



21-35 Power Street & 38 Freshwater Place, Southbank

Planning Permit Application 2013/010075

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1 Summary

The development proposes a mixed use tower building of 73 levels (273 metres) including 482 residential apartments and a 390 bed hotel (and office and retail uses). The site is located in Southbank adjacent to the Prima Pearl tower on Power Street and is also known as Stage 3 of the Freshwater Place Development (prior to being on-sold to the current developer).

The key issues raised by the application are those of the height and scale of the building, setbacks and ground floor layout and pedestrian movement.

Planning policy for Southbank acknowledges Southbank as an extension of the City centre and an area where high rise tower development is encouraged.

The development, subject to conditions requiring larger setbacks, meets the objectives of the Capital City Zone and relevant overlays by contributing to the provision of dwellings with a built form response that reinforces the existing and emerging pattern, scale and siting of development within Southbank. The Planning Scheme is designed to allow discretion in height provided the overall objectives are achieved.

The City of Melbourne (Council) objects to the application primarily due to its overall height, lack of meaningful podium, lack of front and side setbacks, (i.e. contrary to the Design and Development Overlay Schedule 60).

Policy at Clause 21.13- Southbank of the Melbourne Planning scheme states that it is policy to "*Encourage high rise tower development to the north of City Link and west of Moore Street*". The scale of the building is therefore directly supported by the strategic policy direction for this part of Southbank.

The context of the site is a precinct containing the tallest buildings within Melbourne including Prima Pearl at 254m, 25 Queensbridge Street at 234m (with a planning application to amend to 308m) and Eureka Tower at 300m which exceed the height control of 160m.

The concerns of the Council are therefore largely answered by the consistency of the development with the character of the precinct in which the development is located.

Overall the proposal will deliver hotel space with the consequential tourism and economic benefits and residential apartment dwellings that add to the supply in a central area. It will include commercial and retail activity and a through-block link. On balance the development should be supported subject to design changes including redesign of ground floor and additional rear setbacks and a decrease in height to address aviation requirements, all which can be addressed via permit conditions.

2 Recommendation

The application has been considered by the Planning Department of the City of Melbourne and the Officer's comments have been received.

The Future Melbourne Committee has considered the matter and resolved to object to the application.

The recommendation to the Minister for Planning is to approve the planning application and grant a planning permit subject to conditions.

3 Application Details

Key elements	Comments
Land:	21-35 Power Street and 38 Freshwater Place, Southbank
Application No. and proposal:	2013/010075 Development of a multi-storey building comprising dwellings, hotel and retail. 482 residential apartments, 390 hotel rooms, 3084sqm of retail and a 9th floor office of 1247sqm.
Lodged:	18 December 2013
Zone and Overlay controls	Capital City Zone (CCZ3) Design and Development Overlay (DDO60- Area 2), DDO1 and DDO3 (frontage of the site on Power Street). Schedule 1 to the Parking Overlay (PO1)
Why is a permit required?	Clause 37.04 Capital City Zone- Schedule 3 –buildings and works Clause 43.02 Design and Development Overlay – buildings and works Clause 52.34 Bicycle Facilities – variation of bicycle facilities
Procedures for Air Navigational Services- Aircraft Operations Surface (PANS-OPS) and Obstacle Limitation Surface (OLS)	The proposal breaches the OLS and accordingly approval would require a reduction in height to not breach the OLS or written consent is to be provided for the height from the relevant aviation authorities as deemed under the Airports (Protection of Airspace) Regulations 1996 (Commonwealth). A condition is recommended to reduce height to ensure compliance.
Floor area (GFA) [REDACTED]	110,000 sqm/ [REDACTED]
Applicant / Developer	Freshwater No 6 Pty Ltd C/- Urbis Pty Ltd
Public Notification	Not required.

4 Background

The permit application was lodged on 18 December 2013. Following a further information request on 15 January 2014 a revised set of plans and documentation was formally submitted on 24 March 2014. Revised plans were informally submitted on 28 July 2014 and on 15 August 2014 to address concerns raised by City of Melbourne and the Department.

The site is subject to an Incorporated Document 'Freshwater Place Southbank, August 2001' (Amended 2012). The document allows for an office tower on this particular site of approximately 138

metres in height. The applicant requested as part of the original application submission that this Incorporated Document be amended to illustrate the new tower. However no amendment fee was received nor the correct amendment documentation. It is not necessary to amend the Incorporated Document as the permit can be issued under the Capital City Zone and other relevant provisions of the Melbourne Planning Scheme without reference to the Incorporated Document and both can operate independently from each other.

5 Site and Surrounds

The site is irregular in shape, 3,096sqm in size and has a primary street frontage to Power Street of 40 metres. The site is currently vacant (with the exception of a pylon sign) and bordered by temporary construction hoardings. The site is made up of three land parcels, namely:

- 21-23 Power Street Southbank 3006 Lot 2 on PS505293
- 25-35 Power Street Southbank 3006 Allot. 2017 City of Sth Melb. Parish of Melbourne South
- 38 Freshwater Place Southbank 3006 (Lot S16 PS504017)

The surrounding area includes a mix of residential and commercial uses typical of Southbank with high rise buildings the norm. The site is located within close proximity to the CBD, Crown and the freeway and tram networks.

