The following local planning policies are relevant to this application:
- Clause 22.12 Stormwater Management (Water Sensitive Urban Design)
  - Clause 22.13 Environmentally Sustainable Development
  - Clause 22.15 Employment and Dwelling Diversity within the Fishermans Bend Urban Renewal Area

#### **Other Relevant Provisions**

- 8.4 The following particular and general provisions are relevant to this application:
- Clause 52.06 Car Parking
  - Clause 61.01 Administration and Enforcement of this Scheme
  - Clause 65 Decision Guidelines

#### **Reference and Incorporated Documents**

- 8.5 The Fishermans Bend Strategic Framework Plan, July 2014 (amended September 2016) is a relevant reference document to this application.
- 8.6 The Port Phillip Heritage Review – Volumes 1-6 (Version 25, May 2018) is a relevant incorporated document to this application.

#### **Relevant Planning Scheme Amendment/s**

##### Amendment GC81: Draft Fishermans Bend Framework

- 8.7 On 21 October 2017, a draft revised Fishermans Bend Framework was released by the State Government for consultation in October 2017. Subsequently, on 31 October 2017, associated draft Planning Scheme Amendment GC81 setting out revised State and Local policy, zone, overlay and general provisions for Fishermans Bend was released for consultation.
- 8.8 The draft Framework Plan proposes (relative to the subject site and surrounds):
- 8.8.1 In terms of transport, a bus route on Ingles Street to the west and cycling corridors on Ingles Street to the west and Buckhurst Street and Bay Street to the south.
  - 8.8.2 In terms of open space, new open space along the tram line to the north and near Montague Street.
  - 8.8.3 In terms of built form, the site and surrounds (the non-core Montague precinct) having a Floor Area Ratio (FAR) of 3.0:1 and a discretionary eight storey height control for this site.
  - 8.8.4 In terms of land use, the site and surrounds being a Mixed use medium (non-core activity) area, proximate to an Investigation Area for the Potential Montague Arts and Cultural Hub, centred around Gladstone and Buckhurst streets on the south west side of Montague Street.



- 8.9 The draft controls encourage/ introduce the following key items:
- 8.9.1 The submission of a green travel plan for all applications in Fishermans Bend, under Clause 21.03-2.
  - 8.9.2 Substantial residential growth encouraged in Fishermans Bend, particularly in the Montague, Sandridge and Wirraway precincts, under Clause 21.04-1.
  - 8.9.3 The identification of key built form elements in each precinct, and the introduction of preferred future precinct character guidelines for each precinct, under Clause 21.06-8. The subject site would be located in Sub-precinct M4.
  - 8.9.4 For Montague, the following local strategies are of relevance to this application:
    - 6.8.14 Encourage infill, row/terrace and shoptop housing. Perimeter block, hybrid or podium/tower development is supported in core locations.*
    - 6.8.15 Encourage low to mid rise built form of up to 8 storeys is preferred, except in the 'core' where a preferred maximum height of 12 or 20 storeys applies. Low rise, mandatory maximum 4 storeys at City Road and Boundary Street interfaces.*
    - 6.8.16 Encourage new laneways to complete 'missing links' between primary and secondary active frontages/retail streets and provide rear/side lane access to buildings.*
    - 6.8.17 Encourage smaller building footprints to add to the fine grain character.*
    - 6.8.18 Encourage commercial/retail uses at ground level to activate streets*
    - 6.8.19 Encourage continuation of built form to create defined street edges with upper level setbacks providing for outlook and internal amenity and protecting amenity of streets and laneways.*
  - 8.9.5 Area M4 has the following preferred character:
    - Generally a mid-rise scale of development with opportunities for additional upper levels that are visually recessive from the street and do not result in podium-tower forms.*
    - A variety of street wall heights between 4 and 8 storeys to contribute to architectural diversity within the street.*
    - Adaptive reuse of existing heritage and characterful buildings.*





