1 Summary

An application has been made to redevelop the site and the air space above Parliament Station entrance (known as 85 and 87-91 Spring Street respectively) with a multi-storey (46-storeys) residential tower with ground floor retail uses.

A permit is required for demolition and buildings and works. Key issues for consideration includes construction of works that do not extend to the road boundary of the site, to construct any part of a building which exceeds a height of 40 metres within 10 metres of a road frontage, and to construct or carry out works that would cast a shadow between 11.00am and 2.00pm on 22 March and 22 September over public space, public parks and gardens and major pedestrian routes including streets and lanes.

The Department’s Urban Design Unit, the Office of the Victorian Government Architect, Public Transport Victoria and VicTrack are supportive of the permit application subject to conditions.

The City of Melbourne does not support the application.

Key issues associated with the proposal is its reliance on the air rights transaction of 87-91 Spring Street (Parliament Station entrance) from VicTrack, securing a light and air easement over the adjoining Anzac House at 4-6 Collins Street and the interface/development equity to adjoining sites.

On balance, the proposal, subject to titling issues being resolved, is considered to respond to its site context and should be supported with conditions including improved setbacks to adjoining sites, detailed resolution of the podium to Spring Street and limiting overshadowing of Treasury Gardens.

The proposal complies with the objectives of State and Local Policy including Plan Melbourne and the planning controls which affect the site and is considered to respond to the existing and evolving built form context of the area.

2 Recommendation

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

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

<table>
<thead>
<tr>
<th><strong>Key elements</strong></th>
<th><strong>Comments</strong></th>
</tr>
</thead>
</table>
| **Land:**        | 85 & 87-91 Spring Street, Melbourne
|                  | Lot 1 & Lot 2 on TP102632F (Esanda Building) and Lot 1 on TP102631H (Air space above Parliament Station) |
| **Application No. and proposal:** | 2014/000435
|                  | Demolition of the existing building and construction of a multi-storey building for the purpose of dwellings (303) and ground floor retail premises (other than Adult sex bookshop, department store, Hotel, Supermarket, and Tavern) |
| **Date lodged with DTPLI:** | 3 February 2014 |
| **Zone and Overlay controls** | Schedule 1 to the Capital City Zone (CCZ1) |
|                  | Schedule 1 to the Design and Development Overlay (DDO1) (Area 2- affects Little Collins Street frontage only) |
|                  | Schedule 3 to the Design and Development Overlay (DDO3) (Traffic Conflict Frontage- affects Spring Street frontage only) |
|                  | Schedule 1 to the Parking Overlay (PO1) |
| **Why is a permit required?** | Schedule 1 of Clause 37.04 (CCZ1): a permit is required for demolition, buildings and works, to construct a building or construct and carry out works and to construct a building which does not extend to the road boundary of the site, to construct any part of a building exceeding a height of 40 metres within 10 metres of a road frontage, and to construct or carry out works that would cast a shadow between 11.00am and 2.00pm on 22 March and 22 September over public space, public parks and gardens, public squares, major pedestrian routes including streets and lanes
|                  | Schedule 1 of Clause 43.02 Design and Development Overlay (DDO1): a permit is required for buildings and works at ground level only |
| **Height**       | 46 storeys (163.58 metres) |
| **Procedures for Air Navigational Services-Aircraft Operations Surface (PANS-OPS)** | The building at 163.58 metres in this location is below the OLS and the PANS-OPS levels ranging between 275 and 300 metres. |
| **Setbacks**     | Podium
|                  | 8 storey podium with no side setbacks to Little Collins Street and Coates Lane
|                  | 5 storey podium canopy cube above the entry to Parliament Station
|                  | Ground level pedestrian link from Ulster Lane to Little Collins to be maintained.
|                  | Tower
|                  | North – 6.66 metres from Little Collins Street and no setback from Ulster Lane
|                  | South – Ranging from 0 to 3.1 metres to a maximum of 5.5 metres
|                  | East – Ranging from 4.09 metres to 20.22 metres as the building rises
|                  | West – Ranging between 0.6 metres and 3.5 metres |
| **Car parking and bicycle facilities** | 247 car spaces, 105 bicycle spaces and 3 motorcycle spaces |
| **Gross floor area (GFA)** | GFA 50,243 square metres |
| **Applicant / Developer** | Grocon C/- Urbis Pty Ltd |
| **Public Notification** | Exempt from notification and third party appeal rights |
Figure 1 – Site Locality plan

Figure 2- Perspective image of proposal
4 Background

The application was lodged on 3 February 2014.

The application was amended under Section 50 of the Planning and Environment Act 1987 on 19 February 2014 to increase the height of the building by five levels to 42 levels (43 storeys).