This precinct in particular includes some of the tallest tower examples in Melbourne including Eureka Tower (300 AHD), Freshwater Place 1 (205 AHD), and Prima Pearl (254 AHD) adjacent to the west. There are also a number of approved developments, not constructed. These are illustrated in Figure 1. The site has been the subject of numerous development proposals which have not advanced to the construction phase. In particular the land which forms part of this application is the final stage (Stage 3) of the Freshwater Place project.

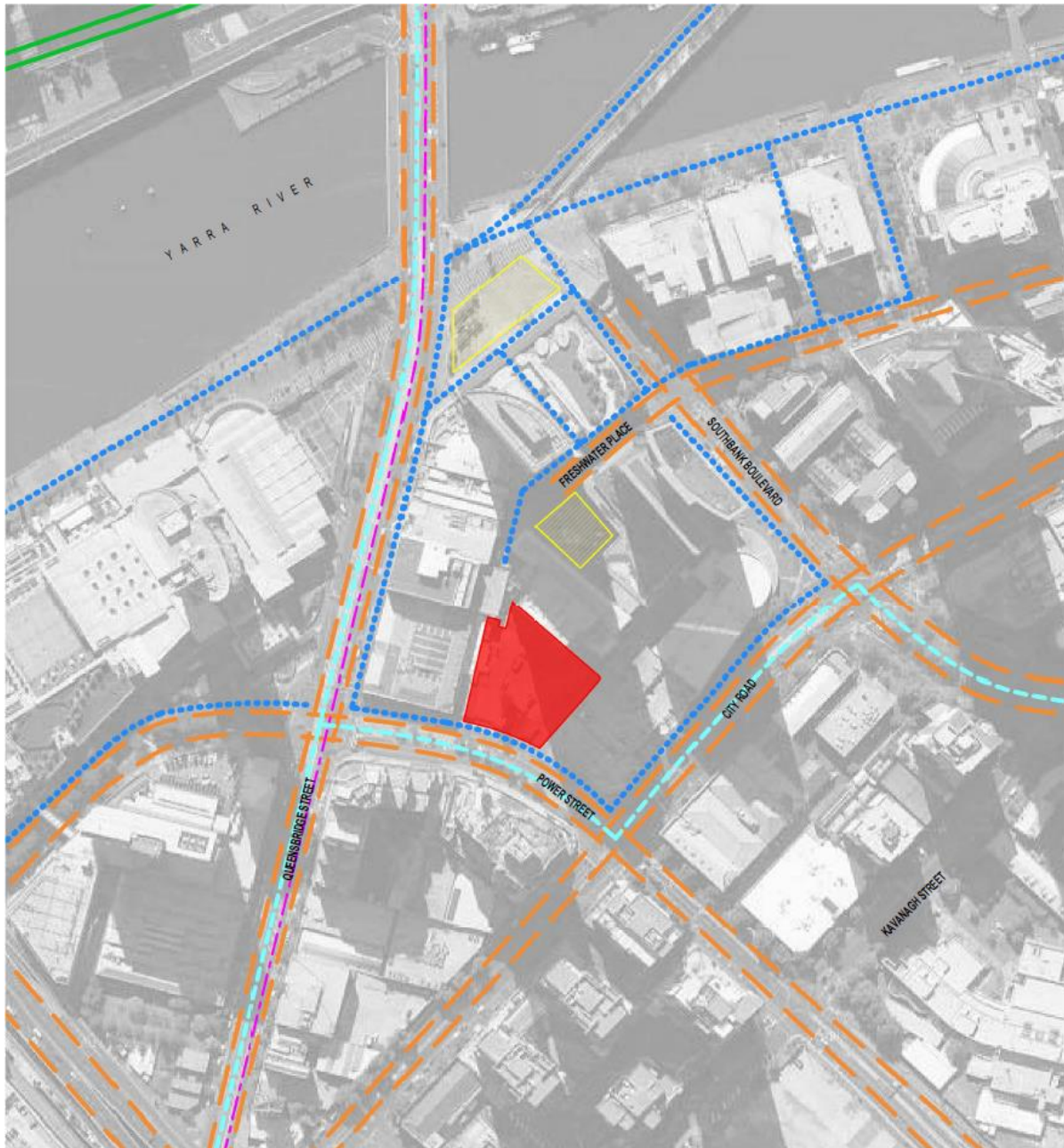
The site is affected by a number of easements. The Freshwater Place commercial office building on the site to the north is built to the north boundary of the subject site, which anticipated that a future development on the subject site may have been to the boundary abutting its southern wall. Accordingly two light and air easements are located along the north boundary to provide light and air to the lift core and side windows.

The site is also affected by a carriageway easement (from Power Street) for Freshwater Place 2 (FWP2) and a sewer easement. Conditions on any permit that would be issued for the proposal must address these easements and ensure they are not built upon, or they are removed through the appropriate processes managed by the City of Melbourne.

