

# Planning Officer Report

84-90 Queens Bridge Street, Southbank

Planning Permit Application 2013009634-1



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## Summary

The purpose of this report is to provide a detailed planning assessment of an amendment to planning permit 2013009634. This report is provided to the Minister for Planning to assist in considering and determining the amended permit application.

Under the Schedule to Clause 61.01 of the Melbourne Planning Scheme, the Minister for Planning is the responsible authority for applications with a gross floor area exceeding 25,000 square metres.

The existing permit allows for demolition of the existing building and use and development of the land for dwellings and retail premises with associated parking and variation of loading requirements.

An amended permit application has been submitted pursuant to Section 72 of the *Planning and Environment Act 1987* for modifications to the Permit and Plans to enable an increase in height of the building by six levels, reduction in the number of dwellings, increase in the number of car parking spaces, introduction of an alternative car parking system and redesign of the podium facade.

The Melbourne City Council does not support the amendment application on the grounds of the inappropriate increase in height and proposed plot ratio and the proposed building's impact on the public realm.

The Department's Urban Design Unit, Melbourne Water, VicRoads and Public Transport Victoria do not object to the amendment application, subject to the amendment of existing conditions.

On balance, the proposal, which is generally the same envelope as the approval, is considered to respond to its site context and should be supported. The proposal supports the objectives of State and Local Policy including the Metropolitan Planning Strategy and the planning controls which affect the site and is considered to respond to the existing and evolving built form context of the area.

## Recommendation

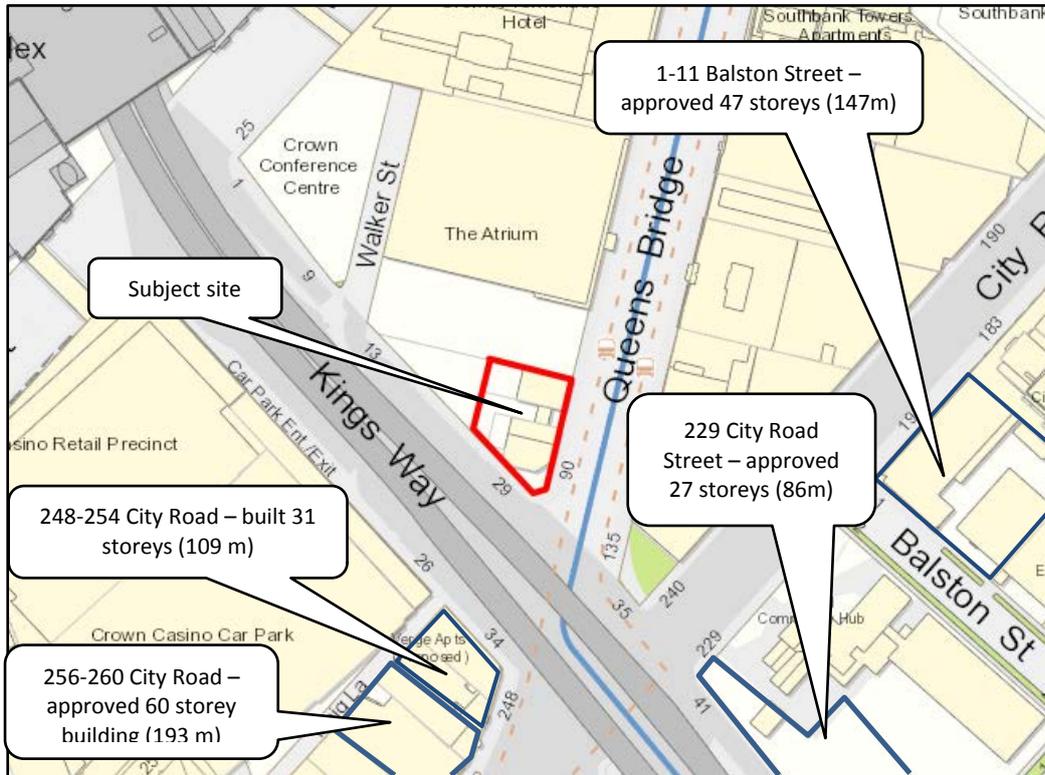
The recommendation to the Minister for Planning is to approve the amendment to planning permit, specifically the amended plans submitted on 16 October 2015, and grant an **amended planning permit subject to conditions**.

## Application Details

Key elements	Comments
<b>Land:</b>	84-90 Queens Bridge Street, Southbank
<b>Application No.:</b>	2013009634
<b>Proposal:</b>	Section 72 Amendment to the Permit and Plans to enable an increase in height of the building by six levels, reduction in the number of dwellings, increase in the number of car parking spaces, introduction of an alternative car parking system and redesign of the podium facade.
<b>Date lodged:</b>	16 October 2015
<b>Zone and Overlay controls:</b>	Capital City Zone – Schedule 3 (Southbank) Design and Development Overlay – Schedule 3 (Traffic Conflict Frontage – Capital City Zone) – Queens Bridge Street frontage only, Schedule 4 (Weather Protection – Capital City Zone) – Queens Bridge Street frontage only Land Subject to Inundation Overlay Parking Overlay – Schedule 1 (Capital City Zone – Outside the Retail Core)
<b>Design and Development Overlay 10 (Built Form Controls) – dated 4 September 2015</b>	DDO10 was introduced into the Melbourne Planning Scheme on 4 September 2015 on an interim basis for one (1) year. Clause 4.0 of DDO10 includes transitional arrangements, where the requirements of this schedule do not apply to an application made before the commencement of Amendment C262 to the Melbourne Planning Scheme. As the original application for Planning Permit was made prior to this date (2 December 2013), this amendment application is not subject to the new interim controls.
<b>Why is a permit required?</b>	Pursuant to Clause 37.04-4 ( <b>Capital City Zone</b> ), a permit is required to demolish a building and to construct a building or construct or carry out works. Pursuant to Clause 43.02-2 ( <b>Design and Development Overlay – Schedule 3</b> ), a permit is required to alter a crossover or vehicle access way. Pursuant to Clause 44.04-1 ( <b>Land Subject to Inundation Overlay</b> ), a permit is required to construct a building or construct or carry out works. Pursuant to Clause 52.07 ( <b>Loading and Unloading of Vehicles</b> ), a permit is required to waive the requirements for not providing a loading bay onsite.
<b>Height</b>	61 storeys (198.74 metres not including plant, RL199.75m to AHD (or 208.38 metres including plant, RL209.63m to AHD)
<b>Tower Setbacks (Levels 10-60)</b>	Queens Bridge Street (East): 4.5 metres North: 7.0 metres Hannah Street (South): 1.5 metres West: 0 metres; built along the western boundary for 10.6 metres
<b>Obstacle Limitation Surface (OLS) and Procedures for Air Navigational Services- Aircraft Operations Surface (PANS-OPS)</b>	The proposed building in this location is below the OLS level of 228.5 metres AHD and the PANS-OPS level of 316.0 metres AHD.