- 8.9.6 Clause 22.15 sets out a range of relevant policies for new development, including a dwelling density for the Montague Non-core area of 198 per hectare.
- 8.9.7 Schedule 1 to the Capital City Zone sets out a range of matters that must be considered, including conditions that must be included on any permit that issues, information that must be provided and decision guidelines. Gladstone Street is not designated for primary or secondary active frontages.
- 8.9.8 Schedule 30 to the Design and Development Overlay sets out numerous built form requirements including for height, setbacks, street wall height, walls on boundaries, adaptable buildings, finishes and landscaping.
- 8.9.9 The application of the Environmental Audit Overlay to the site and surrounds.
- 8.9.10 Schedule 1 to the Parking Overlay specifies a maximum parking rate of 0.5 spaces per dwelling. A permit must not be granted to exceed the maximum parking provision.
- 8.10 Submissions on the draft Framework and Planning Scheme provisions closed on 15 December 2017 and were referred to an independent panel which concluded in May 2018. It is not known when the new Framework and controls will be resolved and/ or implemented. Regardless, the assessment of this application must have regard to the draft controls.

## 9. REFERRALS

### Internal referrals

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

#### Heritage Advisor

- 9.2 Council's Heritage Advisor provided the following comments:

*The four Victorian terrace houses at nos. 181-187 are identified as being of potential heritage significance and are likely to be included in a forthcoming heritage review of the remaining buildings within the Montague precinct.*

- 9.3 *Having said this, if they are found to be significant they are likely to be so 'independent of their context' in accordance with accepted policy and so, to a greater extent' the development of this property (now that the original house has already been demolished) as proposed is unlikely to impact upon the significance of these houses, which already sit within an altered context.*



*Accordingly, I don't have any specific comments to make in relation to this development – I will leave aspects of the design detail to the Urban Design referral.*

Urban Design Officer

9.4 Council's Urban Designer provided the following advice:

Strategic Context

*The proposed development has been assessed against its fit with the Fishermans Bend Strategic Framework as well as in light of the process underway within Council to heritage list the single level terraces at 181-187 Gladstone Street. This listing will temper the consistency of 4-storey podium forms proposed to transition southwards towards the edge of the Montague Precinct. It is likely that future redevelopment of these sites will result in the retention of the front portion of the dwellings with additional height (3-4 storeys) setback towards the rear of the site. This new form will not be expected to be hidden from view, nor will adjacent development be expected to set back from the sides of the retained forms. Rather, they will be preserved as isolated examples of the previous/original development of the area.*

*Overall, this grand 4 level + rooftop townhouse will offer a high end luxury accommodation option within the precinct and is supported with conditions related to quality, equity of development and amenity.*

Built Form – Height and Setbacks

*The overall building height is good. However, the streetwall needs to be reinforced in views from the west by setting the side edge of the roof deck in approx. 1m from the edge with 181 Gladstone Street so that the 4-storey front and side walls clearly meet at the exposed corner.*

*The proposed zero lot setbacks to both side boundaries are appropriate as they comply with the DDO controls resulting in the delivery of a consistent 4 storey character. They also maximise the redevelopment potential of sites to either side. However, the covered 3rd floor balcony/roof deck to the south presents issues of overlooking of any future redevelopment of 181 Gladstone Street as well as precluding 181 Gladstone Street from being built to this edge as it is covered by a roof. This section of roof deck must be open to the sky and should be either stepped back from the boundary or have a solid wall of screen on the boundary to enable redevelopment to abut it directly.*

*The proposed light well is sensibly located. It leaves a fully blank façade to the north-east which provides maximum flexibility for the redevelopment of that site in future. However, the light well will be a constraint on the redevelopment of the sites to the south as they will be required to be designed to share it. As discussed above, it is likely that future redevelopment of these houses will be limited to the rear of the sites in order to respond in some fashion to the remnant heritage fronts. Therefore, the impact of the light well on the developability of 181 Gladstone Street will be minimised if it is pushed as far to the front of the site as*

*possible, providing as much blank wall to the boundary as possible that can be built against. It is recommended that the light well be reduced in length to finish midway between gridlines D and E. Its depth should therefore be doubled to maximise the light penetration to the ground floor.*