Figure 1 – Site Locality Plan



- TRANSPORT
- ENTERTAINMENT
- ARTS/CULTURAL
- PARK SPACE
- CBD
- SOUTH BANK



- TRAIN LINE
- KEY PEDESTRIAN ROUTES
- - - - TRAM LINE
- - - - VEHICULAR MOVEMENT
- ▭ PUBLIC SQUARES
- - - - BUS ROUTE

6 Proposal

The applicant has amended the plans several times on the project. The application plans from December 2013 have been superseded by the March 2014 plans, which were submitted following an request for further information. These represent the formal plans which have been updated with July/ August 2014 revisions.

The Power Street Tower is a mixed use building of 273m. It involves 482 dwellings, a 20,839 sqm premium hotel (comprising 390 rooms), 1,247 sqm of office suites, 3,084 sqm of retail and on-site parking for cars (480), motor bikes (proposed to be increased to 13) and bicycles (traffic report indicates 146 spaces, but proposed to be increased to 206). The total GFA is 110,000sqm approximately.

The key elements of the project include:

- A tower element which rises to 73 levels (273 metres) and is distinguished from the 'podium' through graduated street setbacks which provide for a sweeping sculptural aspect of the tower form.
- An 8-level podium element which partially conceals car parking within the development.
- The completion of the public pedestrian network within the Freshwater Place Precinct through the site to Power Street.
- Ground level 'activation' of existing and new pedestrian areas through a range of commercial/retail uses and pedestrian lobby areas at ground and mezzanine levels.
- Vehicle access provided from an existing carriageway from Power Street that was originally designed to accommodate the parking and access needs of the Freshwater Place Precinct.

7 Planning Policies and Controls

7.1 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 key SPPF policies are 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 16 Housing
- Clause 18 Transport
- Clause 19 Infrastructure

The purpose of the above policies is to 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.

An assessment against the above policies is provided in this report.

7.2 Local Planning Policy Framework

The Municipal Strategic Statements (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 following policies are applicable:

- Clause 21.04 Settlement
- Clause 21.06 Built Environment and Heritage
- Clause 21.07 Housing
- Clause 21.08 Economic Development
- Clause 21.11 Local Areas
- Clause 21.13-1 Urban Renewal Areas Southbank

The site is located within the existing Southbank Urban Renewal Area as identified under Clause 21.13 of the Melbourne Planning Scheme. The objective for this area is to support Southbank’s development as an extension of the Central City, provide a mix of commercial and residential land uses and a built form environment reflective of the precinct’s position as a natural extension to the city across the river and from the central and southern parts of Southbank.

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

- 22.01 Urban Design within the Capital City Zone
- 22.02 Sunlight to Public Spaces
- 22.19 Energy, Water and Waste Efficiency
- 22.23 Stormwater Management (WSUD)

The thrust of the above policies is to encourage high quality urban design outcomes and to ensure that development is environmentally sustainable and recognises its impact on the public realm.

An assessment against the above policies is provided in section 9 of this report.

7.3 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)
<i>Capital City Zone- Schedule 3 (Clause 37.04)</i>	A permit is required to demolish, construct a building or construct or carry out works unless the schedule specifies otherwise. The table of uses specifies ‘accommodation’, ‘office’ and ‘retail premises’ (other than adult sex bookshop, department store, hotel, supermarket and tavern) as permitted as of right (Section 1 use) at Clause 1.0 of the Schedule. Accommodation includes dwellings and residential hotel.
<i>Design and Development Overlay- Schedule 60 Schedule 1 Schedule 3 (Clause 43.02)</i>	Under Clause 43.02-2 a permit is required to construct a building or construct or carry out works unless the schedule specifies otherwise. However DDO - Schedule 60 does not specifically exempt buildings and works from requiring a permit and Area 2 applies a discretionary height control of 160 metres to the site. Schedule 1 (Area 2) does not specifically exempt buildings and works and requires at least 80% of the street frontage (Power Street) for active uses. Schedule 3 (Traffic Conflict) does not specifically exempt buildings and works and requires that any vehicular ingress or egress points must not be constructed on a traffic conflict frontage (Power Street).
<i>Parking Overlay –</i>	The provisions of the Parking Overlay works in conjunction with