<b>Car parking and bicycle facilities</b>	198 car parking spaces, 77 bicycle spaces and 6 motorcycle spaces
<b>Gross floor area (GFA) and value</b>	GFA 36,603m <sup>2</sup> Development value \$90 million
<b>Applicant / Developer</b>	Decent Place Pty Ltd C/- Contour Consultants Australia Pty Ltd
<b>Public Notification</b>	The application is not exempt from third party notice and review rights (pursuant to Clause 52.07 Loading and Unloading of Vehicles). However, it was considered reasonable to not give notice of the application given that the only trigger is the waiver of the loading bay requirements and these had already been waived in the original application.

**Figure 1 – Site plan**



**Figure 2 - Perspective images of approved development and proposed development (viewed from the north)**



## Background

On 4 June 2014 Planning Permit No. 2013009634 was issued by the then Minister for Planning for demolition of the existing building and use and development of the land for dwellings and retail premises with associated parking and variation of loading requirements.

The Permit allows for the construction of a 55 storey building (174.25 metres high, 175.5m AHD) plus plant (184.65m AHD), 295 dwellings, 338.6m<sup>2</sup> of retail, 108 car parking spaces and 92 bicycle spaces.

Amendment C262 introduced Design and Development Overlay 10 into the Melbourne Planning Scheme on 4 September 2015 on an interim basis for one (1) year.

The current amendment application was lodged on 16 October 2015.

Further information was requested of the applicant on 5 November 2015 and a response was received on 25 November 2015.

The Future Melbourne Committee objected to the amendment application at their meeting held on 16 February 2016.

## Site and Surrounds

The site is irregular in shape with a frontage to Queens Bridge Street of 38.38 metres, a frontage to Hannah Street (Kings Way) of 28.87 metres, a splay to the intersection of these two streets of 4.36 metres and a total site area of approximately 940m<sup>2</sup>.

The land is currently occupied by two, double storey commercial buildings with onsite car parking. Vehicle access to the site is via Queens Bridge Street.

There is a slight fall in the land across the site from the north west corner to the south east corner of approximately 0.22 metres.

The site is not affected by any easements or restrictive covenant.

Land surrounding the site (see Figure 1) can be described as follows:

- To the **north** of the site, at 58 Queens Bridge Street, is a two storey commercial building with an open lot car located along its southern boundary. Vehicle access is provided from Queens Bridge Street and Walker Street to the west.
- To the **south** of the site is the Kings Way overpass. At ground level, Hannah Street is a two way service street and underneath the overpass is a large taxi waiting area. South of Kings Way is the Crown Casino car park and at 250 City Road is a residential building of 60 storeys with a height of 193 metres (194.5m AHD) currently under construction.
- To the **east** of the site, is Queens Bridge Street, a 22.5 metre wide road which includes a central tramline, one lane of traffic each way with bicycle lanes and kerbside parking. On the eastern side of Queens Bridge Street are several locally significant heritage graded buildings. At 129-131 and 133 Queens Bridge Street is the former Castlemaine Brewery. These two and six storey buildings are classified as local heritage A graded buildings, however, they not within a Heritage Overlay. At 107-127 Queens Bridge Street, are three older buildings of five storeys, two storeys and two storeys to the City Road frontage. These buildings are heritage D graded, however, they are not within a Heritage Overlay. On the southern side of City Road and its intersection with Kings Way, is the Boyd Community Hub at 207-227 City Road. This is a heritage A graded building covered by Heritage Overlay 369 and is a Heritage Victoria listed building (Ref No H769). To the south of this building, Permit 2012/005857 was issued on 15 August 2013 for the construction of a 22 storey mixed use building. The heritage graded buildings that are not within a Heritage Overlay are considered to be of local significance, but not enough to warrant statutory heritage control.
- To the **west** of the site, at 15-23 Kings Way, is a vacant site which is used for storage of construction materials.

## Proposal

The application seeks to amend the plans and consequently a number of conditions of the existing permit. Details of the proposal area as follows:

### Amendments to Plans

- Amendments to plans (dated 21 August 2015 and 13 November 2015) as follows:

- Reconfigure the ground floor to include a prominent residential entry, and to use part of the ground and mezzanine for the purpose of retail premises at the corner of Queens Bridge Street and Hannah Street.
- Remove commercial tenancies (151.8m<sup>2</sup>) accessed through the podium car park.
- Introduce an alternative car parking system within the podium and increase the number of car parks provided from 108 to 198.
- Increase the building height with the addition of six floors (to 61 storeys) and resultant height increase of 24.25 metres from 175.5m AHD to 199.75m AHD (not including roof plant). There are no amendments proposed to the tower setbacks.
- Reduce the total number of dwellings from 295 to 252 and reconfigure the dwelling mix.
- Deletion of balconies to all dwellings.
- Increase in retail premises from 186.8m<sup>2</sup> to 276m<sup>2</sup>.
- Reconfiguration of Level 8 to be a complete floor of residents amenities including pool, spa, sauna, dining, games room and communal terrace with access to a gymnasium below located in the north-east of the podium. The total proposed resident amenities area is to be increased from 125.2m<sup>2</sup> to 502.4m<sup>2</sup>.
- Re-design the presentation of the podium of the building to Queens Bridge Street in response to the change to the car parking configuration and uses.

