

Department of Planning and Community Development

State Planning Services – Central City

**Delegation Report**

<b>Application Number:</b>	2010/024795
<b>Site Address:</b>	63-65 Kings Way and 127-129 Kavanagh Street, Southbank
<b>Proposal:</b>	Use and development of the land for two mixed-use multi-storey buildings (one 47 storey tower, one 38 storey tower) comprising dwellings, ground floor retail (excluding hotel, tavern and gambling premises), alteration of access to a Road Zone Category 1 and a variation of the Design and Development Overlay (Schedule 39).
<b>Applicant:</b>	Kingsway Tower Pty Ltd c/- Urbis [REDACTED]
<b>Date Submitted:</b>	25 January 2011
<b>Planning Scheme:</b>	Melbourne Planning Scheme
<b>Responsible Authority:</b>	Minister for Planning
<b>Number of Objections:</b>	Three
<b>Recommendation:</b>	Notice of Decision to Grant a Permit (NOD) subject to conditions.

**PROPOSAL**

1. The planning permit application was submitted by Kingsway Tower Pty Ltd on 25 January 2011 for a multi-level two-towered residential development at 63-65 Kings Way and 127-129 Kavanagh Street, Southbank. In summary, the application proposes:

	Levels/Height	Apartments	Gross Floor Area (GFA)	Cars/motorcycle/bicycle spaces
Kings Way Tower - West	47 levels 143 metres (149.5m with lift overrun)	351	42,488 sqm	108/0/206
Kavanagh Street Tower - East	38 levels 115 metres (121 with lift overrun)	409	32,158sqm	147/0/270

Key features of the proposal include:

- Ground level parking for cars and bicycles; vehicle loading areas; and building services all accessed from Hannah Street (adjacent to Kings Way);
- Ground level residential entry foyer; and commercial/retail tenancies fronting Kavanagh Street.

- Podium servicing both west and east towers averaging 23 metres in height and including both apartments and car parking.
  - Two residential towers providing a mix of 1 and 2 bedroom apartments with private services for residents including pool and gym.
2. The Minister for Planning is the responsible authority for assessing the planning permit application under Clause 61.01 of the Melbourne Planning Scheme (the Scheme) as the gross floor area of the proposed development is greater than 25,000 square metres – in this instance the total gross floor area of the proposal is 74,646sqm.

## **BACKGROUND**

3. On 25 June 2009, the Minister for Planning approved Planning Permit No: 2009/1032 for the use and development of land at 63-65 Kings Way, Southbank, for a 42 level residential building with ground floor food and drinks premises and basement car parking. The approved tower exceeded the 100m height limit under Design and Development Overlay Schedule 39 by 40 metres.
4. On 15 October 2010, Urbis on behalf of King Tower Pty Ltd, submitted a new permit application for a multi-level development at 127-129 Kavanagh Street, Southbank, the site immediately to the east of 63-65 Kings Way. At the same time, a request to amend Planning Permit No: 2009/1032 was lodged, in order to facilitate the new tower proposal fronting Kavanagh Street. It was proposed that car parking for the eastern tower would be accessed through the Kings Way tower podium.
5. Discussions between Department officers, the proponent and City of Melbourne regarding this joint proposal followed. On 11 November 2010, a request for further information was made under section 54 (1) of the *Planning and Environment Act 1987*. The main issues raised were:
- Approved building envelopes on surrounding sites to be shown on Site Context Plan.
  - Clarification of mechanism to link the two sites for the purposes of car parking access and a suggestion that the new permit application and permit amendment be combined to resolve this issue;
  - Further detail relating to vehicular access, façade treatments and retail use;
  - A Waste Management Plan and environmental assessment of the site for sensitive uses to be provided.

Concern was also expressed regarding the presentation of podium treatments to Kings Way and the Westgate Freeway; the lack of a tower setback for the western tower; the setback at the northeast corner of the eastern building to be removed; and the failure of the proponent to adopt recommendations made in the submitted wind assessment report.

6. On 23 December 2010, Urbis submitted further information to address the Department's letter of 11 November 2010. The letter was supported by the following:
- Revised architectural drawings by SNA;
  - An environmental assessment prepared by Aargus Australia (summary);
  - Revised Traffic Engineering Assessment by Cardno Grogan Richards;

- Revised Wind Engineering Assessment by ViPac; and
  - Waste Management Plan prepared by Wastech Services Pty Ltd.
7. On 25 January 2011, Urbis submitted a letter to the Department advising that it agreed to the Department's recommendation to combine the applications for the two sites into one new planning permit application. This date is taken as the formal lodgement date for the application.

