

Planning Officer Report

248-250 Sturt Street, Southbank

Planning Permit Application 2014/000990



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Summary

The purpose of this report is to provide a detailed planning assessment of planning permit application 2014/000990. This report is provided to the Minister for Planning to assist in considering and determining the planning permit application.

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

An application has been made to demolish the existing building on site and construct a multi-storey building for the purpose of dwellings, and ground floor retail premises (other than Adult sex bookshop, Department store, Hotel, and Tavern), waiver of the loading and unloading facilities requirement (Clause 52.07), and to alter access to a Road Zone Category 1 (Clause 52.29).

A permit is required for demolition, buildings and works, and to waive the requirements for loading of vehicles and to alter access to a Road Zone (Sturt Street). Key issues for consideration includes the developments strategic response to the precinct and its immediate context, its response to the built form controls affecting the site, the equitable development rights of adjoining sites and amenity (internal amenity afforded to future residents and its impact on the public realm).

The Department and the City of Melbourne do not support the application. The referral agencies supported the application subject to conditions.

On balance, the proposal is not considered to respond to its site context and should not be supported. The proposal represents a radical departure from the built form controls which affect the site and does not respond to the existing and evolving built form context of the area.

Recommendation

The Future Melbourne Committee has considered the matter and resolved to **not support** the application.

The recommendation to the Minister for Planning is to refuse the planning application and issue a **refusal to grant a permit**.

Application Details

Key elements	Comments
Land:	250 Sturt Street, Southbank (Certificate of Title Volume 10307 Folio 063)
Application No.:	2014/000990
Proposal:	Demolition of the existing building on site and construction of a multi-storey building for the purpose of dwellings, and ground floor retail premises (other than Adult sex bookshop, Department store, Hotel, and Tavern), waiver of the loading and unloading facilities requirement (Clause 52.07), and alteration of access to a Road Zone Category 1 (Clause 52.29)
Date lodged:	14 March 2014
Zone and Overlay controls:	Schedule 3 to the Capital City Zone (CCZ3) Schedule 1 to the Design and Development Overlay (Active Street Frontages) Schedule 3 to the Design and Development Overlay (Traffic Conflict Frontage)

	<p>Schedule 27 to the Design and Development Overlay (City Link Exhaust Stack Environs)</p> <p>Schedule 60 to the Design and Development Overlay (Southbank (Area 4))</p> <p>Land Subject to Inundation Overlay (LSIO1)</p> <p>Schedule 1 to the Parking Overlay (PO1)</p>
Why is a permit required?	<p>Schedule 3 of Clause 37.04 (CCZ3): a permit is required for demolition and to construct or carry out works.</p> <p>Schedule 1 of Clause 43.02 (DDO1): a permit is required for buildings and works at ground level only.</p> <p>Schedule 3 of Clause 43.02 (DDO3): a permit is required to create or alter a crossover or vehicle access way (Sturt Street).</p> <p>Schedule 60 of Clause 43.02 (DDO60): a permit is required to construct a building or construct or carry out works.</p> <p>Clause 44.04-1 (LSIO): a permit is required to construct or carry out works.</p> <p>Clause 52.07 (Loading and Unloading of Vehicles): a permit is required to waive the requirement to provide a loading bay.</p> <p>Clause 52.29 (Create or Alter Access to a Road Zone): a permit is required to create or alter access to a Road Zone (Sturt Street).</p>
Height Procedures for Air Navigational Services- Aircraft Operations Surface (PANS-OPS)	<p>40 storeys (123 metres including lift shaft and overrun, RL124.7 to AHD)</p> <p>The building at 123 metres in this location is below the OLS of 226-228 metres (RL to AHD)</p>
Plot Ratio	26.4: 1 (21,978m ² above ground/ 834m ² site)
Setbacks	<p>Sturt Street (East): 0 metres to a maximum of 3.14 metres</p> <p>North and South: 0 metres to a maximum of 4.5 metres</p> <p>West: 0 metres to a maximum of 3.14 metres</p>
Car parking and bicycle facilities	107 car parking spaces, 101 bicycle spaces and 8 motorcycle spaces
Gross floor area (GFA) and value	<p>GFA 25,190m²</p> <p>████████████████████</p>
Applicant / Developer	Hudson Conway C/- Urbis Pty Ltd
Public Notification	The application is not exempt from third party notice and review due to non compliance with the loading and unloading of vehicles provision

Figure 1 – Site plan



Figure 2- Perspective image of proposal



Background

The permit application was lodged on 14 March 2014.

Further information was requested of the applicant on 14 April 2014 and subsequently on 16 April 2014 on behalf of VicRoads and a response was provided on 8 September 2014.