Comparison of Approved and Proposed Plans:

	<b>Approved Plans</b>	<b>Proposed Plans</b>
<b>Dwellings (Total)</b>	295	252
<b>Dwellings (Mix)</b>	1 Bedroom: 116 2 Bedroom: 179 3 Bedroom: 0 4 Bedroom: 0	1 Bedroom: 27 2 Bedroom: 176 3 Bedroom: 47 4 Bedroom: 2
<b>Dwellings (Average Size)</b>	1 Bedroom: 48.2m <sup>2</sup> 2 Bedroom: 61.1m <sup>2</sup> 3 Bedroom: 0 4 Bedroom: 0	1 Bedroom: 56.4m <sup>2</sup> (+8.2m <sup>2</sup> ) 2 Bedroom: 77.7m <sup>2</sup> (+16.6m <sup>2</sup> ) 3 Bedroom: 145.6m <sup>2</sup> 4 Bedroom: 449.4m <sup>2</sup>
<b>Commercial Area</b>	151.8m <sup>2</sup>	0
<b>Retail/Food and Drinks Area</b>	186.8m <sup>2</sup>	276m <sup>2</sup>
<b>Car Parking Spaces</b>	108	198
<b>Bicycle Spaces</b>	92	77
<b>Motorcycle Spaces</b>	6 (Condition 1 requirement)	6
<b>Communal Residential amenities</b>	125.2m <sup>2</sup>	502.4m <sup>2</sup>
<b>Podium Height</b>	Approx. 30m	Approx. 30m

<b>Building Height</b>	174.25m (175.5m AHD) 55 storeys	198.74m (199.75m AHD) 61 storeys
<b>Setbacks</b>	North: 7m South: 1.5m East: 4.5m West: 0	North: 7m South: 1.5m East: 4.5m West: 0
<b>GFA</b>	31,116m <sup>2</sup>	36,603m <sup>2</sup>
<b>Plot Ratio</b>	35.2:1	38.7:1
<b>Loading/Unloading Area</b>	Not provided	Not provided
<b>Vehicle Access</b>	From Queens Bridge Street	From Queens Bridge Street

## Amendments to Permit Conditions

- Amendments to permit conditions as follows:
  - Condition 1 preamble amended to reference the revised plans.
  - Conditions 1(f) deleted.
  - Condition 1(n), 4, 8, 19 and 41 amended to reflect the revised plans and documents.

## Description of Proposal

A detailed description of the proposal follows:

- Construction of a 61 storey building with an eight (8) storey podium of 29.4 metres (30.65m AHD) and an overall height of 198.74 metres (199.75m AHD (not including roof plant)).
- The Basement Plan comprises services.
- The Ground Floor is built to all boundaries and comprises a retail premises (food and drink premises) of 157m<sup>2</sup>, a residential lobby, vehicle ramp entry, 51 residential bicycle spaces, 26 visitor bicycle spaces, residential bin area, a substation (to Hannah Street) and services.
- Level 1 is built to all boundaries and comprises the upper level of the retail premises of 119m<sup>2</sup>, the car park entry ramp, four (4) car lifts, a waiting area (for residents waiting for their vehicles), a maintenance car park and 6 motorcycle spaces.
- Levels 2-7 are built to all boundaries and comprise the car stacker system for 198 cars. Levels 6 and 7 include a gym with a total of 206m<sup>2</sup>.
- Level 8 is built to all boundaries and comprises the communal resident amenities including a resident's lounge, function room, games room, kitchen, wine cellar, yoga/dance studio, pool, spa, sauna, steam room and an outdoor terrace along the southern and eastern boundaries.
- Level 9 is built to the western boundary, setback 8.2 metres from the northern boundary, 5.7 metres from the eastern boundary and 2.7 metres from the southern boundary. Columns of 1.2 metres deep are located within these setbacks. This level comprises one and two bedroom dwellings.

- The tower above, Levels 10-60 are built to the western boundary, setback 7.0 metres from the northern boundary, 4.5 metres from the eastern boundary and 1.5 metres from the southern boundary.
- Levels 10-26, 27-29 and 31-33 comprise one and two bedroom dwellings.
- Levels 30, 34-44 and 46-48 comprise two and three bedroom dwellings.
- Level 45 comprises two sub-penthouse dwellings of three bedrooms each.
- Levels 49-58 comprise three, three bedroom dwellings each.
- Levels 59-60 comprise a four bedroom penthouse on each level.
- The plant level is built to the western boundary, setback 9.7 metres from the northern boundary, 7.2 metres from the eastern boundary and 3.8 metres from the southern boundary.

Materials and finishes include concrete (patterned and precast), glazing (blue tint, black tint, mid grey tint, translucent and clear), metal cladding, granite and bluestone.

The submission is supported by reports including a planning report, a wind report, transport impact assessment, waste management report and a letter from an acoustic consultant (assessed the original application).

## Planning Policies and Controls

### State Planning Policy Framework

The State Planning Policy Framework (SPPF) provides the broad policy direction within the Victorian Planning Provisions. The planning principles set out under the SPPF are to be used to guide decision making on planning proposals across the state.

The following policies are considered relevant to this application:

- Clause 9 (Plan Melbourne)
- Clause 10.04 (Integrated Decision Making)
- Clause 11 (Settlement)
- Clause 15 (Built Environment and Heritage)
- Clause 16 (Housing)
- Clause 17 (Economic Development)
- Clause 18 (Transport)
- Clause 19 (Infrastructure)

The above policies encourage appropriate land use and development which enhances the built environment, supports economic growth, delivers diversity in housing supply to meet existing and future needs and integrates transport and infrastructure planning.

### Local Planning Policy Framework

The Local Planning Policy Framework (LPPF) within Planning Schemes across Victoria which comprises of the Municipal Strategic Statement (MSS) and local policies outline principal characteristics of a given municipality (municipal profile) and provide specific visions, goals, objectives, strategies and implementation plans. The MSS within the Melbourne Planning Scheme identifies seven key themes for Settlement, Environment and Landscape, Built Environment and

Heritage, Housing, Economic Development, Transport and Infrastructure. The site is located within Southbank (Local Area 2 - Figure 5) as identified under Clause 21.11 of the Melbourne Planning Scheme.