#### *Public realm & ground floor*

*The provision of a highly glazed foyer and study to the ground floor is very positive with the use of the timber screen and some planting helping to ensure that the floor to ceiling glazing will be more likely to remain with curtains or blinds open. Details of the timber screening and planting will impact on the passive surveillance and are discussed further below.*

*The applicant will need to confirm that the proposed floor levels are OK. They do not seem high enough.*

*The applicant must ensure that the ceiling heights of the ground floor level are suitable to allow for adaptive reuse of the ground floor for commercial uses in the future. 2.7m is not sufficient to achieve this. Provision of an alternate ground floor layout that allowed the study, laundry, bathroom, light well, cinema room and one of the car spaces to be reconfigured to function as a separate office or shop tenancy would be viewed favourably.*

#### *Façade treatment & detail*

*The front portion of the side wall forward of the light well will likely remain permanently visible in the future due to the limited ability for development to occur in front of it due to the heritage constraints. It will require a higher quality architectural treatment of the concrete panelling. This should be either a texture or cladding, not a painted finish.*

*The idea of a 2-storey wooden screen/façade is supported. However, there is insufficient detail provided around the width, depth and spacing of the vertical members, or the framing required to support the screening, to allow an accurate assessment of the system proposed. Detailed plans and elevations are required that document this, as well as the proposed landscaping, to enable an assessment of the openness of the screening proposed.*

*The proposed glass brick wall is assumed to be referencing the custom 2-storey solid glass brick wall of the Optical Glass House by Hiroshi Nakamura & NAP in Hiroshima, Japan, the similarities are striking. These custom, solid glass blocks are held together via vertical rods. Due to the use of solid glass this wall will allow views through it, which are required to ensure passive surveillance of the laneway below.*

*It must be noted that if it is intended that the wall be constructed of off-the-shelf hollow glass blocks used in bathrooms, that it will not be supported.*

*In the instance that the use of high quality solid glass blocks is not proposed, then a solid brick wall should be provided to the courtyard space with narrow*



*screened window openings providing opportunities for surveillance of the laneway below.*

*As these two elements are such a vital component of the proposed form and the success of the building rests in the delivery of the two high quality elements, the detailed plans of both are required to be provided as part of the endorsed planning approval drawings, not to be supplied as a planning permit condition.*

*Amenity*

*Internal amenity is good with ample natural light to habitable rooms. The location of the light well on the south western is sensible as this is the most likely to remain open to natural light at upper levels. A decent sized courtyard is provided at level 1 on the southern side of the building with direct access from living spaces and where it does not compromise the objectives to create a solid streetwall. It is complemented by a rooftop pool and dining area.*

*Screening should be provided to the light well to limit views directly south. In the future this will be the likely location of future balconies or terraces in any redevelopment of 181 Gladstone Street.*

*The balcony to Bedroom 2 on the 2nd floor should be deepened to enable it to be more useable.*

*Other:*

*A landscape plan is required that outline the planting proposed, planter box construction details, irrigation and maintainability. The 'tall planting' proposed will need to ensure that it does not fully obscure views through the timber screens or the glass brick wall.*

*RECOMMENDATION:*

*Urban Design generally supports the proposal with the following conditions:*

- a) Setback of the front portion of the roof deck from the side boundary approximately 1m to match the setback at the rear.*
- b) Removal of the roof overhanging the portion of the 3rd floor deck along the south-western boundary and either a solid wall or screen to limit overlooking and allow for redevelopment to abut it in future.*
- c) Redesign of the light well to create a deeper, squarer, shaft that better responds to the constrained redevelopment potential of the sites to the south. It should extend no further south than the centre of gridlines D and E.*
- d) Increased ground floor ceiling heights to future proof adaptive reuse.*
- e) Higher quality architectural treatment to the blank side wall forward of the light well.*



- f) *Details of the front screen and rear glass brick wall to the satisfaction of the RA for inclusion in the planning permit drawings (not as a permit condition).*
- g) *Screening to limit views south from the lightwell.*
- h) *A landscape plan.*