## **SITE AND SURROUNDS**

8. The subject site comprises two allotments and is located on the corner of Kavanagh Street and Kings Way (Hannah Street), Southbank. Currently, 63-65 Kings Way contains a two-storey warehouse that includes two rooftop major promotional signs; 127-129 Kavanagh Street contains an open lot car park.
9. The site is rectangular in shape, with a western frontage of 55 metres to Kings Way/Hannah Street, a northern frontage of 53 metres to Kavanagh Street and an area of 3,040 square metres. Kings Way is a major north-south arterial road and Hannah Street runs parallel to Kings Way. [REDACTED]
10. Immediately to the east of the site, the land is developed by a power substation (recently upgraded) and across Kavanagh Street is a large open lot car park. Further to the south-east is an off-ramp from the Westgate Freeway and the freeway itself. The height of the off-ramp is similar to the height of the existing two-storey building on the subject site. South of the Westgate Freeway, land use and development is characterised by large scale retailing and car dealerships.
11. Immediately to the south of the site is 42-48 Balston Street. This site is a small wedge shaped site that is currently vacant and used for informal car parking. Immediately adjacent this site is a strip of land used for CityLink car parking and facilities. The site shares its northern boundary with 127-129 Kavanagh Street for a distance of approximately 19 metres. The Minister for Planning issued an amended Planning Permit 2002/224/A on 14 November 2008 that allows for development of a multi-storey residential building with associated podium car parking. The approved building is 36 storeys (108.8 metres) in height and has no setback from the boundary it shares with the subject site.
12. To the north of the site, fronting Kavanagh Street is the former Victoria University of Technology (known as the former Boyd School). The site is currently used by the Western Melbourne Institute of TAFE. The site is occupied by two and three-storey brick buildings and several single-storey timber buildings. On site parking is provided for 85 cars. The site is included on the Victorian Heritage Register (VHR: HO769).
13. Melbourne City Council bought the Boyd School site from the State Government in December 2007 with the intention of developing a community centre with open space and a commercial development with an integrated affordable housing component. Major elements of the redevelopment include:
- Community facilities in the heritage building including library, maternal and child health and family services, meeting rooms and artist's studios;

- A 1000sqm ‘urban park’ fronting City Road, and a 2500 sqm park fronting Kavanagh and Balston Streets; and
- A 30-storey (100 metre) residential and commercial building.

14. The City of Melbourne is currently requesting expressions of interest for the 30 storey commercial and residential component of this redevelopment.

15. Immediately to the west of the site is the balance of Hannah Street and Kings Way. Further west, beyond Kings Way, are commercial buildings of various scales.

16. The subject site is located at the southern limits of the Southbank precinct, abutting the Westgate Freeway. The Southbank precinct has been undergoing a high density renewal over recent decades and the area is characterised by older low scale buildings, vacant lots and multi-level commercial and residential towers.

## PLANNING CONTROLS

17. The following statutory controls apply to the site:

Provision	Permit requirement
Clause 32.04 Mixed Use Zone (MUZ)	<p>Pursuant to Clause 32.04-1 of the MUZ, a permit is required to use the land for the purpose of retail premises;</p> <p>Pursuant to Clause 32.04-5, a permit is required to construct two or more dwellings on a lot;</p> <p>Pursuant to Clause 32.04-7, a permit is required to construct a building or construct or carry out works for a use in Section 2 (Permit Required) of Clause 32.04-1.</p>
Design and Development Overlay (DDO):	Pursuant to Clause 43.02 a permit is required for buildings and works unless exempted by the schedule.
Schedule 18 (Southbank Plot Ratio)	<p>Does not exempt permit requirement for buildings and works;</p> <p>Specifies a plot ratio of 2:1 for non-residential uses.</p>
Schedule 27 (City Link Exhaust Stack Environs)	<p>Clause 2.0 exempts the permit requirement for buildings and works.</p> <p>Where a permit is required for use or for buildings and works under another provision of the Scheme, notice must be given to the Environment Protection Authority and VicRoads.</p>
Schedule 39 (Southbank Central Interface)	<p>Does not exempt the buildings and works requiring a permit.</p> <p>Does not exempt from notice and appeals requirements;</p> <p><u>Height</u>: Specifies a discretionary height control of 100 metres; a podium height between 16m and 28m or which responds to the dominant streetscape.</p> <p><u>Setbacks</u>: Tower setback up to 6 metres from all major streets; for towers over 40 metres, a setback of 24 metres from an adjoining tower of similar height.</p>

	An application can be made to vary both the height control and setback requirements.
Land Subject to Inundation Overlay (LSIO)	Pursuant to Clause 44.04-1, a permit is required for buildings and works.  Pursuant to Clause 44.04-5 an application must be referred to Melbourne Water under Section 55 of the Act.
Clause 52.06 (Car Parking)	Schedule to Clause 52.06 Car Parking identifies that a parking precinct plan ‘Car parking provisions for residential development in specific inner city areas of Melbourne’ applies to the site. The plan applies a maximum rate of one car space per dwelling. As the application proposes a total of 225 car spaces, a permit is not required for car parking.
Clause 52.29 (Land Adjacent to a Road Zone, Category 1)	A permit is required to create or alter access to a road in a Road Zone, Category 1.  An application must be referred to VicRoads under section 55 of the Act.
Clause 52.34 (Bicycle Facilities)	Pursuant to Clause 52-34-2, a permit may be granted to vary, reduce or waive the standard bicycle parking requirement.  The application provides 472 bicycle spaces which is more than the statutory requirement, therefore no permit is required.
Clause 52.36 (Integrated Public Transport Planning)	Pursuant to Clause 52.36-1, an application to construct a residential development comprising 60 or more dwellings requires referral to the Director of Public Transport.

## **POLICY FRAMEWORK**

### **State Planning Policy Framework (SPPF)**

18. The following policies within the SPPF are relevant to the consideration of the application:

- Clause 12 (Metropolitan Development) seeks to provide a more compact and prosperous city and a great place to be facilitating sustainable development whilst taking advantage of existing infrastructure, creating a strong and innovative economy through clustering and promoting good urban design to make the environment more attractive.
- Clause 14 (Settlement) seeks to ensure a sufficient supply of land is available for residential, commercial, industrial, recreational, institutional and other public uses. This policy also seeks to facilitate the orderly development of urban areas.
- Clause 15.12 (Energy Efficiency) promotes energy efficient building design.
- Clause 16 (Housing) encourages opportunities for increased residential densities to help consolidate urban areas.