Clause 21.02 (Municipal Profile) recognises that the Melbourne City Council is the premiere location for many of the State's economic, infrastructure and cultural facilities, and attracts a substantial daily population with people travelling to the city for work, leisure and shopping. In addition, the most significant gains in resident population are expected in the Central City (and Southbank and Docklands).

Clause 21.03 (Vision) recognises the diverse roles of the city and local areas, with the vision being '*a bold, inspirational and sustainable city*'.

Clause 21.04 (Settlement) identifies five types of areas within the City that are targeting urban growth and development. For the one of the urban renewal areas - Southbank, the following is applicable: '*Starting in the early 1980s as an "Engaging with the Yarra River Initiative", Southbank has been under urban renewal for close to 30 years. It has now brought the Yarra River into the heart of the city's life and provided a dynamic extension of the Central City with good commercial and residential high-density development opportunities. Southbank is home to the State's major arts facilities as part of its the internationally recognised Arts Precinct and other major activity areas including the Southbank Promenade, Melbourne Convention and Exhibition Centre and the South Wharf complex. The Southbank Structure Plan 2010 was prepared to update the 1999 and 2007 plans. It provides a vision and strategy for the next 30 years for the area's continued development as an extension of the central city, with a high-density mix of commercial and residential uses, a built form of a human scale and fine grain detail, greater permeability, activity and pedestrian priority at street level*'.

Clause 21.06 (Built Environment and Heritage) identifies Melbourne's character as a '*distinctive urban structure, historic street pattern, boulevards and parks, heritage precincts, and individually significant heritage buildings. Heritage buildings, precincts and streetscapes are a large part of Melbourne's attraction and the conservation of identified heritage places from the impact of development is crucial*'. This Clause contemplates large scale urban redevelopment and identifies the need to promote connectivity, provides for spacing and offset to provide access to outlook, daylight, sunlight and to minimise direct overlooking between habitable rooms, and to ensure that the scale, bulk and quality of development supports a high quality public realm.

Clause 21.07 (Housing) seeks to encourage the most significant housing and population growth in the Central City and Urban Renewal areas. It acknowledges the need to ensure residential developments achieve high standards of amenity including access to sunlight, daylight and protection from overlooking. In addition, residential developments should be designed to mitigate the amenity impacts from surrounding established and future uses, including insulation from noise.

Clause 21.08 (Economic Development) seeks to maintain retailing as an important component of Melbourne's Capital City function.

Clause 21.09 (Transport) seeks to integrate transport and urban growth by encouraging development in locations, which can maximise the potential use of public transport. This Clause seeks to maximise access to the city through support of the provision of adequate, safe public transport, pedestrian and bicycle facilities and car parking, in the City to suit 24 hour activity.

Clause 21.11 (Local Areas) identifies the site as being located within the Urban Renewal Area of Southbank to which Clause 21.13 applies.

Clause 21.13-1 (Southbank) includes policies relating to the Economic Development, Built Environment and Heritage and Transport which specifically relate to the unique and valued characteristics of Southbank. It supports Southbank's development as an extension of the Central

City, providing a mix of commercial and residential land uses. It encourages connection and integration of Southbank with the Central City and the Yarra River and seeks to improve the public environment of Southbank by providing public spaces, improving pedestrian facilities and upgrading streetscapes.

The following key local planning policies (Clause 22) are relevant to the proposal:

- Clause 22.01 Urban Design within the Capital City Zone
- Clause 22.02 Sunlight to Public Spaces
- Clause 22.19 Energy, Water and Waste Efficiency
- Clause 22.23 Stormwater Management (Water Sensitive Urban Design)
- Clause 22.26 Public Open Space Contributions

The above policies encourage high quality urban design outcomes that conserve and enhance heritage places, ensure that development is environmentally sustainable and recognises its impact on the public realm.

### Statutory Controls (Permit Triggers)

The following controls apply to the site, with planning permit triggers and requirements described below:

Planning Control	Permit / Application Requirement(s) / Decision Guidelines
Clause 37.04 – Capital City Zone  Schedule 3 (Southbank)	<p>Pursuant to Clause 37.04-1, a permit is required to use the land unless specifically exempted by the schedule.</p> <p>Pursuant to Clause 37.04-4, a permit is required construct a building or construct or carry out works unless the schedule specifies otherwise. A permit is also required to demolish or remove a building or works if specified in the schedule.</p> <p>Schedule 3:</p> <ul style="list-style-type: none"> <li>• Specifies that <b>no permit is required for</b> ‘accommodation’ (provided that the ground floor has a floor to ceiling height of at least 4 metres), and ‘retail premises’ (other than Adult sex bookshop, Department store, Hotel and Tavern) as the uses are as of right (Section 1 use) at Clause 1.0 of the Schedule.</li> <li>• Specifies that <b>a permit is required</b> to demolish or remove a building at Clause 4.0 of the Schedule.</li> <li>• Exempts the application from notice and appeal requirements.</li> </ul> <p>Decision guidelines are contained in Schedule 3.</p>
Clause 43.02 – Design and Development Overlay  Schedule 3 (Traffic Conflict Frontage – Capital City Zone) – Queens Bridge Street	<p>Pursuant to Clause 43.02-2, a permit is required to construct a building or construct or carry out works. This does not apply if a schedule specifically states that a permit is not required.</p> <p>Pursuant to Clause 2.0 of <u>Schedule 3</u>:</p> <ul style="list-style-type: none"> <li>• Vehicle ingress or egress points, excluding loading and unloading bays should not be constructed on a traffic conflict frontage or in a lane leading off a traffic conflict frontage.</li> </ul>