Department of Transport, Planning and Local Infrastructure

<p><i>Schedule 1 (Clause 45.09) & Clause 52.06</i></p>	<p>Clause 52.06 of the Melbourne Planning Scheme.</p> <p>Schedule 1 to the Parking Overlay requires a planning permit to provide car parking spaces in excess of the car parking rates in the schedule. In this case, where a site is used partly for dwellings (including common areas serving the dwellings) the car spaces must not exceed 1 space per dwelling. The maximum spaces allowable for the proposal without requiring a planning permit is 496 spaces for the dwellings and 76 for other uses. The proposal includes 480 car spaces for the entire development; with 410 for dwellings and 70 for the other uses therefore no permit is required under the PO1.</p> <p>A total of five motorcycle spaces are required; no spaces are provided. This will be a condition of any permit - condition 10.</p>
<p><i>Loading and Unloading of Vehicles (Clause 52.07)</i></p>	<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. A loading area of 56 sqm is provided on site and meets the planning scheme requirement of 27sqm therefore a permit is not required.</p>
<p><i>Bicycle Facilities (Clause 52.34)</i></p>	<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 171 spaces (including both resident, visitor and employee spaces). The application provides for 165 spaces on site and therefore a permit is required to reduce this requirement. It is uncommon for a dispensation of bicycle parking to be granted and given the scale of the development and the opportunity for provision of bicycle parking on site; this will be required as a condition of the permit.</p>
<p><i>Integrated Public Transport Planning (Clause 52.36)</i></p>	<p>Under Clause 52.36-1 an application must be referred in accordance with Section 55 of the Act to the Director of Public Transport (Public Transport Victoria) for a residential development comprising 60 or more dwellings or lots. The application was referred to Public Transport Victoria for comment.</p>
<p><i>General Provisions (Clause 61.01)</i></p>	<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 of the Planning and Environment Act 1987 for approving matters required by the scheme in relation to developments with a gross floor area exceeding 25,000 square metres.</p>
<p><i>Decision Guidelines (65.01)</i></p>	<p>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 Act.</p>
<p><i>Referral and Notice Provisions (Clause 66.03, 66.04 and 66.06)</i></p>	<p>Clause 66.03 requires an application to be referred to the person or body specified as the referral authority. The Director of Public Transport is a specified referral body under Clause 52.36.</p>
<p><i>Relevant Reference Documents / Guidelines</i></p>	<p>Southbank Structure Plan (City of Melbourne, 2010) The plan provides background information and guidelines on the built form of Southbank.</p>

8 Other Strategic Matters

8.1 Amendment C209 (Open Space)

Amendment C209 seeks to introduce a public open space contribution requirement. It applies to the whole municipality of the City of Melbourne except for some areas within Docklands. A public open space contribution rate of 8% is proposed to be applied to the subject site (being paid as either a percentage of the site value, a land contribution or a combination of both). The proposed rate reflects the anticipated growth and development in the Southbank area.

Amendment C209 has been on exhibition and a panel report is yet to be report to the Future Melbourne Committee of the City of Melbourne. As there is no option for on-site open space this matter will be dealt with at subdivision stage.

9 Notification

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

10 Referrals

The application was internally referred to DTPLI Urban Design Unit, informally referred to the City of Melbourne and pursuant to Section 55 of the Planning and Environment Act 1987 to the Director of Public Transport. The following comments were provided:

City of Melbourne: The permit application was considered at Council's Future Melbourne Committee on 1 July 2014. A formal response was received on 7 July 2014. Council resolved:

"The Melbourne City Council objects to the application for the following reasons:

- The proposal by virtue of its overall height, lack of meaningful podium, lack of front and side setbacks, detracts from the streetscape of Power Street and would be contrary to the Design and Development Overlay Schedule 60
- (Southbank) Clause 22.01 (Urban Design within the Capital City Zone) and the decision guidelines of the Capital City Zone Schedule 3, of the Melbourne Planning Scheme.
- The proposal by virtue of its indented public vehicle drop off area and pedestrian footpath being relocated onto private property, with the upper levels (used for car parking only) set over these public spaces, provides for an unsafe pedestrian experience and would be contrary to Clause 22.01 (Urban Design within the Capital City Zone), and the Decision Guidelines of the Capital City Zone Schedule 3 of the Melbourne Planning Scheme.
- The proposed changes to the Power Street kerb alignment should be deleted from the application. A planning permit is not required for road works and a separate approval process for changes to the kerb alignment is required under the Local Government Act 1989 and Road Safety and Traffic Regulation Management 2009.

- The proposed pedestrian walkway through the site is not in accordance with the specific building design requirements for pedestrian connections provided in Clause 22.01 (Urban Design within the Capital City Zone) of the Melbourne Planning Scheme, which requires a minimum width of 3.6 metres, a height of 7.6 metres and for the link to be designed to be direct and safe.
- The proposal does not provide for adequate setbacks to the existing building to the north, does not allow for equitable future development of this site, and is contrary to the requirement of setback and built form outcomes of Design and Development Overlay 60 Southbank, of the Melbourne Planning Scheme. "

Note: The July/August plans have deleted the indented drop off area.

Urban Design (DTPLI): DTPLI urban design generally support the proposal (comments dated 9 July 2014 and based on the March 2014 plans) however they raised some important design issues:

- The development provides minimal and unconvincing justification for the design response to DDO Schedule 60, focussing instead on issues of view lines and extrapolating upon recent approvals
- The boundary adjacencies (with the exception of the eastern boundary to Prima Pearl) are either relatively consistent with pre-Amendment C171 agreements of 5m minimum from boundary for a total 10 metre building separation, or are well below the 10 metre setback from title boundaries for buildings over 40 metres in height (refer Schedule 60). Increases to north east and southern (street) boundaries are required.
- The lay-by area parallel with the line of the kerb is not convincing. We recommend an alternative vehicle drop-off arrangement be determined which does not necessitate either introduction of more than one vehicle cross-over or the realignment of the existing pavement to accommodate indented parking.
- The through-block link lacks legibility as a mercantile arcade and fails to contribute to the public realm as part of a logical and intuitive movement network. Revised documentation is to be submitted indicating a realignment of the proposed arcade enabling clear lines of vision and trajectory between the Freshwater Place and Power Street and an increase in width to 4.6metres.
- The proposal continues to indicate inappropriate interfaces between apartments with potential overlooking of habitable spaces/ rooms.
- Layout and configuration of certain apartments requires attention to allow better light and amenity.