- Clause 17 (Economic Development) seeks to encourage the concentration of major retail, commercial, administrative, entertainment and cultural development into activity centres which provide a variety of land uses and are highly accessible to the community.
- Clause 18.02 (Car Parking and Public Transport Access to Development) recognises that in the City of Melbourne, on-site car parking in the CBD is to be limited in view of limited road capacity, good access to public transport and the need to preserve pedestrian amenity.
- Clause 18.03 (Bicycle Transport) seeks to integrate planning for bicycle travel with land use and development planning and to encourage cycling as an alternative mode of transport.
- Clause 19.03 (Design and Built Form) encourages development that provides architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties. Developments are considered against design principles including; context; the public realm; landmarks, views and vistas; pedestrian spaces; heritage; consolidation of sites and empty sites; light and shade; energy resource efficiency; architectural quality; landscape architecture.

#### **Local Planning Policy Framework (LPPF)**

19. Within the Municipal Strategic Statement: Clause 21.03 ‘Vision for Melbourne’ promotes a thriving and sustainable city that simultaneously pursues economic prosperity, social equity and environmental quality. The Vision states:

*The key to achieving Council’s vision is the recognition that different parts of the municipality have to be managed differently and that development potential varies markedly. There is a mixture of activities and built form throughout the City and understanding the local context of a proposal is the key to understanding whether or not a proposal is acceptable.*

20. Clause 21.04 sets out objectives for ‘housing opportunities’ and identifies Southbank as an area that will accommodate population growth to varying degrees. The policy advises that ‘increased residential development contributes to the overall urban consolidation objectives outlined within the State Planning Policy Framework’.

21. Clause 21.08 sets out the implementation strategies that relate to particular neighbourhood areas and precincts within the municipality. The subject site is located within the Southbank precinct and is specifically identified as an area where high rise tower development is encouraged (Figure 14 – Local Area Map – Southbank). Further strategies include:

- Encourage a mix of public and commercial uses at ground level in new developments to support street life and provide pedestrian interest;
- Improve the public environment of Southbank by providing public spaces, improving pedestrian facilities and upgrading streetscapes.

22. The following local planning policies within the LPPF are relevant:

- Clause 22.02 (Sunlight to Public Spaces) requires that development not cast additional shadows between 11am and 3pm at the equinox (22 September and 22 March) that would prejudice the amenity of public spaces.
- Clause 22.17 (Urban Design Outside the Capital City Zone) recognises the importance of protecting the valued aspects of the City’s character from inappropriate redevelopment. Objectives include:
  - To ensure that the scale, siting, massing and bulk of development complements the scale, siting, massing and bulk of adjoining and nearby built form.
  - To ensure that the height of buildings relates to the prevailing patterns of height and scale of existing development in the surrounding area.

In areas where the desire for built form change has been identified, the scale and height of development is encouraged to respond to the scale and height ‘of the emerging preferred new built form character’.

### Reference Documents

23. The following documents were considered:

- *Design Guidelines for Higher Density Housing – DSE 2004*. This document provides advice about what constitutes best-practice in higher density housing. The guidelines apply to buildings of four storeys and above and cover aspects including height, neighbourhood character, street setback, open space, overlooking and overshadowing. Planning and responsible authorities must have regard to the Guidelines in assessing the design and built form of residential development of four or more storeys (*Clause 19.03 of the State Planning Policy Framework*).
- *Draft Southbank Structure Plan, City of Melbourne, 2010*. This document provides a vision and strategy for the future development of Southbank as an integral part of the central city with the Yarra River at its centre. Figure 1.3 identifies the subject site as one for ‘short term development’. The Boyd School site is also identified as a future activity node. Issues identified for improvement in Southbank are excessive tower heights, poor pedestrian amenity and poor ground level activation.
- *Southbank Plan, 2006*. This document outlines a vision for the Southbank area. Elements of this vision include being:
  - One of Melbourne’s major residential areas, providing a mix of central city housing at varying densities and scales, household size and affordability.
  - A place with a safe, civilised and healthy public environment, producing vital street life conducive to walking and cycling as the primary means of local travel.
  - A place with attractive public spaces complementing private land uses with good quality architecture.

### NOTIFICATION

24. Pursuant to section 52 of the *Planning and Environment Act 1987*, the applicant was required to give notice of the application as follows:

- Display a notice on each site (fronting Kavanagh Street and Kings Way) for 14 days;

- Send notices to owners and occupiers of adjoining properties; and
- Publish a notice in *The Melbourne Times* and *The Age* newspapers for one week each.

A statutory declaration from the application was received stating that the above notice requirements were satisfactorily fulfilled on 25 March 2011.