Planner comment:

- 9.5 Most of these matters have been dealt with through **recommended conditions 1a-g)**. It is not considered necessary to increase the width of the balcony of bedroom 2 given the usability of the larger balconies and terraces. It is not considered necessary to require the redesign of the light well to create a deeper, squarer shaft. This is for two reasons. Firstly, no habitable rooms would be oriented to this light well, it provides light into non-habitable rooms and is a secondary light source into some habitable rooms. Secondly, the adjoining site is very narrow and is therefore unlikely to be able to match the depth of a wider light well – a longer light well is more likely to provide equitable development in this instance.

Transport Engineer

- 9.6 Council's Transport Engineer assessed the car parking layout, access arrangements and traffic impacts. He did not raise any issues with the proposal, but recommended that standard conditions addressing crossovers and assets be included on any permit that issues. Refer **recommended conditions 18 and 19**.

Sustainable Design

- 9.7 Council's ESD Advisor provided the following comments:

*The architectural drawings and Sustainable Design Assessment (SDA), and the stormwater management plan for the above project were reviewed against the WSUD (LPP 22.12), as well as the Fishermans Bend Strategic Framework Plan (SFP).*

*Further information is needed before the project proposal could be considered to meet best practice for stormwater management. This requirement is mandatory.*

*Comments on areas where improvement could be made for other items are listed below... These should be noted are discretionary. Of greatest note it the lack of shading to the second and third floor street facing glazed walls, the minimal energy rating, and the lack of operable windows (apart from glazed doors) to allow good cross-ventilation, day and if needed – at night.*

- 9.8 Council's ESD Advisor also recommended the inclusion of Council's standard Water Sensitive Urban Design conditions on any permit that issues. **Recommended conditions 1i-k), 1n) and 10-14** require the submission of amended documentation and changes to the plans, in accordance with this advice.



### External referrals

9.9 The application was not required to be externally referred.

## 10. PUBLIC NOTIFICATION/OBJECTIONS

- 10.1 Council gave notice of the proposal by ordinary mail to the owners and occupiers of surrounding properties and directed that the applicant give notice of the proposal by posting two notices on the site for a 14 day period, in accordance with Section 52 of the Planning and Environment Act 1987.
- 10.2 The application has received five objections.
- 10.3 An onsite information meeting was held on 8 June 2018. The meeting was attended by objectors and Planning Officers. No matters were resolved at the meeting.
- 10.4 Following the notification of the application, Council received legal advice that the application was exempt from the notice and review 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 in relation to the use and development of the land in the CCZ1, DDO30 and PO/ Clause 52.06.
- 10.5 Because the application is exempt from the notice and review requirements of the *Planning Environment Act 1987*, none of the objections have the right to appeal Council's decision. Further, Council is not required to issue a Notice of Decision to Grant a Permit if it determines to support the proposal. Rather, Council should issue a planning permit.
- 10.6 Notwithstanding the lack of notice and review rights, Council is still required to consider all issues raised in the objections, pursuant to s 60(1)(c) of the *Planning Environment Act 1987*.
- 10.7 The key issues raised are summarised below (officer comment follows in italics where the concerns is not addressed in section 11 of this report):

- Overshadowing and loss of light to adjoining properties

*A number of concerns have been raised in relation to overshadowing of the rear yards of the dwellings to the south west as well as loss of light from their windows and the skylights of the building to the north east. It is relevant that there is no specific requirement to meet the usual overshadowing and daylight requirements of Clauses 54, 55 or 58 or Clause 22.06 in Fishermans Bend.*

*The proposal would cause some loss of light to two habitable room windows at 181 Gladstone Street which face the subject site. They would be located within 1.3 and 2.3 m of a 14.35 m high wall on the boundary. It appears that one of the windows would be associated with a room that also has a south east facing window.*



*The proposal would also cause some loss of light to the skylights in the roof of 173-175 Gladstone Street, due to the proximity to the proposed wall on the boundary, up to 16.45 m in height.*