frontage only	<p>Pursuant to Clause 5.0 of <u>Schedule 3</u>:</p> <ul style="list-style-type: none"> <li>• A permit is not required to construct a building or construct or carry out works other than those associated with the creation or alteration of a crossover or vehicle access way.</li> </ul>
Schedule 4 (Weather Protection – Capital City Zone) – Queens Bridge Street frontage only	<p>Pursuant to Clause 2.0 of <u>Schedule 4</u>:</p> <ul style="list-style-type: none"> <li>• A building with a road frontage marked Weather Protection must provide a verandah for weather protection over the footpath unless it is demonstrated to the satisfaction of the responsible authority that the particular circumstances do not require it.</li> </ul> <p>Pursuant to Clause 4.0 of <u>Schedule 4</u>:</p> <ul style="list-style-type: none"> <li>• A permit is not required to construct a building or construct or carry out works if adequate weather protection to the street frontage is provided to the satisfaction of the responsible authority.</li> </ul>
Schedule 60 (Southbank – Area 2 – Southbank Central Core)	<p>Pursuant to Clause 2.0 of <u>Schedule 60</u>:</p> <ul style="list-style-type: none"> <li>• Buildings and works should not exceed the building heights specified in Table 1 to this Schedule (160m building height) and should meet the built form outcomes (appropriate backdrop to the Yarra River environs, do not dominate the Yarra River urban form and the dominant streetscape scale maintained).</li> <li>• Buildings and should not exceed the requirements specified in Table 2 to this Schedule (30m podium height, 20m tower separation, 10m setbacks from boundaries above the podium and a 4m floor to ceiling height for the ground floor) and should meet the built form outcomes (appropriate scale, equitable outlook, privacy and sunlight, equitable development potential of adjoining properties and active uses at ground level).</li> </ul>
Clause 44.04 – Land Subject to Inundation Overlay	<p>Pursuant to Clause 44.04-1, a permit is required to construct a building or construct or carry out works.</p> <p>Pursuant to Clause 44.04-5, an application must be referred to the relevant floodplain management authority under Section 55 of the Act. On 23 October 2015, the application was referred to Melbourne Water.</p> <p>An application under this overlay is exempt from notice and appeal requirements.</p>
<p>Clause 45.09 – Parking Overlay</p> <p>Schedule 1 (Capital City Zone – Outside the Retail Core)</p> <p>Clause 52.06 – Car Parking</p>	<p>This overlay operates in conjunction with Clause 52.06.</p> <p>Pursuant to Clause 45.09-3, a schedule to this overlay may specify that a permit may not be granted to provide more than the maximum parking provision specified in the schedule to this overlay.</p> <p>Schedule 1 of the Parking Overlay specifies that a permit is required to provide car parking spaces in excess of the car parking rates in Clause 3.0 of the schedule.</p>

	<p>Clause 3.0 specifies the maximum number of spaces allowed as follows:</p> <ul style="list-style-type: none"> <li>• 1 space per dwelling</li> <li>• For other uses = (5 x net floor area of buildings on that part of the site in sq m)/1000 sq m or (12 x that part of the site area in sq m)/1000 sq m</li> </ul> <p>The limitation policy allows for 252 resident spaces and 1 retail space. The provision of 198 car spaces is below the maximum allowed under the clause, therefore no permit is required.</p> <p>All buildings that provide on-site car parking must provide motorcycle parking for the use of occupants and visitors, at a minimum rate of one motor cycle parking space for every 100 car parking spaces, unless the responsible authority is satisfied that a lesser number is sufficient.</p> <p>Decision guidelines are contained at Clause 45.09-5 and at Clause 65.</p>
<p>Clause 52.07 – Loading and Unloading of Vehicles</p>	<p>Pursuant to Clause 52.07, no buildings or works may be constructed for the manufacture, servicing, storage or sale of goods or materials unless space is provided on the land for loading and unloading vehicles as specified within the table.</p> <p>A permit may be granted to reduce or waive these requirements.</p> <p>The approved development and the proposed amendment do not provide a loading bay. The proposed amendment is providing a minor increase in the retail floor area (an additional 89.2m<sup>2</sup>) and as such notice of this aspect of the application is not considered to be warranted.</p>
<p>Clause 52.34 – Bicycle Facilities</p>	<p>Pursuant to Clause 52.34-1, a new use must not commence until the required bicycle facilities and associated signage has been provided on the land.</p> <p>A permit may be granted to vary, reduce or waive these requirements.</p> <p>The proposal generates a requirement for 50 resident spaces, 25 resident visitor spaces, 1 employee space and 1 customer space, a total of 77 spaces. The proposal provides 77 spaces in total and as such, <b>no permit is required</b> under this clause.</p> <p>The application is exempt from notice and review under this provision.</p>
<p>Clause 52.35 – Urban Context Report and Design Response for Residential Development of Four or More Storeys</p>	<p>Pursuant to Clause 52.35-1, an application for a residential development of five or more storeys in any zone must be accompanied by an urban context report and design response.</p> <p>The application was accompanied by an urban context and design response.</p>
<p>Clause 52.36 – Integrated Public Transport Planning</p>	<p>Pursuant to Clause 52.36-1, an application must be referred in accordance with Section 55 of the <i>Planning and Environment Act 1987</i> to the Public Transport Development Authority for a residential</p>

	<p>development comprising 60 or more dwellings or lots.</p> <p>On 23 October 2015, the application was referred to Public Transport Victoria.</p>
Clause 61.01 – General Provisions	<p>The Schedule to Clause 61.01 indicates that the Minister for Planning is the responsible authority for considering and determining applications in accordance with Divisions 1, 1A, 2 and 3 of Part 4 and Part 4AA of the <i>Planning and Environment Act 1987</i> and matters required by a permit or the scheme to be endorsed, approved or done to the satisfaction of the responsible authority in relation to developments with a gross floor area exceeding 25,000 square metres.</p>
Clause 65 – Decision Guidelines	<p>Pursuant to Clause 65.01, before deciding on an application the responsible authority must consider as appropriate a number of matters, including Section 60 of the <i>Planning and Environment Act 1987</i>.</p>
Clause 66 – Referral and Notice Provisions	<p>Pursuant to Clause 66.03, an application must be referred to the person or body specified as the referral authority; Clause 44.04 (Melbourne Water), Clause 52.29 (Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road) and Clause 52.36 (Public Transport Development Authority).</p> <p>On 23 October 2015, the application was referred to Melbourne Water and Public Transport Victoria.</p>

## Other Strategic Matters

### Metropolitan Planning Strategy

Plan Melbourne was gazetted on 30 May 2014 (referenced at Clause 11.04) and outlines the long term plan to accommodate Melbourne future growth in population and employment. Two key directions of relevance are:

- Key Direction 1.4 outlines the plan for the expanded central city to become Australia’s largest commercial and residential centre by 2040.
- Key Direction 2.2 outlines the requirement to reduce the cost of living by increasing housing supply near services and public transport.