Site and Surrounds

The subject site is located mid-block on the western side of Sturt Street, Southbank. The site has a frontage of 24.3 metres, a depth of 33 metres and a total area of 834m². The site has a negligible slope from north to south. The site is currently occupied by a two storey office building which includes two crossovers to Sturt Street that service a small number of parking spaces within the frontage of the site. Refer to Figure 1 above for a Site Plan.

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

The immediate area is characterised by a consistent low scale built form that extends along Sturt Street. This strong built form character extends east and west of Sturt Street. Higher density built form within Southbank is typically found west of Moore Street and north of Citylink.

Land surrounding the site can be described as follows:

- To the **north** of the site, is a two storey commercial building with a double frontage to Sturt Street and Miles Street. The property is currently occupied by Kmart Auto. The land further north, across Miles Street is developed with the Burnley Tunnel exits to Power Street. The tallest building within close (to medium) distance north of the site is a 10 storey residential building at 161-173 Sturt Street (north-east corner of Miles Street).
- To the **east** of the site, is a two storey commercial building located on the east side of Sturt Street. Further to the south-east is a 13-storey apartment building.
- To the **west** is a the Victorian College of the Arts Secondary School which is a 2 to 3 storey building with frontages to Moore and Miles Streets.
- To the **south** of the site is a three storey commercial building occupied by the Melbourne Theatre Company. Further south is an at grade car park and on the corner of Sturt Street and Kings Way is the Sturt Street Reserve (the 'Reserve') measuring at 4,800m².

Proposal

The application seeks approval to demolish the existing building on site and to construct a multi-storey building for the purpose of dwellings, and ground floor retail premises (other than Adult sex bookshop, Department store, Hotel, and Tavern), to waive the loading and unloading facilities requirement (Clause 52.07), and to alter access to a Road Zone Category 1 (Clause 52.29). The proposed gross floor area is 25,190m².

Details of the application are as follows:

- Construction of a residential tower measuring at 40 storeys (123 metres including lift shaft and overrun, RL124.7 to AHD). The building design includes an inverted podium (with the exception of the ground and mezzanine levels) and tower typology with the building offset from Sturt Street at its lower levels which then 'twists' and projects the upper levels of the tower to Sturt Street (at Level 16).
- A detailed description of the building envelope includes:

- The mezzanine and ground floors are built to the boundaries,
- Level 1-12 the podium is built to all boundaries with the exception of a 3 metre setback to Sturt Street,
- Level 13-16 the side setbacks start to curve away at the corners of the building from side boundaries and the front and rear setbacks are increased to 3.14 metres,
- Levels 17-19 further curvature is added to the side setbacks with a minimum setback of 0.93 metres at the north and south elevations of the site, however the front and rear setbacks are reduced to 2.53 metres,
- Level 20-22 a minimum side setback of 2.51 metres is introduced however the front and rear upper level setbacks are further reduced to 1.61 metres,
- Level 23-38 include a minimum side setback of 4.5 metres is introduced however the front and rear upper level setbacks are further reduced to 1 metre.
- The tower comprises of 228 dwellings (44 x 1-bedroom, 8 x 1-bedroom +study, 12 x 2-bedroom 1-bathroom, and 164 x 2-bedroom 2-bathroom) and one retail premises;
- Ground floor includes one retail premises (totalling 97m²), residential lobby, access to parking and bicycle parking, substation, fire control room, main switch room, and fire pump room;
- Car parking (107 spaces) is provided within six levels of basement car parking accessed from Sturt Street with a total of 67 storage cages and 8 motorcycle spaces. Provision of 101 bicycle parking spaces are provided at ground floor and within the mezzanine;
- The proposal removes an existing crossover to Sturt Street which will allow the reinstatement of an on-street car park;
- Materials and finishes include glazing (clear, highly reflective silver and clear glazing with ceramic frit), see through LED curtain behind retail glazing, woven steel mesh, polished stainless steel, concrete paving, linear monochromatic LED lighting, and perforated mesh screening; and
- The submission is supported by comprehensive reports including a planning report, urban context report, wind tunnel assessment, traffic report, waste management report, buffer management/ plume impact statement and ESD report.

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 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 commercial floor area and integrates transport and infrastructure planning.

Local Planning Policy Framework

The Municipal Strategic Statement (MSS) and Local Planning Policy Framework (LPPF) within Planning Schemes across Victoria 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 Values, Built Environment and Heritage, Housing, Economic Development, Transport and Infrastructure. The site is located within Urban Renewal Areas (Local Area 2- Figure 5) as identified under Clause 21.13 of the Melbourne Planning Scheme.

Clause 21.02 (Municipal Profile) recognises that the City of Melbourne 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 a vision being 'a thriving and sustainable City that simultaneously pursues economic prosperity, social equity and environmental quality'.