Since this advice was received several discussions have taken place with the Urban Design Unit about the final design and layout of the development and the primary issues have been addressed through condition 1 requirements.

Public Transport Victoria: No objection to the proposal and did not offer any proposed permit conditions (Letter dated 19 February 2014).

11 Assessment

11.1 Consistency with Planning Policy

The proposal achieves State and Local policy objectives by:

SPPF

Department of Transport, Planning and Local Infrastructure

- Providing a residential development in close proximity to infrastructure, Principal Public Transport Network (PPTN) and public open space facilities.
- Integrating with existing residential and commercial activity within Southbank.
- Improving housing choice to existing and future residents in the City of Melbourne and making better use of existing infrastructure services.
- Offering a high quality architectural design filling in a gap site on Power Street and the profile of Southbank thereby contributing positively to the public realm and immediate streetscape.
- Responding to the high rise, high density character of the area.
- Providing a building height, form and scale responding to the context of the surrounding area as an area where high rise tower forms are envisaged. The combination of high quality materials and articulation will provide further visual interest.
- Providing a walkable residential environment due to its proximity to key services and infrastructure and by the design of the building providing for reasonable levels of internal amenity on balance.

MSS

- Responding to the settlement pattern and character of Southbank by providing an opportunity for high-density residential development.
- Contributing positively to Melbourne's public realm and contributing to making it safer and more engaging for users.
- Recognising the status of the land as a potential development site within the Southbank Structure Plan 2010 and responding to land use and built form objectives to increase active frontage, podium and tower typology and improve environmental building performance.
- Responding to Clause 21.13-1 (Urban Renewal Areas – Southbank) through:
 - Encourage high rise tower development to the north of City Link.
 - Connect and integrate Southbank with the Central City and the Yarra River.
 - Promote high rise, high density development, south of the Crown Casino and the Melbourne Exhibition Centre.

LPPF

- Responding to Clause 22.01 (Urban Design with the Capital City Zone) by delivering development to a gap site within Power Street which will contribute to a vibrant, mixed use area including active uses at the ground level including a through block link. The development maximises the opportunity to realise the strategic objectives of planning policy to encourage high quality development at higher density locations in strategic locations such as Southbank.
- Responding to Clause 22.02 (Sunlight to Public Spaces) by ensuring that the building and works allow some sun penetration to public spaces consistent with the typical street environment of separated towers with podiums in Southbank.
- Responding to Clause 22.19 (Energy, Waster and Water) by including environmentally sustainable building initiatives within the design of the development to ensure energy and water efficiency. The applicant has stated that they are able to achieve 4 star performance. A permit condition can be applied to require an assessment against the Green Star rating tool and compliance with the policy objectives.
- Clause 22.23 (Stormwater Management) has been introduced since the application was lodged. A condition will be added to the permit to ensure the objectives of the clause are met.

All planning policies whether they be included within the planning scheme, or not, 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.

11.2 Land Use

While it is noted that no planning permission is required for the proposed uses on site the proposal is consistent with many policy directions as it will increase the residential population, provide residential, hotel and retail space and contribute to the on-going revitalisation of a 24-hour Central Activities District.

The proposed uses replace and reinvigorate a gap site within Southbank which currently makes limited contribution to the area. The development provides higher density housing, hotel and associated uses, office, retail and responds to the broad strategic intent as outlined in the State Planning Policy Framework, Local Planning Policy Framework, including the Municipal Strategic Statement (MSS) and the zoning control.

11.2.1 Hotel Use/ Economic Benefits

The development has [REDACTED], which is a significant capital investment in an area that encourages urban renewal. Tourism Victoria has estimated that there will be the creation of 175-200 jobs associated with the hotel and retail use and 200 jobs during the construction phase.

Clause 17.03 encourages tourism development to maximise the employment and long-term economic, social and cultural benefits of developing the State as a competitive domestic and international tourist destination. Clause 17.03 encourages the development of a range of well designed and sited tourist facilities that have access to suitable transport and be compatible with and build upon the assets and qualities of surrounding urban attractions. Clause 21.08 identifies the City and Southbank as the State's principal centre for commerce and encourages new businesses that take advantage of the Capital City location.

Tourism Victoria have submitted to the Department a Tourism Value assessment in relation to the project and concluded that the proposal achieves key objectives of Victoria's 2020 Tourism Strategy by meeting the demand for 4-5 star hotel rooms.

The new hotel supports the commercial and tourism facilities in the City and Southbank including the nearby Casino and Conference Centres and should therefore be encouraged.

11.3 Design and Built Form

The proposal includes a high density and activated development consistent with the policy direction for Southbank found at Clause 21.13 which specifically encourages high rise towers in Southbank north of Citylink and west of Moore Street.

The policy for developing taller buildings in the City has eight sections that address a range of issues relating to the city structure and built form including building design, facades, city and roof profiles, projections, wind and weather protection, public spaces, access and safety in public spaces and the starting point for design which is a site analysis and an urban context report. A key theme of the policy is ensuring that buildings make a positive contribution to the public realm.