Plan Melbourne identifies the Expanded Central City as an existing renewal area within the expanded central region. Southbank is identified as an existing part of the Expanded Central City which includes a target to accommodate 1 million jobs and 1 million people. The Central subregion has the potential to grow from 700,000 jobs today to close to 1 million by 2031 and well beyond this by 2050 (Initiatives 1.4.1 to 1.4.2).

Initiatives 2.1.5 of Plan Melbourne seeks to ‘Improve the Quality and Amenity of Residential Apartments’ and acknowledges that a good standard of design and amenity goes well beyond what the building looks like and its particular architectural style. Concerns about the design quality of apartments relates to small sized apartments, the tendency for large numbers of apartments to be designed with habitable rooms with no direct access to daylight and lack of variety in types.

## Design Guidelines for Higher Density Residential Development

Design Guidelines for Higher Density Residential Development (Department of Sustainability and Environment, 2004) (referenced at Clause 15.01-2). These guidelines seek to ensure that buildings of five or more storeys are appropriately designed to complement the site and its surrounds and to provide a high standard of amenity to both future occupants and adjoining properties.

## Homes for People: City of Melbourne Housing Strategy

Homes for People: Housing Strategy (21 January 2015) looks at ways that the Council can improve the affordability and design of housing to meet the diverse needs of residents. Council has indicated that by 2031, it is estimated that an additional 42,000 homes will be built within the municipality for an additional 80,000 people. This growth will mostly occur within the city's Hoddle Grid and urban renewal areas.

## Southbank Structure Plan 2010

Southbank Structure Plan 2010 (referenced at Clause 22.01 and at Schedule 60 to the Design and Development Overlay).

The Southbank Structure Plan provides a vision and strategy for the future development of Southbank as an integral part of the central city. It identifies built form recommendations including appropriate building heights and density should create appropriate streetscape scales that do not contribute to dark, shady and windy environments at ground level and prioritise and to prioritise the delivery of a vibrant street life through the establishment of active ground uses and upper floors that provide overlooking of the street.

## Central City Built Form Review – Amendment C262

Planning Scheme Amendment C262 was gazetted on 4 September 2015 to provide interim built form controls (for a period of 12 months) for a majority of sites within the Capital City Zone including the subject site. The amendment includes a new Schedule 10 to the Design and Development Overlay (Clause 43.02) resulting in the introduction of mandatory built form controls, a discretionary plot ratio and makes Melbourne City Council a recommending Referral Authority at Clause 66.04.

Section 4.0 of the Schedule 10 to the Design and Development Overlay contains transitional arrangements which excludes an application made before the commencement of Amendment C262. As the original application for Planning Permit was made prior to this date (2 December 2013), this amendment application is not subject to the new interim controls.

## Notification

Pursuant to Schedule 3 of the Capital City Zone, an application to demolish a building and construct or carry out works for a use in Section 1 of Clause 37.04-1, 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 *Planning and Environment Act 1987*.

Pursuant to Schedules 3, 4 and 60 of the Design and Development Overlay, an application to 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 *Planning and Environment Act 1987*.

Pursuant to Clause 44.04-4 (Land Subject to Inundation Overlay), an application is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the *Planning and Environment Act 1987*.

Pursuant to Clause 52.07 (Loading and Unloading of Vehicles), the waiver of the loading and unloading bay requirements is not exempt from third party notice and review. Consideration was given to the advertising of the application. However, it was determined that given that there was no alteration to this aspect of the development, advertising was not necessary.

Pursuant to Clause 52.34-2 (Bicycle Facilities), an application is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the *Planning and Environment Act 1987*.

As such, the application was not advertised.

## Referrals

The application was provided to the Department's Urban Design Unit, VicRoads (given the proximity to Kings Way) and referred under Section 55 of the Act to the Melbourne City Council, Melbourne Water and Public Transport Victoria. The following comments were provided:

**Urban Design (DELWP):** Supports the amended application as proposed.

**VicRoads:** No objection offered to the amended application. However, the wording of Condition 36 of the Permit has been amended to reference any projections beyond the title boundary.

**Melbourne City Council:** The application was referred to Council on 23 October 2015. On 16 February 2016 the matter was considered by the Future Melbourne (Planning) Committee where it was resolved to object to the application on the following grounds:

- The proposal by virtue of its height and plot ratio represents an overdevelopment of the site.
- The proposal by virtue of its height will have an overbearing and adverse impact upon the amenity of the public realm, is not in keeping with the emerging built form character of the area and is contrary to relevant provisions of the Melbourne Planning Scheme, including Clause 22.01, 22.20 and 34.07.

Should the application be supported, a number of matters would need to be resolved including more information on the car stacker system and the provision of on-site waste collection (so that bins are not presented on the street). It is noted that the Council supported the approved development for a 55 storey building.

**Melbourne Water:** No objection offered to the amended application. Condition 5 Melbourne Water's letter and Condition 41 of the Permit can be amended to allow for the residential bin storage area to be constructed no lower than 1.1 metres to AHD at the entrance, stepping down to 0.15 metres AHD adjacent to the bin lift.

**Public Transport Victoria (PTV):** No objection offered to the amended application. However, the wording of Condition 34 of the Permit should be corrected to refer to bus operations rather than tram operations.

# Assessment

As this is a Section 72 Amendment Application, rather than a new Permit Application, the assessment will focus on those amendments to the plans and permit being sought.