Clause 21.06 (Built Environment and Heritage) identifies Melbourne's character which is defined by its "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 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 occurs in the Central City and Urban Renewal areas. It acknowledges the need to ensure residential developments in the Capital City, Docklands and Commercial Zones are designed to mitigate the amenity impacts from surrounding established and future uses, including insulation from noise.

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.

Clause 21.10 (Infrastructure) seeks to enhance the City as Victoria's pre-eminent cultural and entertainment location by supporting and encouraging the growth of a vibrant cultural environment in the Hoddle Grid, Southbank and Docklands, by supporting entertainment uses, music and the arts.

Clause 21.11 (Local Areas) identifies the site as being located within one of the Urban Renewal Areas to which Clause 21.13-1 Southbank applies.

Clause 21.13 (Urban Renewal Areas- Southbank) includes policies relating to the Economic Development, Built Environment and Heritage, Transport and Infrastructure, which specifically relate to Southbank and encourage:

- *"the urban renewal of Southbank with a mix of commercial and residential uses with ground level retail/small businesses;*

- *medium scale development in the Arts Precinct and the areas to the east of Moore Street and to the south of City Link;*
- *Ensure that buildings along St Kilda Road and in Sturt Street maintain the visual dominance of the Arts Centre Spire; and*
- *a connected and permeable neighbourhood including the provision of public space, improved pedestrian facilities and upgraded 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)

The above policies encourage high quality urban design outcomes and to 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
Capital City Zone (Clause 32.04) Schedule 3 (Southbank)	<p>A permit is required to use the land unless specifically exempted by the schedule. A permit is also required to demolish, construct a building or construct or carry out works unless the schedule specifies otherwise.</p> <p>Schedule 3:</p> <ul style="list-style-type: none"> • Specifies that no permit is required for ‘accommodation’, and ‘retail premises’ (other than Adult sex bookshop, Department store, Hotel, Supermarket and Tavern) as the uses are permitted as of right (Section 1 use) at Clause 1.0 of the Schedule. • Specifies that a permit is required to demolish or remove a building, and to construct a building or construct and carry out works. • Exempts the application from notice and appeal requirements. • Decision guidelines are contained in Schedule 3.
Design and Development Overlay (DDO) Schedule 1 (Active Street Frontages) Schedule 3 (Traffic Conflict frontage)	<p>Under Clause 43.02-1 a permit is required to construct a building or construct or carry out works unless the schedule specifies otherwise.</p> <p>Schedule 1:</p> <ul style="list-style-type: none"> • Specifies a permit is required for buildings and works at ground level. • Requires buildings with ground-level street frontages to major pedestrian areas to present an attractive pedestrian

<p>Schedule 27 (City Link Exhaust Stack Environs)</p> <p>Schedule 60 (Southbank) (Area 4)</p>	<p>orientated frontage by providing at least 5 metres or 80% of the street frontage as one which provides pedestrian interest and interaction which is generally clear glazing and is built to a pedestrian scale.</p> <ul style="list-style-type: none"> Exempts buildings and works from notice and appeal requirements. <p>Schedule 3:</p> <ul style="list-style-type: none"> No permit is required to construct a building or carry out works other than those associated with the creation or alteration of a crossover or vehicle access way. As the application does include a vehicle access way to Sturt Street (the traffic conflict frontage), a permit is required. Exempts the application from notice and review. <p>Schedule 27:</p> <ul style="list-style-type: none"> Specifies that no permit is required for buildings and works. Specifies a notice requirement to the specified person or body at Clause 66.06 (EPA, Transurban City Link Ltd and the Roads Corporation). <p>Schedule 60:</p> <ul style="list-style-type: none"> Specifies that a permit is required to construct a building or construct or carry out works. Specifies a preferred maximum height of 40 metres, podium height of a maximum of 30 metres, tower separation of 20 metres (10 metres at a minimum), and setbacks above a podium of 10 metres to front, side and rear boundaries. It also seeks a minimum floor to ceiling height of 4 metres at ground floor. Exempts the application from notice and review. <p>Decision guidelines are contained at Clause 43.02-5 and at Clause 65.</p>
<p>Land Subject to Inundation Overlay (LSIO)</p>	<p>Under Clause 44.04-1 a permit is required to construct or carry out works.</p> <p>Under Clause 44.04-4 an application under this overlay 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 <i>Planning and Environment Act 1987</i>.</p> <p>Under Clause 44.04-5 an application must be referred to the relevant floodplain management authority (Melbourne Water) under Section 55 of the <i>Planning and Environment Act 1987</i>.</p> <p>On 27 March 2014, the application as referred to Melbourne Water.</p> <p>Decision guidelines are at Clause 44.04-6.</p>
<p>Parking Overlay – Schedule 1 (Clause 45.09) and Car Parking</p>	<p>The provisions of the parking overlay works in conjunction with Clause 52.06 of the Melbourne Planning scheme.</p> <p>Under Clause 45.09-3 a schedule to this overlay may specify that a permit must not be granted to provide more than the maximum</p>