25. Two objections were received. On 23 February 2011 [REDACTED]. The objection states 'there is inadequate information provided to confirm the spacing between the proposed towers and the tower at 42 Balston Street'. On this basis, the development is considered to be 'excessive and opportunistic'.
26. As a result, DPCD requested further plans from the architects SNA to clarify this matter. Additional plans and an explanatory letter were received on 15 March 2011, and electronic plans forwarded to [REDACTED] for comment. No response has been received to date.
27. On 1<sup>st</sup> March 2010, an objection was received from [REDACTED]. The submission argues that the proposed development is an over-development of the site, resulting in poor amenity for apartments facing each other; there should be greater setback of the tower fronting Kings Way; the architectural quality is low in terms of design and materials; plot ratio is too high; given the proposed height, there should only be one tower on the site to ensure adequate natural light and aspect.
28. Melbourne City Council was given notice of the application on 27 October 2010 and contributed to the further information request that was sent to the applicant on 11 November 2010. Despite participating in a number of meetings, a formal response was received by Council on 9 March 2011, objecting to the application. The main issues are:
- Adverse wind effects on the public realm are unsafe for users of these areas;
  - Insufficient setbacks to Hannah Street/Kings Way;
  - Excessive height of both towers does not respect the neighbourhood character of the area (both existing and approved); and
  - The application is contrary to sections of the MSS, Clause 22.17, and Clause 43.02, (although specific comments are not made).

In the event that approval is granted for the proposal, Council has included a series of conditions to address some of its outstanding concerns.

## **REFERRALS**

29. Pursuant to section 55 of the Act, the application was referred to the following agencies:
- Melbourne Water on 29 November 2010. No response received to date.
  - Department of Transport on 29 November 2010. A response was received on 30 December 2010 advising no objection to the proposal.
  - Environment Protection Authority on 1<sup>st</sup> February 2011. A response was received on 8 February 2011 advising no objection to the proposal.

- VicRoads on 1<sup>st</sup> February 2011. No response received to date.
30. Internal referral of the application was made to the Department's Urban Design Unit. Preliminary design advice was provided on 10 November 2010, and was used in the further information letter provided to the applicant. Updated comments were received 14 January 2011 with general support for the proposal including heights and setbacks. The issues that remain include:
- Provision of façade material details;
  - Locking in ESD commitments;
  - Clarification of a 'glazed' façade treatment to the east podium against the sub-station; and the extent of overhang over Kavanagh Street.

### **ASSESSMENT**

31. The application has been assessed against relevant policies and controls of the Melbourne Planning Scheme. Overall, the development meets the primary purpose of the Mixed Use Zone by providing retail and residential uses with appropriate provision of car and bicycle parking. The development is located within the Southbank area where a range of residential, commercial and entertainment uses are prevalent and high-rise residential buildings are encouraged.
32. The proposal will activate a hitherto under-utilised site that operates in isolation from its surroundings, with poor pedestrian amenity and limited street activation. The key issues requiring discussion are detailed below:

#### **Consistency with the State Planning Policy Framework**

33. The proposal is generally consistent with the objectives and policies within the SPPF and achieves the desired outcomes relating to Metropolitan Development; Settlement; Energy Efficiency; Housing; Infrastructure and Design and Built Form in the following ways:
- The proposal provides high density residential development in an area of Southbank recognised for this purpose.
  - The development contributes to a range of housing choices in close proximity to the Central Business District and adjacent a site (former Boyd School) identified for community facilities and public recreation.
  - The proposal incorporates an energy efficient building design that will implement key ESD principles and aims to achieve a six star energy rating.
  - The proposal provides a quality design response and built form outcome that respects the existing uses and built form of the area whilst meeting the objectives of future planning in Southbank.
  - The development utilises existing infrastructure and has good access to the surrounding road network and public transport, whilst providing facilities to promote cycling and walking.

#### **Consistency with Local Planning Policy Framework**

34. Clause 21.04-1 of the Municipal Strategic Statement is specific in defining the role of Southbank, particularly the area north of City Link, as an area for significant population growth that will contribute towards achieving SFFP urban consolidation objectives. This

Clause also seeks to ensure reasonable levels of residential amenity and urban design are maintained. The proposal responds well to this Clause as the high rise, high density nature of the development is in keeping with the future strategic direction of Southbank and the dwellings are designed to provide good amenity for future occupants. Consistent with the strategies listed at Clause 21.04-1 it is recommended that a condition be placed on the permit requiring appropriate acoustic standards be met given the site's proximity to Kings Way and the Westgate Freeway.

35. The proposal is generally in accordance with the strategies in Clause 21.05-2 Structure and Character which in particular identifies the site as appropriate for "substantial built form change". The development will have no significant impact on key views or other valued characteristics of the city such as the Hoddle Grid, boulevards or the landscaped character. The development is also assessed as generally consistent with the height, scale and character of the Southbank area. These issues are discussed in more detail below.
36. The proposal complies with Clause 22.05 *Sunlight to Public Spaces* as the shadows cast by the buildings are primarily contained within the road reserve of City Link and Kings Way, with some shadowing occurring between 9am and 11 am on the western side of Kings Way, primarily to commercial buildings.