The policy contains specific objectives that relate to Schedule 3 to the Capital City Zone which is applicable to Southbank. The objectives of this schedule encourage connection and integration of Southbank with the City, a high quality public realm and also encourages laneways as a means to pedestrian permeability and incorporation of art work into building design.

Specific policy for the Schedule 3 areas is as follows:

- Encourage buildings, including towers to align to the street pattern and to respect the continuity of street facades.
- Retain views into and out of the Capital City Zone and vistas to important civic landmarks.
- Maintain the traditional and characteristic vertical rhythm of Melbourne streetscapes.
- Encourage buildings with wide street frontages to be broken into smaller vertical sections.

- Encourage buildings on street junctions to emphasise the street corner.

In terms of overall form, the policy recommends a 35-40 metre high podium with the tower element setback from this podium level by at least 10 metres. This is reinforced by the Built Form Strategies (B1) of the Southbank Structure Plan 2010 and in this instance, DDO60.

The design objectives and performance measures contained within Local Policy Clause 22.01, Urban Design within the Capital City Zone, Southbank Structure Plan 2010, Schedule 3 to the Capital City Zone (CCZ3) and Design and Development Overlay (DDO60) 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 particular objectives of DDO60 Area 2 are:

- To avoid detriment to the public domain from the impacts of buildings.
- To ensure that development has a pedestrian scale at the street level.
- To provide for appropriate spacing between buildings so as to maximise light, air and outlook for occupants.

Specific built form outcomes of DDO60-Area 2 include:

- Buildings that provide an appropriate backdrop to the Yarra River environs and to the existing low-scale urban form on its banks.
- The maintenance of the dominant streetscape scale.

Table 1 to Schedule 60 of the Design and Development Overlay also specifies building height, building design and built form outcomes (applicable to Area 2 which applies to the site):

Building height - 160 metres

Podium height – should not exceed 30 metres

Built form outcomes

- Buildings that provide an appropriate backdrop to the Yarra River environs and to the existing low-scale urban form on its banks.
- Buildings that do not dominate the Yarra River urban form in Areas 1 or 3 or adjoining buildings.
- The maintenance of the dominant streetscape scale.

Built form outcomes for podiums

- are oriented to complement the Southbank street system have a human scale
- provide an appropriate level of street enclosure having regard to the width of the street are consistent with the heights and setbacks of adjoining building podiums have a height and setback that does not undermine the heritage character of an adjoining heritage building

11.3.1 Height / Form/ Podium

The site is located in an area of Southbank where significant residential growth is encouraged, supporting overall urban consolidation objectives outlined in the State and Local Planning Policy Framework.

The application seeks approval for a 273 metre tall building (total height). The Design and Development Overlay (DDO60) specifies a 160 metre discretionary height control including a 30 metre podium height.

There are numerous examples in this area where buildings are over the 160 metre height control including Prima Pearl, Queensbridge Tower, 25 Queensbridge Street, Eureka Tower and Freshwater Place 1 (all examples are outlined in Figure 1).

These examples demonstrate that the while tall, they provide an appropriate backdrop to the Yarra river environs and the established dominant streetscape character of the area is now of tall tower

structures. The proposal is consistent with these other buildings in the precinct and is consistent with the built form outcomes of Table 1 to DDO60.

The podium to Power Street contains some car parking areas fronting Power Street. Both buildings approved on either side of the development (Prima Pearl and 158 City Road) have exposed car parking fronting Power Street which has set a clear precedent. However, following negotiations with the applicant a revised podium response was provided (July 2014) including a 6 metre high retail space on level 1, which will improve the level of activation. The planter boxes screening the car park which protruded over the boundary have also been removed.

The podium height at approximately RL 39.15 slightly exceeds the recommended podium height of 30m, however the height of the podium has been increased to provide a better contextual transition that matches the height of the Prima Pearl podium and this is considered appropriate and compliant with the built form outcomes.

11.3.2 Setbacks

The building is, in part, built to Power Street with no boundary setback. There are several examples of tower buildings on Power Street that abut the street (Prima Pearl, Hanover House and 141 City Road). These examples suggest that there is no strong public realm rationale to require a larger setback to Power Street; however this would not be the case unless adjoining building such as Prima Pearl had such a strong presentation to the street.

The overall siting of the building is tightly fitted into the site amongst other large buildings. While the setbacks to be provided are mostly ample to the northwest and west, the setbacks to the north and east are too small and require modification to be acceptable.

North West interface

The tower separation to the approved development at 25 Queensbridge Street (north west interface) is only 11 metres, with habitable rooms on the corner. It is noted that a fresh application has been lodged for 1-25 Queensbridge Street which would increase this setback to 28.5 metres which is substantial and appropriate. While the applicant could revert to the former approval that would provide an 11m setback, this is considered an acceptable, if reduced setback under DDO60. However it is considered more likely that the new application will be pursued in which case a much larger separation of 28.5 metres will be achieved which meets the DDO60 requirements and is satisfactory.

West interface

To the west of the development is the Prima Pearl development. The proposed building will be setback 7.8m from the west boundary which combined with the Prima Pearl setback, will result in a 23m separation between the two buildings which is substantial and meets the requirements and built form outcomes of DDO60 and relevant policy.