(Clause 52.06)	<p>parking provision specified in a schedule to this overlay.</p> <p>Schedule 1 of the Parking Overlay specifies a maximum number of car parking spaces (calculated as a ratio of 1 space per dwelling and for commercial uses using two equations) and the provision of 1 motorbike space per 100 car parking spaces.</p> <p>The limitation policy allows for 229 spaces. The provision of 107 car spaces on site is below the maximum allowed under the clause, therefore no permit is required.</p> <p>Decision guidelines are contained at Clause 45.09-5 and at Clause 65.</p>
Loading and Unloading of Vehicles (Clause 52.07)	<p>Under 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>The proposal does not provide a loading bay on site, therefore a permit is required under this clause.</p> <p>The application is not exempt from notice and review under this provision.</p>
Bicycle Facilities (Clause 52.34)	<p>Under Clause 52.34-1 a new use must not commence until the required bicycle facilities and associated signage has been provided on the land. The standard requires the provision of 69 spaces (46 resident and 23 visitor spaces). The application provides for 101 spaces, therefore no permit is required under this provision.</p>
Urban Context Report and Design Response for Residential Development of Four or More Storeys (Clause 52.35)	<p>Under Clause 52.35-1 an application for a residential development of four or more storeys must be accompanied by an urban context report and design response. The application was accompanied by an urban context and design report. The Department confirmed receipt of this information with the applicant.</p>
Integrated Public Transport Planning (Clause 52.36)	<p>Under 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 Director of Public Transport for a residential development comprising 60 or more dwellings or lots.</p> <p>On 27 March 2014, the application was referred to Public Transport Victoria.</p>
Clause 52.29	<p>Under Clause 52.29 a permit is required to create or alter access to a Road Zone, Category 1.</p> <p>An application to create or alter access must be referred to the Roads Corporation under Section 55 of the <i>Planning and Environment Act 1987</i>.</p> <p>On 27 March 2014, the application as referred to VicRoads.</p> <p>Decision guidelines are contained at Clause 52.29 and at Clause 65.</p>
General Provisions	<p>The schedule to Clause 61.01 indicates that the Minister for Planning</p>

(Clause 61.01)	is the responsible authority for considering and determining applications in accordance with Divisions 1, 1A, 2 and 3 of Part 4 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.
Decision Guidelines (65.01)	Under 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> .
Referral and Notice Provisions (Clause 66.03)	Under Clause 66.03 an application must be referred to the person or body specified as the referral authority; Clause 44.04-5 (Melbourne Water), Clause 45.07-6 (VicRoads), Clause 52.36 (Director of Public Transport). Under Clause 66.05 notice of an application must be given to the person or body specified; Clause 4.0 of Schedule 27 to Design and Development Overlay (Clause 43.02) (EPA, Transurban City Link Ltd and the Roads Corporation).

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).

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)

Southbank Structure Plan 2010

Southbank Structure Plan 2010 (referenced at Clause 21.17 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 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. One of the key themes running through the document is the Sturt Street Cultural Spine and its establishment.

Section 6 “Open Space Network” identifies the City of Melbourne Open Space Strategy for the whole municipality. The Strategy recommends future provision of open space in Southbank and that the majority of open space is within road corridors with the only two public parks for recreation purposes being the Grant Street and Sturt Street Reserve. Strategy 8 for the Open Space Network is to:

“maintain solar access to existing key public open spaces and provide solar access to new key public open spaces”.

Future Living: City of Melbourne Draft Housing Strategy

Future Living is a discussion paper identifying issues and options for housing the City of Melbourne community. Council has indicated that by 2031, it is estimated that an additional 42,000 homes will be built within our municipality for an additional 80,000 people. This growth will mostly occur within the city’s urban renewal areas, including Southbank. The discussion paper seeks to engage with other tiers of government, developers, investors and residents in meeting the aspiration of affordable, well-designed and diverse housing choices to meet future needs. The strategy focuses on a number of factors that influence housing choices, but in particular focuses on apartment sizes. This is discussed further below.

Notification

Under Schedule 3 of the Capital City Zone an application to demolish a building and construct or carry out works, under Schedules 1, 3, and 60 of the Design and Development Overlay an application to construct or carry out works, and under the Land Subject to Inundation Overlay an application for to construct or carry out works, the application is exempt from the notice requirements of Section 52 (1) (a), (b) and (d), the decision requirements of Section 64 (1), (2) and (3) and the review rights of Section 82 (1) of the Act.