## Discretion in Decision Making

DDO10 was introduced into the Melbourne Planning Scheme on 4 September 2015 on an interim basis for one (1) year. Clause 4.0 of DDO10 includes transitional arrangements, where the requirements of this schedule do not apply to an application made before the commencement of Amendment C262 to the Melbourne Planning Scheme. As the original application for Planning Permit was made prior to this date (2 December 2013), this amendment application is not subject to the new interim controls and a decision can be made based on the controls subject to the site prior to this Amendment.

## Land Uses/Dwelling Mix/Amenity

The proposed dwelling and retail uses are as of right and no permit is required under the zone. The development responds appropriately to the broad strategic intent for greater housing opportunities as outlined in the State Planning Policy Framework (SPPF), Local Planning Policy Framework (LPPF), including the MSS and the zone.

The proposal seeks to remove the commercial tenancies accessed through the car park on Levels 3 and 4. While this removes some of the activation along the podium in the north east corner, it is improved with an increase in the retail use at ground level and Level 1 (and Level 2 void) in the south east corner.

The proposal seeks to reduce the total number of dwellings from 295 to 252. The current approval allows for 116 x 1 bedroom dwellings and 179 x 2 bedroom dwellings. The proposal seeks to reduce these numbers and also provide 3 and 4 bedroom dwellings as follows:

- 27 x 1 bedroom dwellings;
- 176 x 2 bedroom dwellings;
- 47 x 3 bedroom dwellings; and
- 2 x 4 bedroom dwellings.

It is considered that reconfiguration to the mix of dwellings is supported as it will provide for dwelling diversity to meet the needs of existing and future populations, especially given the addition of the number of 3 and 4 bedroom dwellings.

The amenity, design and layout of the dwellings is considered acceptable. The proposed amendments are based on a shift in the scheme from smaller scale apartments with private open space to an average increase in apartment sizes without balconies. While the removal of the balconies is not ideal, the site's proximity to Kings Way and the wind conditions in the area seek to transfer the space to the internal area, improving the internal amenity for future occupants. All dwellings have an outlook to the north or to a street to maximise access to natural light and ventilation. All bedrooms have access to a window and no bedroom relies on borrowed light. All dwellings have and will retain a reasonable outlook, even if development occurs to the site to the north, given the 7.0 metre setback from the northern title boundary.

The communal facilities have been increased from 125.1m<sup>2</sup> to 502.4m<sup>2</sup>. This includes a reconfiguration of Level 8 (a complete floor dedicated to resident amenities) to include pool, spa, sauna, dining, games room and communal terrace with access to a gymnasium below (Levels 6 and 7) located in the north-east of the podium. These facilities will supplement the internal amenity of the dwellings.

## Podium

The proposal seeks to increase the activation of the podium by providing retail premises on Level 1 and a waiting area for motorists. The gym in the north east corner of site is increased in size; as Level 7 is now the same size as Level 6. While the commercial spaces in the north east corner on Levels 3 and 4 have been deleted, there has been an overall increase in clear glazing along Queens Bridge Street elevation. The materials, while identical, have been rearranged for the uses that have either been introduced or removed. The ground floor expression includes more glazing and less solid elements, improving its transparency. A minor increase of 150mm is proposed to the height of the podium and this is considered negligible. It is considered that the proposed amendments to the podium provide an improved built form response to Queens Bridge Street.

## Increase in Building Height

The proposal seeks an increase in the building height by six levels, to a maximum of 61 storeys. The amended scheme proposes a building height of 198.74m (199.75m AHD), measured to the parapet (not including the roof plant). The approved scheme allows for a building height of 174.49m (175.5m AHD), measured to the parapet (not including the roof plant). The increase in building height of 24.25 metres maintains the boundary setbacks of the current approval which include 4.5 metres from Queens Bridge Street, 7.0 metres from the northern boundary, 1.5 metres from the southern boundary and built along the western boundary. The design, materials and strategy of the approved scheme is retained.

The proposal exceeds the preferred building height of Design and Development Overlay 60 (160 metres). Built form outcomes relating to Area 2 – Southbank Central Core aim to ensure this area provides an appropriate backdrop for the lower scale surrounds, including buildings fronting the Yarra River and that the dominant streetscape scale is maintained.

The proposal is 38.74 metres above the 160 metre discretionary height control but sits in context with a number of other tall structures such as Eureka Tower (300 metres high), Freshwater Place (comprising two towers of 200 metres & 207 metres) and 250-260 City Road (193 metres). The proposal continues to provide an appropriate scale and backdrop to surrounding areas. The additional height of 24.25 metres is unlikely to be discernible from street level and will not materially alter the experience from the street. The extra overshadowing as a result of the additional height will have minimal impact given the freeway interface, the height of nearby constructed and approved buildings and the location of public open space.

Given the large scale developments either constructed, under construction, or approved in the precinct, it is considered that the proposal is consistent with the building scale in the area. The DDO60 (160 metre) height controls in this case are not mandatory. The proposal seeks an increase of 24% on the discretionary height control for this area and it is considered reasonable to allow a tower of this height in a city, particularly in an area that promotes high density buildings.

## Car Parking, Bicycle Facilities, Loading and Waste Collection

The amended proposal seeks to retain the approved car park entry and the ramp access to Level 1. The layout of the car parking spaces is proposed to be altered from 108 spaces provided in seven levels of car parking within the podium to 198 spaces provided in nine levels of car parking within three automatic car stacker systems accessed via four cabins.

The provision of 198 car spaces is under the maximum limitation policy (253 car spaces) and is appropriate given the site's proximity to public transport and facilities. Bicycle (51 resident and 26 visitor spaces) and motorcycle (6 spaces) spaces are also provided on site, which will encourage alternative modes of transport both within and out of the City.

The Council's Traffic Engineer is generally supportive of the amended car parking layout, subject to additional information regarding the mechanical parking system and the management of queuing within the site. This can be address via a condition on the amended permit seeking the submission and approval of a Traffic Management Report.

The provision of no on site loading area is consistent with the current approval, with loading activities for the retail area to be catered for by on street loading in the area.