*The proposal would also cause additional shadow to the rear yards of 181, 183 and 185 Gladstone Street. These dwellings all have small courtyards which are already overshadowed by existing buildings in the area. Specifically, the proposal would cause additional overshadowing to the rear yards at 10 am and 11 am. At 12 noon it would cause additional shadow to the rear yards of 181 and 183, and at 1 pm and 2 pm it would cause additional shadow to 181 Gladstone Street.*

*Ultimately, these impacts are anticipated under the policy framework which supports substantial change and anticipates that these affected properties will develop over time.*

- **Overlooking/ loss of privacy**

*Concerns have been raised in relation to overlooking and loss of privacy of the dwellings to the immediate south west. It is relevant that there is no specific requirement to meet the usual overlooking requirements of Clauses 54, 55 or 58 or Clause 22.06 in Fishermans Bend.*

*The dwelling would be oriented north-west to south-east, with views from inside the dwelling and the balconies being directed in those directions. While there would be some habitable room windows onto the south west facing light court, **recommended condition 1 h)** requires that these be screened to prevent direct views to the adjoining dwellings. In addition, **recommended condition 1b)** requires a screen to the south west side of the 3rd floor deck to limit some views and ensure equitable sharing of development with 181 Gladstone Street.*

*The roof top terrace is not proposed to be screened, but views would be directed outwards, not downwards to the adjoining dwellings. In addition, the most desirable views are towards the city, not to the south west. Screening the roof terrace could add to the appearance of bulk.*

*Overall, subject to the conditions mentioned, there would be no unreasonable overlooking/ loss of privacy of adjoining properties.*

- **Excessive bulk**

*Concerns have been raised regarding the bulkiness of the building when viewed from adjoining properties and the public realm.*

*Given that this extent of built form is encouraged under the policy framework which also anticipates that the affected properties will develop over time, visual bulk is not considered to be excessive in this instance. Further, Council's Urban Designer has recommended some conditions to ensure that the wall on the south west boundary is visually interesting through a high*



*quality architectural treatment, instead of being blank. Refer recommended condition 1d).*

- Noise from roof top

*Concerns have been raised about potential noise from the use of the roof top, which includes a pool.*

*Noise from the use of the roof top would not be excessive in this mixed use area which includes a number of noise generating uses, including the automotive repairs next door.*

- Materials and design are not in keeping with surrounding character
- Fifth floor is not in keeping with area
- Inconsistent with the FBSFP and other planning controls
- An on-street parking permit should not be issued given existing parking constraints

*The granting of resident parking permits is not something that can be controlled under the planning permit. Under Council's Parking Permit Policy, residents of this development would be eligible to apply for a parking permit because the site was previously occupied by a dwelling and the number of households would not increase under this planning permit.*

- Impacts during construction, including noise, dust, Saturday work, placement of trucks, deliveries, loss of parking in area due to construction equipment, vehicles and closed lanes and damage to laneway

*Impacts during construction cannot be regulated under the planning framework. Instead, they are dealt with under Council's Local Law No. 1 which is administered by Council's City Development team.*

- Application material is incorrect

*The accuracy of the planning permit documentation has not been taken for granted in this assessment.*

- 10.8 It is considered that the objections do not raise any matters of significant social effect under Section 60 (1B) of the *Planning Environment Act 1987*.

## 11. OFFICER'S ASSESSMENT

### Strategic Policy Framework

- 11.1 The subject site is located in the Montague precinct of the Fishermans Bend Urban Renewal Area (FBURA) which 'will become Australia's largest commercial and residential centre' (Fishermans Bend Strategic Framework Plan, p 8). This is reflected in the purpose of Schedule 1 to the CCZ which is:





*To use and develop the Fishermans Bend Urban Renewal Area generally in accordance with the Fishermans Bend Strategic Framework Plan, July 2014 (amended September 2016).*

*To provide for medium to high residential density and a variety of dwelling types which are well-located to services and public transport.*