Further information was requested on 17 March 2014 (within 28 days of the amended application). A response to the further information was received on 27 June 2014.

On 2 April 2014 Public Transport Victoria requested additional information in order to consider the application.

On 30 June 2014 the application was amended under Section 50 of the Planning and Environment Act 1987 to substitute plans resulting from agency discussions.

Further information was requested on 23 July 2014 (within 28 days of the amended application). A response was provided on 12 August 2014. A further response was provided on 16 and 17 September 2014. These plans form the basis of the decision.

The application was amended under Section 50 of the Planning and Environment Act 1987 on 17 October 2014 to include reference on the application to 87-91 Spring Street, Melbourne. It is noted that this amendment reset the statutory clock.

5 Site and Surrounds

The subject site is known as No. 85 Spring Street (Lots 1 & 2 of Title Plan 102632F Volume 09560 and Folio 379) and 87-91 Spring Street to the east (Lot 1 on Title Plan 102631H). The portion of the site within 87 Spring Street is limited to the air space above the Parliament Station entry and is currently owned by VicTrack. Grocon intends to acquire the air rights above the station and consolidate it with 85 Spring Street in order to enable construction of the proposal.

The site is an irregular L-shape block with frontages to Little Collins Street (17.3 metres), Spring Street (19.14 metres) and Coates Lane. The existing building known as the Esanda building is wholly contained within 85 Spring Street and set back approximately 15 metres from Spring Street frontage due to the presence of the stair entrance to Parliament Station. The Esanda building is a 14 storey office building predominately built to its side boundaries (with the exception of Spring Street) and can be described as having a western and eastern portion which wraps around the adjoining property at 99 Spring Street. A picture of the Esanda building is provided below at Figure 3.

The site is located on the west side of Spring Street between Collins and Little Collins Streets. The site also has a frontage to Little Collins Street. The west boundary of the site is to Coates Lane, which runs off Little Collins Street. A further two lanes adjoin the site – Ulster Lane to the north, which runs off Spring Street and a Private Lane (PL 5235) to the south, which also runs off Spring Street. At ground floor level the existing building is set back from its east boundary to 99 Spring Street. This setback area in the form of an arcade connects with Ulster Lane, creating a link from Spring Street to Little Collins Street. A site locality plan / aerial image is provided below at Figure 4.

The Esanda building has a two storey podium to Little Collins Street with the tower set back. The site is not affected by any easements or restrictive covenants. The title shows it has rights of carriageway over Ulster Lane to Little Collins Street.
The land surrounding the site can be described as follows:

**To the North**

North of the site is 99 Spring Street, a mixed use 25 storey tower (including a six storey podium built to all boundaries) which contains ground floor retail, offices and dwellings. 99 Spring Street holds the corner of Spring and Little Collins Street with vehicle access to a basement car park provided from...
Spring Street adjacent to Ulster Lane. The primary residential entry to 99 Spring is from Spring Street with a secondary disabled access available from Little Collins Street.

The ground floor of 99 Spring Street is occupied by multiple retail tenancies in the form of cafés. Commercial office uses are provided on levels 1 to 4 with the balance of the building above used for dwellings. It is understood that level 5 contains 4 x 1 bedroom apartments, two of which have a single south facing aspect towards the subject site. Level 5 also contains a communal swimming pool and recreation terrace interfacing with the site where it fronts Little Collins Street.

The balance of the dwellings, particularly those on the south side of the building enjoy the benefit of dual aspect and multiple light sources to the east, south and west, including sweeping views of the Parliament of Victoria, St Patricks Cathedral, Gordon Reserve and Treasury Gardens and beyond.

The west podium boundary of 99 Spring Street abuts the northern portion of the subject site (the Little Collins Street wing). The tower on 99 Spring Street is set back approximately 5.5 metres from Spring Street and approximately 15 metres from its west boundary within which a communal garden is provided. The building is built to the southern and northern boundaries. The building has windows to all elevations where possible, including the south and west elevations, which face the subject site.

On the north side of Little Collins Street is a 4 storey office building at 18-20 Little Collins Street. North-west of the subject site at 22 Little Collins Street is a 3 storey building occupied by the 'City Centre Budget Hotel' and a car park. Further north-east of the subject site, at 103 Spring Street is the Hotel Windsor.

To the South

To the south and south-east of the subject site are four buildings known as Alcaston House (2 Collins Street), Anzac House (4-6 Collins Street), Portland House (8 Collins Street) and Victor Horsley Chambers (12 Collins Street) each of which have a high level of cultural heritage significance. Access to the rear of these buildings is provided by a private laneway registered by the City of Melbourne as PL5235.