A Waste Management Plan has been prepared and provided by Leigh Design dated 14 August 2015. Melbourne City Council has advised that this plan is unacceptable as it relies on on-street collection from Hannah Street. On-site collection must be undertaken for waste and recycling, especially given the conditions of Hannah Street, including the impacts on the surrounding amenity and traffic flows. While the proposed method of waste collection has not altered since the approval of the original scheme, it is considered that an improved outcome is required given the increase in height of the building and the more recent amendments to waste collection by Council. Any on-site loading area will also provide opportunities for removalists vehicles. An on-site area for waste removal and amended WMP will be required via conditions on the amended permit.

## Microclimate (Wind, Weather Protection, Light and Shade and Overshadowing)

The built form (albeit height) has not largely altered from the approved scheme. Clause 22.01 (Urban Design within the Capital City Zone) and Clause 22.02 (Sunlight to Public Spaces) are applicable when considering the microclimate conditions on streets and public spaces. Clause 22.01 recommends that towers be appropriately setback above the podium to assist in deflecting wind downdrafts from penetrating street level. A Wind Assessment prepared by Windtech dated 6 October 2015 was submitted with the application requiring measures to be undertaken to the building to ensure appropriate criterion is met. In particular, the canopy at ground level should be extended in the south west corner (as shown on the plans) and treatment in the form of screening or additional planting as well as tree planting for the Level 8 terrace is required. The treatment for Level 8 should be in the form of additional screening (Option 1) and be shown on the plans via a condition on the amended permit.

Clause 22.02 recommends that development should not reduce the amenity of public spaces by casting any additional shadows on public parks and gardens, public squares, major pedestrian routes including streets and lanes (including all streets within the retail core of the Capital City Zone), and privately owned plazas accessible to the public between 11.00am and 2.00pm on 22 September. The shadows for approved scheme and the amended scheme extend over Kings Way, Queens Bridge Street and City Road between the relevant control periods. No additional shadows will be cast over the future Boyd Park before 2pm and as such complies with Clause 22.02 (Sunlight to Public Spaces).

## Environmental Sustainable Design (ESD)

An Environmental Management Plan prepared by Wood & Grieve Engineers was submitted with the original application, but not with the amended scheme. The Plan concluded that the performance outcomes are consistent with the objective of Clause 22.19. However, it also stated that the building will only achieve a 4 Star Green Star Rating. The current Condition 10 refers to another report. This condition should be amended to ensure that a new report is submitted and that it be consistent with the current requirements of Green Star in order to achieve a rating of 5 Stars. Furthermore, this condition will be referenced in Condition 1 to ensure that any amendments required to the plans are achieved when the plans are endorsed.

## Development Contributions

The Draft City Road Master Plan was developed mid 2015 and went on public exhibition in September and October 2015. The Master Plan includes the Kings Way Northern Undercroft which is to the south of the subject site. The applicant has offered to commit \$1,000 per dwelling (\$252,000) towards delivering the proposed improvements to the public realm in this area. Melbourne City Council has advised that the specific projects proposed in the Master Plan have not been costed or prioritised to date and the final Master Plan will be presented to FMC in May. They have also advised that at this stage the street upgrade of City Road West would be a higher priority than upgrading Kings Way Northern Undercroft and as such the proposed contribution to the public realm works would not offset the increase in GFA, plot ratio and the height of the tower.

The applicant has suggested the contribution in response of the DDO10 interim controls (not applicable to this application) for plot ratio. It is noted that the approved scheme provides a plot ratio of 35.2:1, while the proposed amended scheme provides a plot ratio of 38.7:1. It is considered that this is a missed opportunity for Melbourne City Council to obtain contributions in order to deliver their Master Plan vision for the Kings Way Northern Undercroft. Even though the DDO10 interim controls do not apply to this application, increase to the plot ratio is marginal. Further, the increase in height of the tower is considered acceptable in this context as referred to above. A condition will not be included requiring the applicant to pay any development contributions as a result of this amendment.

## Amendments to Permit Conditions

The following is a list of the conditions that the applicant is seeking to amend/delete and new/alter conditions to reflect the assessment above:

Condition 1(preamble) amended to reflect the amended drawings. This condition can be amended.

Condition 1(f) deleted:

*f) The north western most car space on each level to be widened to at least 2.7 metres.*

As an alternative car parking layout is proposed, the above condition is no longer relevant and can be deleted.

Condition 1(n) amended to require an updated Waste Management Plan in order to provide on-site loading.

Condition 1(t) added to require an on-site loading area to the satisfaction of Council.

Condition 4 (Façade Strategy) amended to reflect the amended drawings. This condition can be amended.

Condition 8 (Wind Assessment) amended to reference the updated Wind Assessment dated 6 October 2015. This condition can be amended.

Condition 19 (Waste Management Plan) amended to require an updated Waste Management Plan.

Condition 41 (Melbourne Water condition regarding floor area of residential bin store) amended to refer to an amended floor level as an alternate outcome is being sought via proprietary floor doors to enable lowering of the finished floor area of the bin room to 0.15 metres AHD. The condition is proposed to read as follows:

*The residential bin storage area must be constructed with floor levels set no lower than 1.100 metres to AHD at the entrance, stepping down to 0.150 metres AHD adjacent the bin lift.*

Melbourne Water supports the rewording of this condition and as such the condition can be amended.

## Conclusion and Recommendation

On balance, having assessed the amendment application against the relevant planning controls, it is recommended that the proposal be supported for the following reasons:

- The proposed amendments to the podium and building height are considered to appropriately respond to the built form environment of the surrounding area and the strategic context of the site. In particular the amendments to the podium will increase activation to Queens Bridge Street and the building height increase of 24% above the discretionary height control is appropriate for an area that promotes high density buildings.
- A high level of internal dwelling amenity is achieved given that there are no borrowed light habitable rooms and adequate communal facilities are provided.
- Appropriate car parking and bicycle parking has been provided.
- The proposed amendments to the conditions will allow for the development of the land consistent with the Melbourne Planning Scheme.

It is recommended that planning permit 2013009634 be amended to allow for an increase in height to the approved building, subject to amended conditions.



**DATE:** 8 April 2016