#### **Design concept and urban context**

37. Clause 22.17 provides the policy basis for assessing the King Towers proposal in terms of building design and urban context. The primary objectives of the policy are to ensure that new development complements existing built form and relates to the prevailing patterns of height and scale of development in the surrounding area. Also, new development should be of high quality architectural design, contribute in a positive way to the public realm and minimise adverse amenity impacts.
38. In general terms the overall form and design of the two towers is supported. The mass of the buildings is appropriately positioned onsite to provide an attractive and optimal design to the surrounding streetscape and adjoining properties. The proposal addresses the significant constraints of the two sites by orienting apartments towards views of the city, maximising solar access, minimising exposure to the two significant road frontages, and addressing the proposed built form of the 42 Balston Street tower that has zero setbacks to the southern boundary.
39. Whilst the site is located within the Mixed Use Zone, the site is read as being part of the Capital City Zone in an urban form sense. This area of Southbank is characterised by a mixture of uses and forms of urban development including larger apartment towers, into which this proposal comfortably sits. In the broader Southbank context, the Eureka Tower stands at 300 metres and Freshwater Place has two towers of 200 metres and 207metres respectively. Recent planning approval for similar developments in the vicinity include:

Permit No.	Address	Proposal	Date issued
2010/0273	141-155 City Road, Southbank	42 storeys/131 metre residential tower	08 October 2010
2009/0983	70 Southbank Boulevard, Southbank	70 storeys/226 metre mixed use tower	21 April 2010
2008/0734	133-135 City Road & 137-	120 metre residential./hotel	31 October 2008

	130 City Road, Soutbank	tower	
2006/0453	174-184 City Road, Southbank	142 metre tower	25 Feb 2007
2007/0539	110-120 Kavanagh Street, Southbank	113.6 metre tower	5 Feb 2007

40. Whilst information regarding facade treatments has been submitted, further detail will be required as a condition of approval. In particular, the proposed use of glazing to the eastern façade adjacent the sub-station seems to be in error and may require correction.

### **Building Height**

41. The proposal seeks to vary the preferred maximum height requirements of DDO39 – Southbank Central Interface. An application to vary this control requires submission of a site analysis and urban context report to demonstrate how the proposal still meets the objectives of the DDO, whilst varying the built form outcome.

42. DDO39 identifies the preferred height for development as 100 metres with a podium height between 16 and 28 metres. The proposal seeks approval for a tower of 143 metres at 63-65 Kings Way and a tower of 115 metres at 127-129 Kavanagh Street, with a podium level averaging 23 metres joining the two towers. There is currently approval for a tower of 144.5 metres at 63-65 Kings Way, granted by Planning Permit No. 2009/1032.

43. The subject site sits at the north east junction of Kings Way and the Westgate Freeway. The site has the potential to carry a landmark building that heralds the entrance to the Southbank precinct from the south and defines a border along the Westgate Freeway. Given the scale and height of the existing road network, it is important that a development on this site is of an appropriate scale to create the ‘legibility of the urban form’ required by the DDO.

44. In areas where the desire for built form change has been identified, the scale and height of development is encouraged to respond to the scale and height ‘of the emerging preferred new built form character’. As discussed above, there are a number of towers approved and built beyond the 100 metre height limit. Whilst in itself, this is not justification to exceed the height limit, it demonstrates that the character of the existing area and the ‘emerging preferred new built form character’ has capacity to absorb these proposed buildings heights.

45. The development is designed to have three defined building modules being the podium, lower tower and higher tower. This design assists in breaking down the mass and height with the podium providing a distinctive base to the building with two separate towers projecting above. The podium level meets the preferred height controls in the DDO and this is important in how the building is read from street level and the pedestrian scale of the development.

46. The physical conditions of the site have contributed to the proposed built form, in particular the dedication of the first six above-ground levels (fronting Kings Way) to car parking to address the elevated Westgate Freeway. As such, the additional height proposed in part seeks to ‘regain’ the area required for low amenity uses at lower levels.

### **Building setbacks**

47. DDO39 specifies desired minimum building setbacks for development on land affected by this schedule. A preferred tower setback of 6 metres from all major roads is sought, along with a setback of 24 metres from an adjoining tower of similar height for a development

above 40 metres in height. Provision for reduced setbacks can be made where it can be demonstrated that the towers are offset, solar access is gained and habitable room windows do not directly face one another.

48. The application proposes the following setbacks from boundaries:

- To the Hannah Street/Kings Way frontage, the tower is predominantly at a 0 metre setback (with the exception of the north west corner and small indentations along the boundary);
- To the Kavanagh Street frontage, the towers are predominantly at a 5-7 metre setback (with the exception of where the tower curves away from the boundary);
- Between the two towers 10-15 metres;
- To the north-east of the site (to 125 Kavanagh Street) a setback of 4-6 metres;
- To the south-east boundary (42 Balston Street and Westgate Freeway), the west tower is 0-3 metres setback (from ground to level 26) and the east tower is setback 5 metres.

49. The northern frontage to Kavanagh Street is considered the most important interface in terms of respecting future development opportunities and reducing adverse amenity impacts. The initial setback of the western tower to Kavanagh Street of 1.3 metres was increased to 5.5 metres at the request of the Department. Advantages include that this more closely respects the existing approved west tower development; it matches the Boyd School tower setback on the north side of Kavanagh Street; it significantly reduces wind impacts on the Kavanagh Street footpath (discussed later in this report); and it articulates the building volume and defines a more pedestrian-scale podium.

50. The internal tower separation of between 9.7 metres and 14.7 metres is acceptable, considering the slightly angled view between buildings and that the closest point corresponds to the core area.

51. The setback of the east tower from the sub-station boundary is indicated as 5 metres, however it would appear to measure more like 4.3 metres in part. Considering the low likelihood of an imminent redevelopment of the sub-station and the fact that most of these measurements are to balconies rather than windows, the proposed setback is acceptable.