Under Clause 52.07 of the Melbourne Planning Scheme 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 under Section 52(1A), the responsible authority may refuse an application and, if it does so, it does not have to comply with sub-sections (1) and (1AA) of the *Planning and Environment Act 1987*.

Therefore the application was not advertised.

Under Schedule 27 of the Design and Development Overlay (City Link Stack Environs), notice must be given under Section 52(1)(c) of the Planning and Environment Act 1987 to the person or body specified to be notified at Clause 66.06 of the Scheme. The bodies specified include the EPA, Transurban City Link Ltd and the Roads Corporation (VicRoads).

Comments received from the notified bodies raised no concerns with the proposal subject to conditions for inclusion.

Although the application is exempt from notice and review, 4 submissions [REDACTED] [REDACTED] have been received regarding the proposal. Concerns include:

- The height is inconsistent with the existing area and the current zone.
- Inadequate car parking.
- Overshadowing and wind impacts.
- At odds with the Southbank Arts Precinct Urban Design and Architectural Frameworks, John Wardle and Peter Elliott, Victorian College of the Arts, 2013.
- Limited justification for how the development will integrate with the precinct particularly how the development will complement and enhance the vision set out in the Southbank Blueprint and Southbank Structure Plan.
- The proposal by virtue of its design, does not respond to the Local and State planning policies and is unresponsive to the local identity.
- The proposal is an excessive overdevelopment of the site and is contrary to the policy directions of Clause 22.01 (Urban Design within the Capital City Zone) and the decision guidelines of Schedule 3 of the Capital City Zone.
- The proposal does not allow for equitable future development of adjoining sites.
- The proposal results in a poor amenity outcome for the public realm and is contrary to Clause 22.02 (Sunlight to Public Places).

Referrals

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

Urban Design (DELWP): Does not support the application. Concerns are raised regarding the proposal's inappropriate response to the strategic vision for the precinct and its immediate context, its overall height and lack of setbacks to adjoining properties (building separation and amenity outcomes), and inappropriate shadowing upon the Sturt Street Reserve (south of the site).

City of Melbourne: Council does not support the application. Concerns are raised regarding the design, excessive height and lack of appropriate setbacks which fails to comply with the preferred built form outlined in the planning scheme, is considered to be an overdevelopment of the site, does not allow for equitable development rights to adjoining sites, and results in poor amenity (both on and to adjoining sites and the public realm).

Public Transport Victoria (PTV): offered no objection to the proposal and specified two conditions to be included on any permit issued. Letter dated 4 August 2014.

VicRoads: offered no objection to the proposal and specified three conditions to be included on any permit issued. Letter dated 11 September 2014.

Melbourne Water: On 2 September 2014 an objection to the application was provided due to the development's inconsistency with State and Local Planning Policy relating to drainage, floodplain management and climate change. The applicant submitted modified plans to the Department and Melbourne Water offered no objection to the modified plans subject to the inclusion of 11 conditions and footnotes on any permit issued. Letter dated 12 September 2014.

Assessment

The proposal meets basic strategic objectives associated with the provision of housing, providing low numbers of car parking and sustainable design initiatives of the Melbourne Planning Scheme. The primary matters for consideration are:

- The impact of the built form response to the surrounding sites and area.
- The impact on the public realm.
- The internal amenity as a result of the interface with adjoining properties.

Consistency with Planning Policy

All planning policies whether they be included within the planning scheme, or referenced, provide guidance for development and are not intended to be interpreted as prescriptive mandatory controls. A guidance based approach encourages innovative development solutions to respond to specific constraints and opportunities having regard to the requirements of the relevant zone and overlay.

The proposal is broadly compliant with State and Local policy objectives with particular regard to providing residential development in close proximity to infrastructure. The uses are also considered to be consistent with policy direction which contributes to the on-going revitalisation of the Southbank precinct.

The proposal is not a well resolved scheme or consistent with the characteristics of the area and its strategic vision identified under the Southbank Structure Plan 2010.

The key issues include the development's strategic response to the precinct and its immediate context, its response to the built form controls affecting the site, the equitable development rights of adjoining sites and amenity (internal amenity afforded by future residents and its impact on the public realm). These matters are discussed further below.

Impact of Built Form Response to Surrounding Sites and the Area

The built form controls specify a preferred built form response in Southbank. The proposal seeks approval of a 40 storey building with limited setbacks to Sturt Street and to its common boundaries. Local policies, together with the design objectives and built form outcomes in the Design and Development Overlay guides the scale and form of development in the creation of a new built form character.