*To provide for a range of residential, commercial, industrial, recreational, business and leisure uses within a mixed use environment.*

*To encourage employment uses and the continued operation of existing uses.*

- 11.2 The use of the subject site for a dwelling requires a planning permit, due to its proximity to existing industrial and warehouse uses.
- 11.3 Fishermans Bend is a Substantial Residential Growth area under Clause 21.04-1. The proposed dwelling would assist to provide the 80,000 residences envisaged in Fishermans Bend. In providing a large dwelling, which is significantly less common than one and two bedroom apartments, it will contribute to the dwelling diversity sought under the policy, including Clauses 22.15-3 and 21.04-1.
- 11.4 Residential amenity in Fishermans Bend would be lower than in residentially zoned areas, because it is intended to be a mixed use precinct that provides for co-location of employment and housing. However, for future residents, this would be off-set by excellent access to employment, service, recreation and leisure facilities. Potential noise impacts from the surrounding commercial and industrial uses would be managed through an acoustic condition (**refer recommended conditions 1p) and 21**).
- 11.5 While a dwelling can be supported in this location, given the mixed use nature of this precinct, the development should be adaptable for commercial uses in the future. A key component of this is minimum 3 m high ceilings at the lower floors. This has been addressed through **recommended condition 1c**).
- 11.6 Overall, the development of the land for one large dwelling is generally consistent with the key strategic policy framework, subject to the conditions mentioned.

#### **Design and Development Overlay – Schedule 30**

- 11.7 The subject site is in area A1 at Schedule 30 to the DDO.
- 11.8 Under DDO30, building height must not exceed the maximum building height specified in Table 1 to Schedule 30. The maximum building height for A1 is 4 storeys, with the exception of architectural features, buildings services and landscaping.
- 11.9 This proposal is for a four storey building, aside from the roof terrace which includes the lift, stairwell and pool services area which are considered to fit within the exception at DDO30 and do not constitute an additional storey.



- 11.10 The height of street walls must not exceed 20 metres or 5 storeys whichever is the lesser. This development is for a street wall of four storeys. The minimum tower street setback and setbacks to all boundaries requirements do not apply, as this development does not include a tower component.

#### **Fishermans Bend Strategic Framework Plan**

- 11.11 A full assessment against the Fishermans Bend Strategic Framework Plan (the Framework Plan) has been undertaken and is included at **Attachment B**.
- 11.12 The proposal has a good level of compliance with the relevant objectives and standards of the design guidelines within the Framework. All relevant objectives would be met, although conditions are required to achieve this in relation to:
- Objective 3.3 to improve the interface with dwellings to the south west - **refer recommended condition 1b).**
  - Objective 3.4 to improve the interface with the laneway - **refer recommended conditions 1e)-g).**
  - Objective 6.4 to ensure car parking is adaptable - **refer recommended condition 1c).**
  - Objective 7.1 to ensure essential services are located above the flood level - **refer recommended condition 1l).**
  - Objectives 7.2 and 7.3 to improve the on-site efficiency of water use and stormwater treatment - **refer recommended conditions 1k), 1n), 13 and 14.**
  - Objectives 7.4 and 7.5 to improve energy consumption, thermal comfort and environmental performance - **refer recommended conditions 1i)-j), 10 and 12.**

#### **Proposed Fishermans Bend Strategic Framework Plan and Development Controls**

- 11.13 The proposal would be largely consistent with the proposed Framework Plan and development controls under Amendment GC81. In particular:
- The Floor Area Ration (FAR) would be less than that specified for the non-core Montague precinct of 3.0:1, at 2.8:1.
  - The residential use is appropriate within a Mixed use medium (non-core activity) area.
  - The submission of a green travel plan is not necessary for a single dwelling development.
  - The development would have a mid-rise built form of less than eight storeys, an infill/ terrace typology, would create a defined street edge and would not



affect the amenity of the street. A condition will ensure that it could be adapted for future commercial use (**refer recommended condition 1c**). This is consistent with what is sought under the applicable local strategies of Clause 21.06-8.