North

Freshwater Place 2 (a commercial office building) is located to the north of the site and is sited on the shared boundary. A minimal setback of only 5.2-5.8m is proposed from this boundary, which is unacceptable, especially since the small setback would inhibit solar access to the dwellings, inhibit privacy of habitable rooms and provide a very poor outlook for the dwellings to a blank wall that would lead to overall poor amenity for future occupants. This setback must be increased to a minimum of 10 metres to address these issues. While the increased setback will not fully address the outlook issue, it will at least provide a better opportunity for oblique views to the north west and south east. In addition to this, the layout of the dwellings must be carefully considered and modified to minimise windows and remove balconies facing the blank Freshwater Place wall.

East

Above the podium, the proposed building will be setback 5 metres, which together with the setback to provided on the Hanover House site, will achieve a 10 metres building separation. Changes have also been made to the eastern boundary in terms of layout and screening devices will improve the interface to 158 City Road and will be included as conditions of permit.

The site is quite constrained in terms of siting and the scale of neighbouring buildings and subject to the changes recommended above, the development will meet the expectations of DDO60, either the full separation distances recommended, as in the case of the west and northwest or meets the reduced separation distance of 10m to the north and east.

11.3.3 Detailed Design/ Amenity

Most dwellings have well-considered layouts which can adapt to the needs of occupants. Most have living areas with direct access to either terraces or balconies. Subject to conditions to increase the north setback, improve the internal layout and design appropriate screening measures, the development will provide apartments with reasonable internal amenity and good access to daylight.

There are a several areas that require redesign (as shown on sketch plans dated July/ August 2014) as follows:

- Apartments at the lower levels below the podium height of Prima Pearl have been removed.
- The south west corner apartments below level 17 (where the podium form meets the main tower) have been redesigned to improve amenity, outlook and privacy. The form of the podium fronting Power Street was not amended and there remains an apartment on each podium level with a poor living space.
- Apartments on the eastern side of the building, centrally located directly face habitable space at 158 City Road (Hanover House) and have been removed. The entire façade has been treated to direct views away from 158 City Road to ensure privacy is maintained.
- Apartments on the northern side have been reconfigured to ensure bedrooms have windows (without obscure glazing) and that living rooms are appropriately located to achieve light.
- Apartments on the north-eastern side have been configured to improve daylight to living rooms.

Conditions of permit will be added to ensure these issues are addressed.

The building contains communal areas at various levels, offering residents access to additional open space and recreational opportunities that will enhance the residential amenity. A landscape condition will be included to finalise details of the podium landscape area and green wall.

The dramatic “sweep” of the development is important to its visual presentation as part of the public realm and the city profile. As advised by the Department’s own Urban Design Unit, the success of the design will depend on the quality of the final detailing. It is therefore important that a façade strategy condition is required which ensures detailed attention is given to a refined and well resolved presentation of the sweeping nature of the façade.

11.4 Street Level and Pedestrian Safety

The development incorporates a glazed commercial floor space and a hotel/ lobby at ground floor facing Power Street. A large portion of the frontage is taken over by a carriageway easement to neighbouring properties that will provide access to the loading bay and car park and also provide vehicle access from Southbank Blvd though Waterfall Lane to the site (one-way, southbound). It is noted that DDO1 requires 80% active frontage however this is not fully achievable with the access easement and therefore a variation to this requirement is recommended.

The footpath on the frontage has been indented onto private land on Power Street to allow a vehicle drop off. The City of Melbourne has advised that the indented footpath within the existing title need to be considered in relation to future ownership, maintenance and liability (with a potential section 173 agreement required). However, in order to achieve a better public outcome and to achieve the general policy direction of DDO1 (80% of Power Street frontage for active uses) and DDO3 (minimising traffic conflict) the footpath should be retained as it is now and the building line brought closer to Power Street. This would also negate the requirement for a Section 173 for overhangs. Coaches will not be able to drop off passengers at the front entrance but can access the hotel through Waterfall Lane from Southbank Boulevard.

The proposal includes a through-block link into Freshwater Place 2, which is supported but requires to be reconfigured from the March 2014 plans. In summary the frontage and through-block link requires to achieve the following:

- Apartment entrances provided with an appropriate address, visible from Power Street/ Freshwater Place 2;
- A clear line of sight through to Freshwater Place 2 and better connections;
- The through-block link widened and redesigned to ensure safety and ease of use with a minimum 3.6 metre width;
- An improved frontage directly to Power Street.

The applicant responded to the above concerns and provided informal sketch plans (July/ August 2014, Metier Drawing SK0128) that have completely redesigned the ground floor and arcade. There is now a direct, straight through-block link, appropriate apartment entrances, activated hotel lobby, and usable retail spaces.

11.5 Microclimate (Wind, Weather Protection, Overshadowing) & Internal Amenity

Wind

The further information was accompanied by a wind tunnel test report (Vipac 26 February 2014). The report concluded that all areas met walking criteria. The wind conditions at the main Power Street entrance to the hotel met standing criteria.

The CCZ3 provision outlines that DDO1 areas such as Power Street should be designed to be generally acceptable for stationary long term wind exposure (where the peak gust speed during the hourly average with a probability of exceedence of 0.1% in any 22.5 degree wind direction sector must not exceed 10 ms⁻¹). Given the proposed alterations to the building form this can be considered by way of a condition.