A brief summary of each building is as follows:

**Alcaston House**

Alcaston House is a 7 storey building with a local cultural heritage significance grading of 'A' and is included on the Victorian Heritage Register (VHR No. H0500). The building was constructed during the inter-war period and contains offices and converted dwellings on the upper floors. Internal plans on file appear to show windows on the north side of the building associated with bedrooms, living areas and a kitchenette. Dwellings with windows facing the site appear to be dual aspect apartments with a view over Spring Street. The furthest western window (located on the north face) of Alcaston House appears to be associated with the building's stair core. Its registration affects the entire site, and internally affects the entrance foyer off Spring Street and the lift foyer off Collins Street.

**Anzac House**

South of the subject site, across Private Lane 5235 is Anzac House at 4-6 Collins Street. This was originally a 4 storey building with basement. City of Melbourne has advised that a 2 storey rooftop extension has recently been added. It is has a local cultural heritage significance grading of 'A', built during the inter-war period and is included on the Victorian Heritage Register (VHR No. H0415). It has numerous windows facing the subject site. It is understood that this building is not used for residential purposes and is occupied by the Returned Services League (RSL). The extent of the registration includes the land holding, exterior in its entirety, and the interiors.

**Portland House**

Portland House is a three storey graded building with a local cultural heritage significance grading of 'B' and is included on the Victorian Heritage Register (VHR No. H0417). Occupiers include retail uses at ground floor level and it is understood that the building has no residential uses. The extent of the registration includes the exterior of the front 3 storey building component in its entirety and internally.
the entrance foyer of the front component, but excludes the remainder of the interior and two storey wings to the rear.

**Victor Horsley Chambers**
Victor Horsley Chambers is occupied by a 5 storey ‘A’ graded cultural heritage significant building constructed during the inter-war period and is included on the Victorian Heritage Register (VHR No. H0474). Occupiers of this building include a number of consulting rooms. The City of Melbourne has advised that the building includes a dwelling at level 5. This building is set back a minimum of approximately 3.1 metres from its north boundary and has several windows facing the subject site. The extent of the VHR boundary is the whole site, however it is understood that the area of most significance relates to the façade of the building to the north wall of the first stairwell.

**To the East**
Directly east of the subject site is the Parliament Station entry to the Melbourne Underground Rail Loop (MURL) beyond which is Spring Street and Gordon Reserve an area of public open space immediately south of the MacArthur Street entrance to Parliament Station.

**To the West**
West of the subject site is 27 Little Collins Street developed with the ‘Sheraton Melbourne Hotel and Apartments’ building, separated from the subject site by Coates Lane. The Sheraton and Esanda buildings are both constructed to Coates Lane which is approximately 3 metres wide. Coates Lane (Corporation Lane 411) acts as a service lane to surrounding properties.

The City of Melbourne approved Planning Permit TP-2008-472 on 5 September 2008 that allowed a 24 storey mixed use building including serviced and residential apartments built to the boundary with Coates Lane. The internal layout of the Sheraton apartments include east facing dwellings with a primary aspect overlooking the Esanda building.

The Minister for Planning granted approval for a modified development (Permit Application No. 2009/004749) which was largely based on previous Council approvals with the exception of the following key elements:

- Increase of overall height by 17.9 metres
- Increase in podium height from 2 to 3 storeys
- Modification to the tower form, which introduced a curved façade to the north and west elevations and use of sun and privacy devices.

Permit Application 2009/004749 triggered a Ministerial permit application as the new proposal included a Gross Floor Area of 28,583m².

**6 Proposal**
The proposal is to demolish the existing Esanda building and redevelop the land for a residential tower with ground floor retail. The specific details of the proposal, as shown within plans submitted on 16 and 17 September 2014, are as follows:

- Overall height of 46 storeys (163.58 metres) including two basement levels and two levels of plant;
- Comprises of 303 dwellings: 71 x 1 bed, 174 x 2 bed, 57 x 3 bed, 1 x 4 bed; 188m² ground floor retail facing Spring Street and Ulster Lane; and provides 247 car spaces, 105 bicycle spaces and 3 motorcycle spaces;
- 8 storey podium with no side setbacks to Little Collins Street and Coates Lane. The Little Collins Street podium will have a height of 31.48 metres;
- 5 storey podium ‘canopy cube’ above the entry to Parliament Station which will have a height of 18.04 metres;
- Northern tower setbacks of 6.66 metres from Little Collins Street and no setback from Ulster Lane;
• Southern tower setbacks ranging between 0 metres, to 3.1 metres to a maximum of 5.5 metres;
• Eastern tower setbacks ranging between 4.09 metres to 20.22 metres as the building rises in height;
• Western tower setbacks ranging between 0.6 metres to 3.5 metres;
• Seven levels of podium car parking within the western section of the site accessed via a widened Coates Lane and car lifts within the development. It is proposed to widen Coates Lane from 3 metres to 6.1 metres;
• Reconfiguration and improvements to the Parliament Station entry and widening of the footpath along Spring Street, which would require the removal of existing car spaces within the street;
• Construction of a podium 'canopy cube' above the Parliament Station entry intended to identify the site's Spring Street frontage and activate the street. The 'canopy cube' also provides some weather protection and illumination of the Parliament Station entry;
• Activation of Ulster Lane and the link to Little Collins Street. This is intended to be achieved through a retail premises providing glazing and view lines to the mechanical operation of proposed car lifts.

Refer to the Architectural Plans prepared by Denton Corker Marshall.

7 Planning Policies and Controls

7.1 State Planning Policy Framework

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

The following key SPPF policies are relevant:

- Clause 9 (Plan Melbourne)
- Clause 10.04 (Integrated Decision Making)
- Clause 11.01-2 (Activity Centre Planning)
- Clause 11.04-4 (Central Melbourne)
- Clause 13.04-1 (Noise Abatement)
- Clause 15.01-1 (Urban Design)
- Clause 15.02 (Sustainable Development)
- Clause 16.01 (Residential Development)
- Clause 17.01 (Commercial)
- Clause 18.01 (Integrated Transport)
- Clause 18.02 (Cycling)

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

An assessment against the above policies is provided in section 11 of 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 several key themes for housing, economic development, built environment and heritage and infrastructure as per Clause 21.

In particular the MSS at Clause 21.06 identifies that buildings in the private realm should add positively to Melbourne’s public realm and contribute to making it feel safe and engaging for users. The continued development of the Hoddle Grid has necessitated the introduction of a wide range of uses and services to support residents, workers and businesses in the area.

Clause 21.12 (Hoddle Grid) outlines four key themes applicable to the assessment of development within the City relating to; Housing, Economic Development, Built Environment and Heritage, and Transport. In particular, Clause 21.12 recognises the need to support:

- Permanent and short term residential accommodation in the Hoddle Grid that supports a diverse population.
- Retention and enhancement of specialised shopping and entertainment precincts within the Hoddle Grid and the benefit realised through increased residential development to support local business.
- The definition of a clear edge between the taller built form of the Capital City Zone and the lower forms of surrounding areas.
- The provision of new tall buildings that add architectural interest to the city skyline and promote human scale at the street level especially narrow lanes, respecting the street pattern and the context of heritage buildings.
- The design of buildings and the public realm in the Hoddle Grid that enhances the safety and comfort of pedestrians, including provision of weather protection and activation along key pedestrian routes.
- Better links and integration between development and public transport infrastructure.

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
- 22.20 CBD Lanes
- 22.23 Stormwater Management (Water Sensitive Urban Design)

The above local policies seek 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 11 of this report.

7.3 Statutory Controls (Permit Triggers)

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

<table>
<thead>
<tr>
<th>Planning Control</th>
<th>Permit / Application Requirement(s) / Decision Guidelines</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capital City Zone- Schedule 1 (Clause 37.04)</td>
<td>A permit is required to use the land unless specifically exempted by the schedule. A permit is also required to demolish, construct a building or construct or carry out works unless the schedule specifies otherwise.</td>
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</table>

Schedule 1:
- Specifies that no permit is required for ‘dwelling’, and ‘retail
premises’ (other than adult sex bookshop, department store, hotel, supermarket and tavern) as the uses are permitted as of right (Section 1 use) at Clause 1.0 of the Schedule.

- Specifies that a **permit is required** to demolish or remove a building, and to construct a building or construct and carry out works and to construct a building which does not extend to the road boundary of the site, and to construct any part of a building exceeding a height of 40 metres within 10 metres of a road frontage.
- Specifies that a **permit is required** to construct or carry out works that would cast a shadow between 11.00am and 2.00pm on 22 March and 22 September over public space, public parks and gardens, public squares, major pedestrian routes including streets and lanes. A permit may only be granted if the responsible authority considers the overshadowing will not prejudice the amenity of those areas.
- Exempts the application from notice and appeal requirements.
- Decision guidelines are contained in Schedule 1.

**Design and Development Overlay**

**Schedule 1 (Area 2-Little Collins Street Frontage)**  
(Clause 43.02)

Under Clause 43.02-2 a permit is required to construct a building or construct or carry out works unless the schedule specifies otherwise.