- The development would be a mid-rise scale with a street wall height of four storeys and would contribute to the architectural diversity of Gladstone Street. This is consistent with what is sought under Clause 21.06-8 for the preferred character of Area M4.
- The proposal would generally be consistent with the proposed policies at Clause 22.15, Schedule 1 to the CCZ and Schedule 30 to the Design and Development Overlay.
- **Recommended conditions 15-17** would achieve the same outcome as an Environmental Audit Overlay.

#### Off-site Amenity Impacts

- 11.14 The applicable built form guidance of the Framework Plan, DDO3, Clause 21.06-8 and elsewhere in the planning scheme reflects the high density built form typology envisaged in Fishermans Bend. It specifies factors such as overall height, building separation and equitable sharing of development potential, rather than limiting off-site amenity impacts to existing properties. Although Objective 3.3 includes Standard 1:

*Buildings must transition in scale where interfacing with existing low rise residential areas, adjoining heritage buildings and existing or proposed public open spaces.*

- 11.15 It is considered that a four storey height is an acceptable transition to the adjoining single storey dwellings to the south west, which have been identified as having heritage significance (although they are not located within a Heritage Overlay). These dwellings could potentially develop to the rear at two to four storeys in height.
- 11.16 Overall, there would be no unreasonable amenity impacts to the adjoining properties, subject to **recommended conditions 1b) and h)** which limit some direct views to the south west. This is on balance of the applicable development controls. These encourage significant change, anticipate the development of all properties over time and do not include any specific controls pertaining to daylight, shadowing or overlooking.

#### Internal Amenity

- 11.17 The proposal would provide a high level of internal amenity for future residents, with numerous areas of private open space provided and ample access to natural light.

#### Traffic and Parking



- 11.18 The proposal includes a large garage which can accommodate two cars, which would be accessed via the laneway.

Is Parking in Excess of the Parking Overlay Acceptable?

- 11.19 Pursuant to Clause 45.09-3 and Section 3.0 of Schedule 1 to the PO, a planning permit is required to provide car parking spaces in excess of the rates specified in Table 1 of Schedule 1. Table 1 specifies a maximum rate of one car space per dwelling. This proposal includes two car spaces for one dwelling. Therefore a permit is required to provide one excess car parking space.
- 11.20 The proposed Schedule 1 to the PO under Amendment GC81 specifies a maximum parking rate of 0.5 spaces per dwelling. It also states that a permit must not be granted to exceed the maximum parking provision.
- 11.21 The Traffic Engineering Assessment prepared by Ratio dated October 2017, submitted as part of the application, submits that the car parking provision is appropriate. Key arguments include: ABS Census data which shows that 70% of five bedroom dwellings in South Melbourne own two or more vehicles; the substantial size of the dwelling; there would be no adverse impact on surrounding traffic conditions because the parking is associated with one dwelling; and, this would be a reduction in traffic impacts when compared with the currently approved development which includes nine car parking spaces.
- 11.22 While the site has excellent access to public transport and various services and facilities, the development is for a large (five bedroom) dwelling. On balance, it is considered acceptable to allow two car spaces in this instance. The proposed Schedule 1 is not yet mandatory and therefore a permit can be granted to allow two car parking spaces at this time.

Car Parking and Access Layout

- 11.23 Council's Traffic Engineer assessed the proposed car parking and access layout and did not raise any concerns. It generally complies with the design standards set out at Clause 52.06-9. Pedestrian sight lines have not been provided, however he advised that 'Given the expected frequency of use, level of pedestrian activity and low travel speeds, I am satisfied to allow the reduced sight triangles in this case'. Access via the laneway is appropriate. Standard conditions have been included to address Council's crossover and asset requirements **(refer recommended conditions 18 and 19)**.