The performance measures contained within Local Policy Clause 22.01, Urban Design within the Capital City Zone, Guidelines for Higher Density Residential Development, Schedule 3 to the Capital City Zone (CCZ3) set performance benchmarks for good development. Key themes of street-pattern, edge-quality, building envelope, internal amenity, architectural design and activation are common threads through each of these policy documents and controls.

The purpose of tower setbacks is to provide a number of measures related to the enjoyment of the public realm and to ensure development equity. Tower setbacks assist in providing pedestrian scale, sunlight penetration, views to the sky and the deflection of wind downdrafts.

The scale and bulk of the building in no way adheres to the specific built form control of Schedule 60 to the Design and Development Overlay (DDO60) which outlines a preferred height of 40 metres, and where a podium and tower typology is sought, a 30 metre high podium, tower setback of 10 metres to the street and 20 metre tower separation to adjoining sites (ie. 10 metres to common

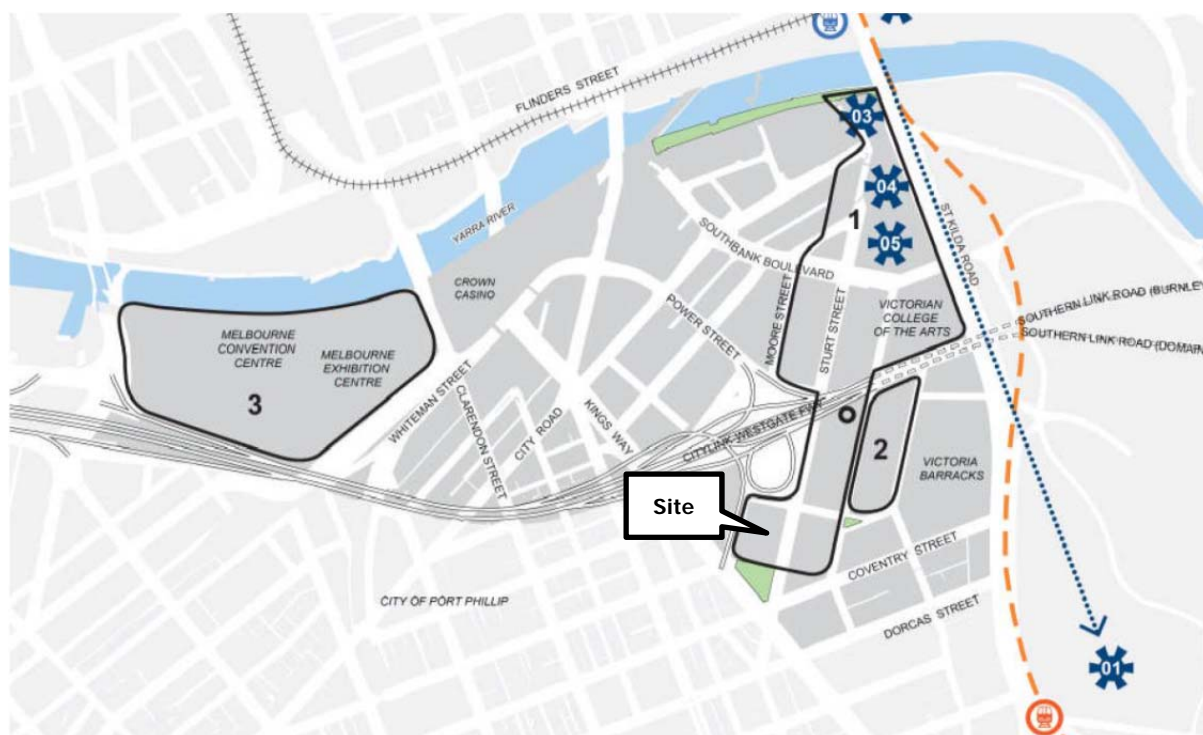
boundaries). The built form control is discretionary and consideration of lesser setbacks than that stipulated within these requirements can be considered.

The proposal does not provide a high quality and site responsive architectural outcome and does not contribute to the character of the area. The proposal also fails to provide an articulated podium tower form that positively contributes to the public realm and one that does not dominate the Sturt Street streetscape.

Height

The building is proposed to have a height of 123 metres. The MSS identifies this area of Southbank (Arts Precinct) as an Urban Renewal Area.

Figure 3 – Map of Southbank precincts (Figure 7 Clause 21.13-1 Southbank)



Within this area Clause 21.13-1 encourages the following built form outcomes:

- Encourage medium scale development in the Arts Precinct and the areas to the east of Moore Street and to the south of City Link.
- Ensure that buildings along St Kilda Road and in Sturt Street maintain the visual dominance of the Arts Centre Spire.
- Maintain low rise development on the northern and southern sides of the Yarra River and Arts Precinct to maintain the low scale river edge to protect key views to the Arts Centre Spire and prevent overshadowing of the south bank of the River.