Weather Protection

A 2.7 metre wide canopy form is provided along the site's frontage to Power Street providing weather protection for pedestrians and assisting with any potential wind downdrafts. The canopy is in a stepped form over several levels, which is excessive and would benefit from a reduction in form closer to the title boundary. This has been addressed in informal sketch plans (July /August 2014).

Overshadowing

There are additional shadows as a result of the building. The development (and particularly the additional height above the 160m height control) will not significantly overshadow key public open spaces or high quality public areas as demonstrated by the submitted shadow plans. In particular the shadow will avoid the Boyd School site open space at the appropriate times.

Shrine of Remembrance

The proposal produces limited overshadowing of the Shrine precinct late in the afternoon in Winter. However this is not within the control period in the planning scheme and is at a non-critical time when other shadows also reach the area.

Acoustic

Developments for new and refurbished residential uses should incorporate design measures to attenuate against noise associated with the operation of other businesses and activities associated with a vital 24-hour capital city. The decision guidelines of the Capital City Zone specify that 'habitable rooms of new dwellings adjacent to high levels of external noise should be designed to limit internal noise levels to a maximum of 45 dB in accordance with the relevant Australian Standards for acoustic control'. This will be added as a permit condition.

11.6 PANS/OPS and OLS

Ministers of all Australian States, Territories and the Commonwealth Government have agreed to a National Airport Safeguarding Framework (NASF) which is a national land use planning regime to protect airports and communities from inappropriate off-airport development. Planning applications which breach the NASF and penetrate the OLS and PANS/OPs will not be recommended for planning permit without written consent of the relevant aviation authorities or a height reduction to comply with these provisions.

Given the applicant has not provided written evidence of approval of the height of the development from the relevant aviation authorities with the application, conditions of the permit require a height reduction to ensure compliance. If written evidence from the relevant authorities can be provided, plans will be able to be submitted for endorsements which are consistent with the initial application documentation of 273 metres.

11.7 Environmental Sustainable Development (ESD)

An ESD report was provided with the application indicating the development will achieve 4 star Green Star rating. A condition has been added to ensure the development meets the rating requirements or the objectives of Clause 22.19.

11.8 Car Parking, Loading and Unloading of Vehicles, Waste Collection and Bicycle Facilities

The car parking layout is generally in accordance with the Planning Scheme requirements and/or Australian Standards, subject to conditions to ensure compliance. The development contains less than the statutory maximum spaces allowed therefore no permit is required under the PO1.

An adequate loading bay is provided and a separate bus drop off (if required) will be configured through conditions of permit.

The bicycle parking numbers (at 165 spaces) do not meet the minimum requirements (171 spaces) however the applicant's revised traffic report commits to providing 206 spaces. A condition will be placed on permit requiring the planning standards of spaces and facilities to be met.

The application was accompanied by a Waste Management Plan (WMP) prepared by Leigh Design Pty Ltd. This has not been approved by the City of Melbourne, and it is likely the development will change as a result of condition 1. A condition has been added to ensure Council approves this prior to commencement.

12 Conclusion/ Recommendation

The development meets the objectives of the Capital City Zone and relevant overlays by contributing to the provision of dwellings and a residential hotel within a built form response that reinforces the existing and emerging pattern, scale and siting of development within Southbank.

The proposal generally responds to the opportunities and constraints of the land and the existing conditions and approvals in the immediate context. This is subject to revisions as per the informal sketch plans submitted plans July/ August 2014 and additional setback requirements all done through condition 1. These condition 1 requirements will improve apartment amenity (on-site and for the neighbours), improve ground floor and through-block safety. It will also improve the public realm experience.

Overall the proposal will deliver high quality hotel space with consequential tourism and economic benefits and residential apartment dwellings that add to the supply in a central area. It will include commercial and retail activity and a through-block link. On balance the development should be supported.

It is recommended that a planning permit 2013/010075 for the redevelopment of a mixed use tower including dwellings, residential hotel, office and retail space be approved with conditions.

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Department of Transport, Planning and Local Infrastructure

Appendix 1

Comparison between March 2014 and July/August 2014 schemes:

SUBJECT	TOWN PLANNING DOCUMENTATION AMENDMENTS	
Boutique Apartments	March Town Planning Submission	July/ Aug Town Planning Submission
1 Bed	155	92
2 Bed	42	72
Total	197	164
Apartments	March Town Planning Submission	July/ Aug Town Planning Submission
1 Bed	79	79
2 Bed	157	157
3 Bed	82	82
Total	318	318
Hotel	March Town Planning Submission	July Town Planning Submission
Guestrooms	405	390
Office	March Town Planning Submission	July Town Planning Submission
Area	1288m ²	1247m ²
Retail	March Town Planning Submission	July Town Planning Submission
Area	1551m ²	3084m ²
Parking	March Town Planning Submission	July/ Aug Town Planning Submission
Car Parks	480	480
Motorbike Parks	0	13
Bicycle Parks	171	206
Building Height	March Town Planning Submission	July Town Planning Submission
	273m	273m

NB: The through-block link has also straightened and widened as a result of the July/August plans.