Schedule 1:
- Specifies a **permit is required** for buildings and works at ground level.
- Requires buildings with ground-level street frontages to major pedestrian areas present an attractive pedestrian orientated frontage by providing at least 5 metres or 80% of the street frontage as one which provides pedestrian interest and interaction which is generally clear glazing and is built to a pedestrian scale.
- Exempts buildings and works from notice and appeal requirements.

Decision guidelines are contained at Clause 43.02-5 and at Clause 65.

**Design and Development Overlay- Schedule 3**  
(Traffic Conflict Frontage- Spring Street only)  
(Clause 43.02)

Under Clause 43.02-2 a permit is required to construct a building or construct or carry out works unless the schedule specifies otherwise.

Schedule 3:
- Specifies a permit is required for buildings and works other than those associated with creation of vehicle ingress or egress to the traffic conflict frontage. As the application does not provide any ingress or egress point to Spring Street, a **permit is not required**.

**Parking Overlay – Schedule 1**  
(Clause 45.09)  
and **Car Parking**  
(Clause 52.06)

The provisions of the parking overlay works in conjunction with Clause 52.06 of the Melbourne Planning scheme.

Under Clause 45.09-3 a schedule to this overlay may specify that a permit must not be granted to provide more than the maximum parking provision specified in a schedule to this overlay.

Schedule 1 of the Parking Overlay specifies a maximum number of car parking spaces (calculated at 1 space/dwelling and a ratio for commercial uses using two equations) and the provision of 1 motorbike space per 100 car parking spaces.
The limitation policy allows for 305 spaces. The provision of 247 car spaces on site is below the maximum allowed under the clause, and the provision of 3 motorcycle spaces on site is above the minimum, therefore **no permit is required**.

Decision guidelines and requirements are contained at Clause 45.09-5, Clause 52.06-8 and at Clause 65.

| **Loading and Unloading of Vehicles (Clause 52.07)** | 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.  

The loading bay provided complies with the detailed requirements set out in Clause 52.07. Therefore, **no permit is required** under this clause. |
| **Bicycle Facilities (Clause 52.34)** | 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 92 spaces (61 resident, 31 visitor/customer spaces). The application provides for 105 spaces, therefore **no permit is required** under this provision. |
| **Urban Context Report and Design Response for Residential Development of Four or More Storeys (Clause 52.35)** | Under Clause 52.35-1 an application for a residential development of four or more storeys must be accompanied by an urban context report and design response. The application was accompanied by an urban context and design report. DTPLI confirmed receipt of this information with the applicant. |
| **Integrated Public Transport Planning (Clause 52.36)** | Under Clause 52.36-1 an application must be referred in accordance with Section 55 of the Act to Public Transport Victoria for a residential development comprising 60 or more dwellings or lots. The application and subsequent amended plans were referred to Public Transport Victoria for comment on 11 February 2014, 5 March 2014, 8 July 2014 and 4 August 2014. |
| **General Provisions (Clause 61.01)** | 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 Act for approving matters required by the scheme in relation to developments with a gross floor area exceeding 25,000 square metres. |
| **Decision Guidelines (65.01)** | Under Clause 65.01 before deciding on an application the responsible authority must consider as appropriate a number of matters, including Section 60 of the Act. |
| **Referral and Notice Provisions (Clause 66.03)** | Clause 66.03 works in conjunction with Clause 52.36 (amongst other requirements) and requires an application to be referred to the person or body specified as the referral authority. As previously mentioned, Public Transport Victoria is a specified referral body under Clause 52.36. |
8 Other Strategic Matters

8.1 Design Guidelines for Higher Density Residential Development

Design Guidelines for Higher Density Residential Development (Department of Sustainability and Environment, 2004) (referenced at Clause 15.01-2)

8.2 Plan Melbourne

Plan Melbourne is the Government’s long term plan to accommodate Melbourne future growth in population and employment. Two key directions of relevance are:

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

Plan Melbourne identifies the Hoddle Grid as an existing area within the expanded central region. This central sub region has a target to accommodate 1 million jobs and 1 million people. The Central subregion has the potential to grow from 700,000 jobs today to close to 1 million by 2031 and well beyond this by 2050 (Initiatives 1.4.1 to 1.4.2).

Initiative 2.1.5 of Plan Melbourne seeks to ‘Improve the Quality and Amenity of Residential Apartments’ and acknowledges that a good standard of design and amenity goes well beyond what the building looks like and its particular architectural style. Concerns about the design quality of apartments relates to small sized apartments, the tendency for large numbers of apartments to be designed with habitable rooms with no direct access to daylight and lack of variety in types. The City of Melbourne draft discussion paper ‘Future Living’ (2013) provides a comprehensive assessment of many of the issues that need to be addressed in terms of the quality, design and layout of multi-dwelling apartment developments.