Traffic Impacts

- 11.24 Council's Traffic Engineer assessed the traffic generation and impact and advised that:

*Typical residential developments generate a daily traffic rate of between 4-7 vehicle movements per dwelling, with peak hour rates 10% of daily volumes. Based on these rates, traffic generation will be in the order of 5 vehicle movements a day and 1 vehicle movements during the peak hours.*

*Overall the expected traffic generation of the proposed development are expected to have negligible impacts on surrounding local street and intersections.*

#### Bicycle Parking

- 11.25 There is no mandatory bicycle parking requirement under Clause 52.34 Bicycle facilities for this development. Notwithstanding this, two bicycle storage spaces have been shown in the garage.

#### **Sustainable Design and Water Sensitive Urban Design**

- 11.26 Although this development is for one dwelling only, a requirement of Section 3.0 of Schedule 1 to the CCZ is the provision of an Environmentally Sustainable Design Statement. Sustainability objectives are also a key component of the current Fishermans Bend Strategic Framework Design Guidelines.
- 11.27 Conditions are required to address matters raised by Council's ESD Advisor and ensure that the relevant sustainable and water sensitive urban design policies are achieved. **Refer recommended conditions 1i)-k), 1n), 10 and 14.**

#### **Environmental Risks**

##### Climate Change Impacts

- 11.28 Clause 13.01-1 Coast inundation and erosion states that:

*In planning for possible sea level rise, an increase of 0.2 m over current 1 in 100 years flood levels by 2040 may be used for new development in close proximity to existing development (urban infill).*

*Plan for possible sea level rise of 0.8 m by 2100...*

- 11.29 The applicant has provided advice from Melbourne Water (letter dated 4 October 2017) which has considered the proposal against Clause 13.01-1 and the underlying Victorian Coastal Strategy 2008. It states that they have no objection to the issuing of a planning permit, subject to the inclusion of conditions and notes. These mandate finished floor levels of 0.8 m above the ARI flood level for the property, being 2.4 m to AHD for the building and 2.1 m to AHD for the garage.
- 11.30 The plans submitted show that a floor level of 2.55 m to AHD has been achieved for the whole building (including the garage).
- 11.31 Melbourne Water's conditions and notes have been included in the **recommended conditions at 1m), 22 and 23 and in the notes.**

##### Potentially Contaminated Land

- 11.32 Pursuant to Clause 6.0 of Schedule 1 to the CCZ1, before a sensitive use (including a residential use) 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.

11.33 This requirement would be addressed through standard conditions. **Refer recommended conditions 15-17.**

### **Development Contributions**

11.34 Pursuant to Schedule 2 to the DCPO, a permit may be granted to construct a building or construct or carry out works before a precinct wide development contributions plan has been prepared to the satisfaction of the responsible authority if the permit contains a condition requiring an agreement under Section 173 of the Planning and Environment Act 1987 that makes provision for development contributions to be entered into before the commencement of development.

11.35 Accordingly, a Section 173 agreement condition has been included to require the standard Fishermans Bend development contributions. **Refer recommended condition 20.**

## **12. COVENANTS**

12.1 The applicant has completed a restrictive covenant declaration form declaring that there is no restrictive covenant on the titles for the subject site known as Lot 1 of Title Plan 704654N [Parent Title Volume 03994 Folio 675].

## **13. OFFICER DIRECT OR INDIRECT INTEREST**

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

## **14. OPTIONS**

14.1 Approve as recommended.

14.2 Approve with changed or additional conditions.

14.3 Refuse.

## **15. CONCLUSION**

15.1 The proposal has been assessed against the relevant current and draft policy and controls and strategic framework for Fishermans Bend and has a high level



of compliance. It provides for one large, contemporary style dwelling which would contribute to the dwelling diversity of the Montague precinct. It would provide an excellent level of amenity for future residents. The provision of two car parking spaces, in excess of the PO, is acceptable in this instance. While some off-site amenity impacts would be caused to surrounding properties, these would not be unreasonable in this context in which substantial built form change is anticipated. For these key reasons it is recommended that the proposal be supported and a Planning Permit be issued, with conditions.

**TRIM FILE NO:** PF17/323137  
**ATTACHMENTS**

1. Application plans
2. FBSFP Assessment