52. The subject site has a difficult interface with its closest neighbour, being 42 Balston Street, Southbank. As discussed earlier, there is an approved planning permit for this site to develop a multi-level residential tower. Consideration has been given to the interface with this proposed development, which was granted reduced setbacks (to 0 metres) to the southern boundary of the site. The Balston Street development proposes a blank wall to this interface and the proposal responds in kind at this setback with a blank façade at podium level, then setbacks increasing as the tower height increases. The eastern tower is also slightly skewed to minimise overlooking, maximise solar access and views to the city.

53. Taking into account the constraints of the subject site, the character of the surrounding area and future development approved for adjacent sites, it is considered that the reduced setbacks proposed are appropriate.

### **Podium form and street interaction**

54. The scale and built form of the podium is generally supported, although more detailed elevations with façade treatments at an appropriate scale will be required as a condition of approval.
55. The partial ‘wrapping’ of an activated edge around the Kavanagh Street/Hannah Street corner is supported. The main entry to the buildings engages the street in a meaningful way and the extensive service areas appear to be successfully hidden from Kavanagh Street.
56. The inclusion of a residential component fronting Kavanagh Street at levels 1-7 is supported, however the development may benefit further from increasing passive surveillance along the Hannah Street frontage by changing some uses at the first level.
57. There is concern regarding the overhang of proposed ‘winter gardens’ and screening into public space over Kavanagh Street and at the request of City of Melbourne, a condition requiring the removal of any projections other than the canopies over Kavanagh Street is proposed.

### **Car and bicycle parking**

58. The site is located within an area that is subject to a maximum car parking rate which stipulates no more than 738 on site car parks to be provided (one per dwelling). The total provision of 274 residential spaces is considered acceptable in this location. The confinement of all vehicular access to Hannah Street is supported, given it is a dead-end, non-pedestrian street. There are no comments from VicRoads regarding this access, although some standard conditions are recommended to be included by Council engineers.
59. It is accepted that the lower two levels of the east tower will contain some apartments below the level of the west tower parking and that this can be treated by planting alongside a solid podium wall as indicated to form amenable private patios.
60. The provision of bicycle parking exceeds the requirements of Clause 52.34 of the Planning Scheme and is acceptable. Bicycle parking dimensions should comply with the requirements of the Planning Scheme and a permit condition to this effect should be included. Lifts in the car park should be large enough to cater for cyclists.
61. The use of motorcycles as an alternative mode of transport has steadily increased in recent years. Council considers it appropriate to require the provision of at least three motorcycle spaces. This can be achieved as a permit condition.

### **Traffic assessment**

62. A Traffic and Transport Assessment (Cardno Grogan Richards, 21 December 2010) was submitted with the revised proposal and assesses the provision of car parking, access and general traffic issues. The main issue is the use of Hannah Street for access to the car parking for both towers. Hannah Street is currently a one-way street. To provide for two-way access and egress to the development, some road widening is required. Through discussions with Council, it is proposed to remove the existing loading bays on Hannah Street, which will provide for a 5.5 metre wide street (the minimum requirement for a two-way street). This is an acceptable outcome for traffic access to the development.
63. It is considered that the traffic generated by the proposed development can be adequately dispersed by the surrounding road network.

64. Council engineers have raised no major concerns with the car parking and traffic arrangements. Standard access and car parking layout conditions are recommended.

### **Wind Assessment**

65. A Pedestrian Level Wind Tunnel Test (Vipac, October 2010) was submitted with the original application and made an assessment of pedestrian wind comfort on ground level footpaths, setback balconies and the podium roof. The report finds that all areas tested apart from the corner of Kings Way and Kavanagh Street meet the safe walking criterion. The report makes recommendations for treatments to improve safety and comfort levels on the podium roof area and balconies, but none of these are reflected in the building design.

66. Following the revision of the west tower design, which sets the Kings Way tower back by 6 metres, a revised VicPac Wind Tunnel Report (Dec 2010) was submitted. The Report finds, once again, that the 'proposed development fulfils the recommended criterion for walking in all footpath locations except the intersection of Kings Way and Kavanagh Street without any wind controlling device'. The Report goes on to advise that with the modified west tower design, the 'wind conditions at the corner area of the intersection between Kings Way and Kavanagh Street have been significantly improved and can be considered minor'.

67. Overall, the Wind Tests make some assumptions regarding the use of Hannah Street that are not supported and make recommendations for wind amelioration measures that are not incorporated into the revised design of the proposal. A design objective of Clause 22.17 is to ensure that developments minimise adverse impacts of wind in surrounding public spaces and provide weather protection where appropriate. The applicant should be required to revisit the recommendations of the reports through a condition of approval and incorporate design changes as recommended by ViPac.

### **Environmentally Sustainable Design (ESD)**

68. A Sustainability Statement by Ark Resources (October 2010) was submitted with the application and outlines the key ESD initiatives proposed in the development. These include a First Rate 6 star energy rating; a solar boosted gas hot water system; and rainwater harvesting for toilet flushing and irrigation. These initiatives are to be commended and should be locked into the development through appropriate conditions.

69. An assessment of sustainable design outcomes has been undertaken against various benchmarking tools, demonstrating that;

- The proposed dwellings achieve a high standard of building envelope energy efficiency, exceeding the Building Code of Australia; and
- The combination of design features and services initiatives meets the standards adopted in the STEPS and STORM sustainability assessment tools for all elements.

### **SUMMARY/RECOMMENDATION**

70. The proposal consists of two residential towers of 47 storeys (143 metres) and 38 storeys (115 metres) respectively with ground floor commercial tenancies and associated car parking at 63-65 Kings Way and 127-129 Kavanagh Street, Southbank. There are 760 apartments with 256 car spaces proposed.