Although Southbank has been identified as an area of urban renewal it is clear that planning policy directs that new development in the Arts Precinct of Southbank should be of medium scale and responds to the existing context east of Moore Street, south of City Link. Sturt Street is recognised as a civic spine/gateway which supports physical and visual connections to the CBD and Arts Centre Spire.

Design and Development Overlay - Schedule 60 (DDO60) identifies built form outcomes including a maximum preferred height (40 metres). The design objectives for the DDO seek:

- *To ensure that the suitability of each development to its context takes precedence over the individual merit of the building.*
- *To ensure the height of new buildings does not overwhelm the public domain.*
- *To maintain the visual dominance and views to the Arts Centre Spire as a civic skyline landmark.*
- *To ensure that development provides a high level of amenity for building occupants.*

Specific design objectives for Area 4 (Sturt Street) include:

- *To enhance Sturt Street as a civic spine.*
- *To protect culturally significant buildings along Sturt Street.*
- *To ensure development on Sturt Street supports physical and visual connections to the CBD and the Arts Centre Spire.*

The immediate context is defined by low scale development typically 2-3 storeys in height. The exception is at 161-173 Sturt Street (10 storey residential building) and 211 -241 Sturt Street (13 storey residential building).

The tower is visible from behind the Art Centre Spire from Federation Square which is inconsistent with the specific design objective of Design and Development Overlay- Schedule 60 '*to maintain the visual dominance and views to the Arts Centre Spire as a civic skyline landmark*'.

At 40 storeys and 123 metres in height, the proposed development does not appropriately respond to the existing context and to the preferred built form as outlined by the Melbourne Planning Scheme, specifically at Clause 21.13-1 and DDO60. The Melbourne Planning Scheme is clear in relation to the level of development that is appropriate in relation to building height, setbacks, providing a high level of internal amenity and being responsive to the public realm and the civic function of the area. There has been no reasonable justification provided to consider such a significant variation of the requirements of the Melbourne Planning Scheme.

Setbacks

Table 2 to schedule 60 of the DDO outlines a number of building design requirements for elements such as podium height, setbacks and tower separation, as well as building height as discussed above. The proposal not only significantly departs from the recommend 40 metre height control but also seeks to significantly vary the recommended podium height, tower separation and setbacks (10 metres from all property boundaries) requirements. It is noted that the building does not have a typical podium tower typology due to its unique building design and varying setbacks. However the twisting design further exacerbates the vertical impact of the building and in effect proposes a tall podium of a minimum of 16 storeys (51.7 metres).

The development proposes a building with a number of varying setbacks to all property boundaries. Front and rear setbacks of 3 – 3.2 metres and 0 metres side setbacks at Levels 1-16 metres (ground level and mezzanine are built to all boundaries) are proposed. Graduating front and rear setbacks from 2.53 metres to 1 metre from Levels 17-19 and side setbacks from 0.93 metres to 4.5 metres are proposed. The result is a building that significantly varies the podium height and setback requirements of the Melbourne Planning Scheme. The cantilevered upper levels (front and rear) are not supported and diminish the minimal 3 metres setback at the lower levels.

DDO60 states that towers should be a minimum of 20 metres from an adjoining tower. The built form outcomes of the design and spacing of towers are to ensure equitable rights to outlook,

sunlight and sun penetration at street level, to ensure habitable rooms are offset, to ensure that sunlight and good daylight and privacy is provided and to encourage mitigation of wind effects.

The lack of reasonable side setbacks will impact on the development potential of adjoining properties imposing an inequitable outcome. There are a number of bedrooms between levels 13-22 that rely on windows either built on the boundary or within 2.5 metres for daylight and outlook. This is a very poor outcome and is not supported by the Melbourne Planning Scheme or the Higher Density Residential Guidelines.

Impact on the Public Realm

The development by virtue of its excessive height, minimal setbacks and subsequent bulky building form is considered to overwhelm and dominate the predominately low scale Sturt Street environs. Although higher built form can be found in Southbank it is concentrated west of Moore Street consistent with the relevant DDO controls affecting that land.

In addition to the impact of the built form to Sturt Street the development proposes the partial overshadowing of the Sturt Street Reserve to the south of the subject site. The Reserve is not currently overshadowed by adjoining development.