9 Notification

Under Schedule 1 of the Capital City Zone an application to demolish a building and construct or carry out works, and under Schedule 1 of the Design and Development Overlay, and Schedule 1 to the Parking 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.

Notwithstanding the exemption from notification, over 10 submissions were received from surrounding owners and occupiers. Key issues raised related to development equity, loss of light and impact on amenity, overlooking, increased traffic and lack of parking. It is noted that application is exempt from third party notice and the submitters are not able to review any decision made at the Victorian Civil and Administrative Tribunal.

10 Referrals

The application was referred to DTPLI Urban Design Unit, Office of the Victorian Government Architect, the City of Melbourne, Heritage Victoria, Public Transport Victoria and VicTrack. The following comments were provided:
City of Melbourne: The permit application was considered at Council’s Future Melbourne Committee Meeting of 2 September 2014. Council resolved to object to the application on the grounds set out in the officer delegate report of 28 July 2014. Key issues raised by Council are as follows:

- The proposal by virtue of its height and inadequate setbacks represents an overdevelopment of the site.
- The proposal by virtue of its inadequate setbacks will have an overbearing impact upon the public realm contrary to relevant provisions of the Melbourne Planning Scheme, including Cause 22.01.
- The proposal does not adequately respond to the development potential of adjoining sites to the south.
- The proposal will have adverse impacts upon the amenity of the adjoining lanes, contrary to Clause 22.20 of the Melbourne Planning Scheme.
- The proposal by virtue of its inadequate setbacks will result in poor daylight, outlook and ventilation to existing and proposed apartments.
- The height of the proposed development is excessive in relation to the heights of the adjoining heritage buildings to the south.
- The inadequate setback of the tower from Spring Street will result in the building appearing overly prominent and visually intrusive in relation to the building at 2 Collins Street.
- The proposed development is contrary to Clause 22.02 of the Melbourne Planning Scheme (Sunlight to Public Spaces).
- The appearance and use of the car park levels to Coates Lane is contrary to Clause 22.20 of the Melbourne Planning Scheme.
- Matters relating to car parking and access via Coates Lane have not been adequately resolved.

Urban Design (DTPLI): DTPLI urban design is generally supportive of the proposal however raised issues regarding interface amenity, setbacks from Spring Street and development equity. In particular the need to ensure that the amenity of dwellings which rely on a single and primary aspect to the south over Anzac House are not compromised. This matter was discussed with the applicant which has led to exploration of acquiring the air space above Anzac House in order to provide appropriate light and air access.

Office of the Victorian Government Architect (OVGA): OVGA has provided in-principle support for the proposal subject to resolution of the southern apartment interface (including 8 Collins Street), and the architectural expression of the tower. This matters can be achieved through permit conditions.

Public Transport Victoria: No objection to the proposal subject to permit conditions.

VicTrack: While VicTrack is not a statutory referral authority, their advice was sought regarding the impact of development on public transport infrastructure as the applicant seeks to develop, in part, the air space above Parliament Station and rail infrastructure. VicTrack does not object to the proposal subject to conditions. It is understood that a sale transaction between the permit applicant and VicTrack is in process.

Heritage Victoria (HV): Comments were sought from Heritage Victoria (HV) to independently review the heritage impact assessment report prepared by Lovell Chen. Comments provided included:

- Confirmation of the extent of registration associated with Alcaston House (2 Collins Street), Anzac House (4-6 Collins Street), Portland House (8-10 Collins Street) and Victor Horsley Chambers (12 Collins Street);
- Agreement with the conclusions of the report particularly the potential for redevelopment opportunities to the rear of Portland House and Victor Horsley Chambers and noted that a permit would not be required by the Executive Director, HV if the redevelopment did not abut the front
three-storey building of Portland House or the section of Victor Horsley Chambers up to the north wall of the first staircase; and

11 Assessment

The key issues relate to the consistency with planning policies, built form response, interface and internal amenity, integration with and improvements to the public realm, microclimate, overshadowing, and car parking and traffic impacts. These matters are discussed as follows.