71. The proposal has been advertised and 3 objections have been received, including an objection from Melbourne City Council.

- 72. The proposed development is considered to respond appropriately to State and local planning policies, in particular by providing housing density and diversity. It complies with the purpose of the mixed use zone.
- 73. There is justification for a departure from the suggested heights and setbacks in DDO39 as the development respects the objectives of this policy.
- 74. The proposed development has been assessed against the provisions of the Melbourne Planning Scheme and is generally compliant. Consideration has been given to the referral responses and the objections received. On balance, this proposal is worthy of support subject to conditions (see Attachment 1) and a recommendation for approval is made on this basis.

Prepared by [REDACTED]  
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Date:

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Title: [REDACTED]  
Phone: [REDACTED]  
Date:

## **ATTACHMENT 1 – PROPOSED CONDITIONS FOR PLANNING PERMIT APPLICATION 2010/024795**

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### **Amended Plans**

1. Prior to the commencement of the development, amended plans to the satisfaction of the responsible authority must be submitted to and be approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application prepared by Squillace Nicholas Architects but modified to show:
  - a) Detailed design of all podium materials, treatment and form at a scale of 1:50. In particular, the treatment to the eastern façade of the eastern tower must be revised to remove reference to clear glazing where it abuts 125 Kavanagh Street.
  - b) Detailed design of all landscape treatments, including at ground level and gardens performing a screening function between the two towers.
  - c) Wind amelioration measures incorporated into the design of the building generally in accordance with section 6 of the submitted Pedestrian Level Wind Tunnel Test (ViPac, October 2010).
  - d) Deletion of any projections over the title boundary (other than the canopies over Kavanagh Street), including service doors to all ground level services.
  - e) Details of the clearance to the underside of all proposed projections to ensure that adequate offset has been provided to street trees.
  - f) Lifts within the car park designed to accommodate bicycles.

### **Layout Not Altered**

2. The development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

### **Hours of operation for retail uses**

3. Any café or restaurant operating from the retail tenancies must not operate outside the hours of 7am to 11pm unless otherwise agreed in writing by the responsible authority.

### **Ancillary Uses**

4. The proposed recreational uses on Level 7 must be ancillary to the predominant residential use. These uses must remain ancillary unless otherwise agreed in writing by the responsible authority.

### **Construction Management Plan**

5. Prior to the commencement of the development, including demolition or bulk excavation, a detailed construction and demolition management plan must be submitted to and be approved by Melbourne City Council. This construction management plan is to be prepared in accordance with the City of Melbourne – Construction Management Plan Guidelines and is to consider the following:
  - a) public safety, amenity and site security;

- b) operating hours, noise and vibration controls;
- c) air and dust management;
- d) stormwater and sediment control;
- e) waste and materials reuse; and
- f) traffic management.

### **Potentially Contaminated Land**

6. Prior to the commencement of the development, the applicant must provide:
- a) A Certificate of Environmental Audit in accordance with Section 53Y of the Environment Protection Act 1970; or
  - b) A Statement of Environmental Audit under Section 53Z of the Environment Protection Act 1970. A Statement must state that the site is suitable for the use and development allowed by this permit.

Where a Statement of Environmental Audit is provided, all conditions of the Audit must be complied with to the satisfaction of the responsible authority, prior to commencement of use of the site. Written confirmation of compliance must be provided by a suitably qualified environmental professional or other suitable person acceptable to the responsible authority. In addition, sign off must be in accordance with any requirements in the Statement conditions regarding verification of works.

If there are conditions on a Statement of Environmental Audit that the responsible authority considers require significant ongoing maintenance and/or monitoring, the applicant must enter into a Section 173 Agreement under the Planning and Environment Act 1987. The Agreement must be executed on title prior to the commencement of the use and prior to the issue of a Statement of Compliance under the Subdivision Act 1987. The applicant must meet all costs associated with drafting and execution of the Agreement, including those incurred by the responsible authority.

### **Materials and Finishes**

7. Prior to the commencement of the development, excluding demolition, bulk excavation, site preparation, soil removal, site remediation, retention works, footings, ground beams and ground slab, a sample board including colour rendered and notated plans/elevations that illustrate the location and details of all external materials and finishes must be submitted to and be to the satisfaction of the responsible authority. All finishes and surfaces of all external buildings and works, including materials and colours must be in conformity with the approved schedule to the satisfaction of the responsible authority.

### **Amended Traffic Management Report**

8. Prior to the commencement of the development, excluding demolition, bulk excavation, site preparation, soil removal, site remediation, retention works, footings, ground beams and ground slab, a Traffic Management Report and copies of plans drawn to scale must be submitted to and be to the satisfaction of the City of Melbourne – Engineering Services. The report and plans must be generally in accordance with the submitted traffic report and plans by Cardno Grogan Richards (dated 21 December 2010), but amended to show:
- a) Widening of the footpath along the western boundary of the building to a minimum of 1.4 metres, with at least 1 metre width clear of any obstructions, including posts and

- street trees. The footpath must continue past the southern section of the site (where no footpath is currently shown) to provide a pedestrian connection with the existing pedestrian facilities to the south. The footpath must include ramps, where appropriate, to facilitate disabled access across the car park access ramp and loading bay.
- b) Provision of a 1 in 20 grade for the first six metres of the car access ramp into the site. If this cannot be provided, a maximum grade of 1 in 14 for 6 metres, followed by a transition of 1 in 8 for 2 metres is acceptable. With the above exception, all ramps should be required to comply with the requirements of AS2890.1.
  - c) Provision of sight distance triangles at the bottom of the access ramp in accordance with the requirements of AS2890.1 to ensure pedestrians will be able to see exiting vehicles and vice versa.
  - d) Provision of an internal connection between the car parking areas on Levels 6 and 7 into the eastern tower. If a connection is unable to be provided, car spaces on these levels should only be allocated to residents of the western tower.
  - e) Provision of a minimum of three (3) on site motorcycle spaces. These may be provided in lieu of bicycle parking.
  - f) Confirmation that a minimum overhead clearance of 2.2 metres is provided (clear of sprinklers or any other ducting etc.) on the ramp within the car park area.