Decision guidelines within DDO60 and also at Clause 22.02 of the Melbourne Planning Scheme highlight the importance of protecting the sunlight amenity of public spaces. It is noted that the proposal results in a 8% increase in shadowing of the Reserve at 11am (and less at other times of the day) on 22 September. If the preferred built form controls were applied to the site (40 metres) there would be no additional shadowing of the Reserve. It is not considered appropriate to increase shadowing to the Reserve which is a much needed and scarce public open space within Southbank.

Internal Amenity as a result of the Interface with Adjoining Properties

Internal apartment amenity includes good levels of light (both sunlight and daylight), good outlook, natural cross-ventilation, privacy between neighbouring buildings and protection from noise. Sizes and layouts of apartments assist in achieving good internal amenity.

The proposal includes 228 apartments throughout the building which are within the lower levels of the building facing Sturt Street (eastern aspect) and at the upper levels facing Sturt Street and its eastern boundary. Minimum apartment sizes include: 50m² (1-bedroom), 64m² (2-bedroom). There are no proposed 3-bedroom apartments.

Council's Draft Housing Strategy, whilst not a 'seriously entertained' planning document provides useful research within it, including comparative data of what contributes to good apartment design including:

- Minimum apartment sizes which are guided by strategies in NSW and London (SEPP65 and The London Plan) which outline the following sizes:
 - NSW SEPP 65: 50m² (1-bedroom), 70m² (2-bedroom) and 95m² (3-bedroom)
 - The London Plan: 37m² (1-bedroom/studio for 1 person), 50m² (1-bedroom for 2 people), 61m² (2-bedroom for 3 people), 70m² (2-bedroom for 4 people), 74m² (3-bedroom for 4 people), and 86m² (3-bedroom for 5 people)
- Limitation on the number of single aspect apartments with a southerly aspect to a maximum of 10% of total dwellings proposed while 60% should be naturally cross ventilated;

- Specifies separation distances between buildings to ensure reasonable levels of visual privacy and to maximise outlook and views from principle rooms. Designs are encouraged to meet the broadest range of the occupants' needs possible and provide apartment layouts which include the ability to change the use of rooms and promote accessibility.
- Specifies minimum storage requirements from 6m³ for studios and 1-bedroom apartments to 10m³ for 3-bedroom apartments.
- There is also a requirement for communal open spaces generally between 25-30% of the site area.

The *Design Guidelines for Higher Density Housing* DSE 2004 also seek to ensure that residents can live comfortably with one another and with appropriate levels of internal and external amenity, including provision of storage.

DDO60 seeks that a high level of amenity should be provided for future building occupants. In order to attain high levels of amenity access to sunlight, daylight, privacy and outlook from habitable rooms is required. It also considers the future development potential of adjoining sites and if an adjoining site is developed, what the impact may be for future residents of both sites.

The proposal raises concerns with the following:

- All apartments are single aspect;
- The proposal fails to address objective 5.4 of the Higher Density Residential Guidelines which seeks to ensure that a good standard of natural light and ventilation is provided to internal building spaces;
- The saddle back bedroom arrangements include very long light corridors to these bedrooms;
- There are a number of bedrooms that rely on windows on boundaries for direct light and minimal setbacks to bedroom window with no other source of direct access to light or view; and
- Small balcony sizes of less than 5m².

The limited open space provided to residents, combined with single aspect and limited natural light and ventilation which would result due to the lack of tower separation to future adjoining, creates poor internal amenity. This is made worse with the reliance on windows very close to the common boundary will exacerbate the limited opportunities for daylight to lower level apartments and with a number of apartments facing south. The lack of tower setbacks results in unacceptable internal amenity for future residents and is not supported.

Other Matters

The ESD report provided with the application does not adequately articulate the design potential of the building to achieve the objectives or the performance measures for environmentally sustainable design.

Concerns were also expressed by Council's Engineering Services regarding the lack of on site loading facilities. There were other minor matters for detailed resolution that could be resolved via conditions.

Conclusion and Recommendation

Overall, from a built form perspective, the proposal is an overdevelopment of the site that will overwhelm the existing streetscape, impact upon the development potential of adjoining site, unreasonably overshadow the Sturt Street Reserve, provides poor internal amenity and does not respond to the preferred built form for this area as outlined by the Melbourne Planning Scheme.

On the basis of the built form, internal amenity and the detrimental impact on the public realm the proposal is not supported and that a Refusal to Grant a Permit 2014/000990 for demolition of the existing building on site and construction of a multi-storey building for the purpose of dwellings, and ground floor retail premises (other than Adult sex bookshop, Department store, Hotel, and Tavern), waiver of the loading and unloading facilities requirement (Clause 52.07), and alteration of access to a Road Zone Category 1 (Clause 52.29) be issued subject to the reasons outlined in the attached notice.



Conflict of Interest

[REDACTED]