11.1 Consistency with Planning Policy

The proposal achieves State and Local policy objectives by:

**SPPF**
- Supports the concentration of major residential, hotel, commercial, retail, entertainment and cultural developments in the central city which provides a variety of land uses and are highly accessible to the community (Clause 11.01-2).
- Through high quality and site responsive architecture and urban design the proposal will contribute to the character of the area, will promote safety and the attractiveness of Melbourne (Clause 15).
- Through an articulated podium and tower form, the development will make a positive contribution to the public realm and to vistas to the city (Clause 15).
- The development is activated at its east, north and south (in part) interfaces which will enhance adjacent public spaces for pedestrians (Clause 15).
- Includes low car parking numbers and encourages alternative modes of transport (Clause 11.01-2 and Clause 18.01-1).

**MSS**
- Clause 21.02 recognises that the City of Melbourne is the premiere location for many of the State’s economic, infrastructure and cultural facilities, with the most significant gains in resident population expected in the Central City.
- Responding to Clause 21.12 (The Hoddle Grid) through:
  - Providing a design that includes an appropriately scaled podium which acknowledges human scale and activation at ground level and provides a context for nearby heritage buildings on Collins and Spring Streets.
  - Making a sculpture contribution to Melbourne’s skyline.

**LPPF and Zone**
- The development is designed to all visible sides and responds well to its different interfaces and overall urban context. It will enhance the physical quality and character of Melbourne's streets and lanes through an improved pedestrian link (Clause 22.01).
- The proposal generally responds to Clause 22.02 (Sunlight to Public spaces) by ensuring that the building will not result in significant overshadowing to key public spaces. Overshadowing of Treasury Gardens is address via permit conditions to ensure that the crown of the building is redesigned to ensure that the minimal extent of shadow cast (3.5 metres) at 2pm is removed.
This is consistent with the permit requirement of the Capital City Zone, and in this instance it is considered that no shadowing of the park should occur.

- Responding to Clause 22.19 (Energy, Waster and Water) and Clause 22.23 (Stormwater Management) by including environmentally sustainable building initiatives.
- The development achieves an appropriate balance, as supported by Clause 22.20 (CBD Lanes), necessary for access and service requirements and also enhancing the laneway environment by providing activation through retail tenancies and by respecting the fine grain subdivision pattern, providing an appropriately articulated and detailed facade with surveillance over the lane and providing tenancies at ground level.

11.2 Title Issues - easements and air rights

The redevelopment is reliant on the air rights over the Parliament Station entry and rail infrastructure at 87-91 Spring Street and light and air easements to 4-6 Collins Street, due to the respective cantilevering of the building envelope and building within 300mm of its common boundary.

The only possible way to address these matters is to condition any permit approval so that the permit only comes into effect once this occurs. No development on site should commence until this is resolved.

11.3 Design and Built Form

Height and Setbacks

The subject site is not located within a height control area. Therefore the height of the building should be derived from a planning policy and urban context response. The response in this case is driven by the need to minimise overshadowing to public spaces and the influence of surrounding built form context, including heritage buildings.

The surrounding built form context in this case is mixed and includes podium/tower development as well as low scale heritage buildings immediately to the south. 99 Spring Street and 27 Little Collins Street have heights of 25 storeys and 32 storeys respectively which are lower than the proposal.

Creating a distinction between towers and demarcating the Hoddle Grid edge with buildings reflective of the form and function a Capital City is supported by planning policy. The tower will provide a clear definition between the taller built form of the Capital City Zone and the open space opposite.

With regard to the low heritage buildings to the south, Clause 22.01 includes the statement that new development adjoining heritage buildings in a Heritage Overlay should have regard to various features of the heritage buildings, including height. The policy also requires the consideration of existing built form context, which in this case, also includes the presence of the existing Esanda building which is significantly taller than that of the existing heritage buildings to the south.

Given the orientation and ‘address’ of the building towards Spring Street and Little Collins Street, providing a podium/tower development in this location will not detract from the significance of heritage buildings located south, fronting Collins Street.

The lower podium height of 18 metres to Spring Street provides an appropriate transitional height to the adjoining lower scaled heritage buildings fronting Collins Street. The details of the canopy cube require further resolution, which can be resolved via permit conditions.

Clause 22.01 (Urban Design in the Capital City Zone) recommends that towers, above a 40 metre podium, be set back at least 10 metres from street frontages and that they be spaced to ensure equitable access to daylight and sunlight. As a general guide the policy seeks towers to be 24 metres from a similar tower-podium development. Separation may be reduced where it can be demonstrated that towers are offset, habitable room windows do not directly face one another and where consideration is given to the development potential of adjoining sites.

If a 24 metre tower separation is adopted in this case it would render the site undevelopable and does not recognise the existing conditions and reduced setbacks which currently exist. In many instances, a 24 metre tower separation is rarely adopted on the basis that central city sites seldom
provide the necessary site dimensions and area to accommodate all of the desired setbacks while maintaining a developable building envelope.