#### **Environmentally Sustainable Design (ESD)**

- 9. The residential development must achieve a 6 star rating under the First Rate Energy Rating tool, to the satisfaction of the responsible authority.

#### **Waste Management**

- 10. The waste storage and collection arrangements must be in accordance with the Waste Management Plan dated 13 December 2010 prepared by Waste-Tech Services Pty Ltd and must comply with Council's Waste Guidelines 2010 to the satisfaction of the City of Melbourne – Engineering Services. The waste storage and collection arrangements must not be altered or modified without the prior consent of the City of Melbourne – Engineering Services.

#### **Noise Attenuation**

- 11. Prior to the commencement of the development, excluding demolition, bulk excavation, site preparation, soil removal, site remediation, retention works, footings, ground beams and ground slab, a report from a qualified acoustic engineer must be submitted to the satisfaction of the responsible authority certifying that the residential components of the development will achieve a maximum noise level of 45dB(A) in habitable rooms with windows closed.

#### **Building appurtenances and appearance**

- 12. All building plant and equipment on the roofs, balcony and common areas are to be concealed to the satisfaction of the responsible authority. The construction of any additional plant, machinery or other equipment, including but not limited to all service structures, down pipes, aerials, satellite dishes, air-conditioning equipment, ducts, flues, all exhausts including car parking and communications equipment must include appropriate screening to the satisfaction of the responsible authority.

13. No architectural features and services other than those shown on the endorsed plans shall be permitted above the roofline without the permission of the responsible authority.
14. All building entry points should be well lit and avoid areas of concealment to the satisfaction of the responsible authority.
15. Except with the consent of the responsible authority, all external glazing must be of a type that does not reflect more than 20% of visible light when measured at an angle of incidence normal to the glass surface.

#### **Outdoor Lighting**

16. All public lighting should conform to AS1158, AS3771 and the Public Lighting Code September 2001 and must be designed, baffled and located to the satisfaction of the responsible authority.
17. Any requirement to temporarily relocate street lighting must be first approved by the City of Melbourne – Engineering Services. All street lighting temporarily relocated shall be reinstated to the satisfaction of the City of Melbourne – Engineering Services.

#### **Loading & Unloading**

18. The loading and unloading of goods from vehicles shall be carried out to the satisfaction of the City of Melbourne and shall not be conducted before 8.00am or after 6.00pm on any day unless with the written consent of the relevant authority.
19. No vehicle may reverse across the footpath or onto Hannah Street.

#### **Street Levels and Crossovers**

20. The owner of the subject land will not be permitted to alter the existing footpath/road levels in Hannah and Kavanagh Streets for the purpose of constructing new vehicle or pedestrian entrances without first obtaining the written approval of the City of Melbourne – Engineering Services.
21. The owner of the subject land must reconstruct the footways and/or kerb and channel in Hannah and Kavanagh Streets adjacent the subject land in accordance with plans and specifications first approved by the City of Melbourne – Engineering Services.
22. The owner of the subject land should construct all necessary vehicle crossings and demolish all unnecessary vehicle crossings adjacent the subject land in accordance with plans and specifications first approved by the City of Melbourne – Engineering Services.
23. The maximum permissible width of a vehicle crossover without a pedestrian refuge is 7.6 metres. Crossings wider than 7.6 metres must include pedestrian refuges a minimum of 2.0 metres in length at 7.6 metre maximum clear spacings to the satisfaction of the City of Melbourne – Engineering Services.

#### **Drainage**

23. The owner of the subject land shall construct a drainage system, incorporating water sensitive urban design, within the development and make provision to connect this system to the City of Melbourne's underground stormwater drainage system in accordance with plans and specifications first approved by the City of Melbourne – Engineering Services.

24. All projections over the street alignment should be drained to a legal point of discharge in accordance with plans and specifications first approved by the City of Melbourne-Engineering Services.

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Expiry of permit:

In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if one of the following circumstances applies:

- The development does not commence within two years of the date of the permit.
- The development is not completed within four years of the date of the permit.
- The use is not commenced within four years of the date of the permit.

In accordance with section 69 of the *Planning and Environment Act 1987*, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.

**NOTES:**

Residents occupying this development will not be exempt from any on street parking restrictions in the area.

Requests for tree removal must be approved by the City of Melbourne – Urban Landscapes.

All projections over the street alignment must conform to Building Regulations 2006, Part 5, Section 505 to 514 as appropriate.

Pursuant to the *Road Management Act 2004* any work within the road reserve of Kings Way, an arterial road, requires the written consent of VicRoads, the Coordinating Road Authority. Footpaths and nature strips of such roads fall under the City of Melbourne’s control.