It is considered that on balance the proposal provides a development outcome with limited setbacks to its common boundaries which is not dissimilar to existing conditions on site. Consideration of more sensitive interfaces are discussed further below.

**Spring Street**

The concept of extending the building forward towards Spring Street through the ‘canopy cube’, while closer than that of the existing building, will enhance the sense of address and engage with Spring Street, removing the existing ‘gap’ in the streetscape. The proposed podium setback achieves a staggered transition between the setbacks to Spring Street of Alcaston House and 99 Spring Street. The tower form above introduces a minimum tower setback of 4.09 metres from Level 6, which is considered to provide an appropriate setback to the tower form, which recesses further through the introduction of the chamfered tower profile from Spring Street.

**Little Collins Street**

The tower setback of 6.66 metres to Little Collins Street from Level 6 is greater than that provided by 99 Spring Street and also provides a transitional tower setback from the zero metre tower setback of 99 Spring Street and the 8 to 10 metre setback of 27 Little Collins Street. The setback along Little Collins Street also maintains outlook for west facing windows of 99 Spring Street and the communal pool terrace.

**Coates Lane**

The setbacks from Coates Lane range between 0 metres at the podium levels and increase to 3.5 metres to the boundary at the commencement of the tower form. Tower to tower separation to 27 Little Collins Street is 6.5 metres. Greater setbacks are recommended to improve amenity for dwellings located within the higher levels of the adjacent building. It is noted that the applicant has increased the separation from the Sheraton to a minimum of 5 metres following concerns raised by DTPLI Officers. Matters relating to the building interface amenity with 27 Little Collins Street will be discussed further in this report.

**Ulster Lane**

The setback from Ulster Lane is largely maintained at 0 metres with the exception that the building constructed on this boundary is closer to Spring Street. Ulster Lane currently has limited activation and amenity. The proposed development is unlikely to result in any unreasonable impact on the use and enjoyment of the laneway and in fact will provide opportunity to improve active frontages at ground level. Additionally it is considered that the development does not unreasonably impact the redevelopment potential of 99 Spring Street given the opportunities available to provide a design response which could utilise underdeveloped areas of the site.

**Southern Boundary**

The setbacks to the southern boundary are minimal with as little as 300mm to 3.1 metres to 5.5 metres. The setbacks of concern are those limited to 300mm to the common boundary with 4-6 Collins Street (Anzac House) and 8 Collins Street (Portland House). The limited setback of 300mm has been addressed through a light and air easement over Anzac House. This can be secured by permit condition.

Reasonable development opportunities exist to Portland House (8 Collins Street) and Victor Horsley Chambers (12 Collins Street). The development is setback 5.5 metres to Victor Horsley Chambers and provides reasonable separation in the event of its future redevelopment. The limited setback to Portland House is considered to be unreasonable. A further increase in setback to this common boundary to a minimum of 3.2 metres (consistent with the proposed setback of the store area) is considered to be required. This will enable a minimum tower separation to any future envelope on this site.

The proposed southern boundary construction does however raise issues regarding interface amenity due to the orientation of south facing single aspect apartments within the development. This matter can be addressed by way of permit condition and is discussed further in this report.
Architectural treatment and resolution

The proposal was referred to the OVGA for comment. The simplicity of architectural expression described in the architectural statement (in particular, the ‘canopy cube’ fronting Spring Street and the zinc clad plates of the tower shaft) is supported. However, the OVGA identified the need to enhance the level of detailing of the proposal and suggested greater resolution of the tower crown to so as to avoid the stepped form developed to minimise shadowing. The applicant responded to these concerns and amended plans to include a simple ‘raked’ tower design.

Council has raised concerns regarding the presentation of podium car parking to Coates Lane. It is considered that the car park podium is appropriately located having regard to the limited exposure of the western elevation to Little Collins Street, its interface with the short stay hotel units within the Sheraton Hotel and the service function of the laneway. However, the treatment of the podium car park also requires further resolution and can be resolved via permit conditions.

Council has also raised concern regarding the lack of referencing the height, scale, rhythm and proportion of adjacent heritage buildings fronting Collins Street. The extent to which the tower would be read with the surrounding heritage buildings will be confined, such as views along Spring Street and from the corner of Collins and Spring Streets. It is considered that the scale and architectural treatment of the development is unlikely to unreasonably impact the appreciation of adjacent heritage buildings. It is also noted that the height to the underside of the canopy cube will maintain some views to the rear of Alcaston and Anzac House from Spring Street.

Street level frontages and public realm

A key aspect of the proposal is the improvement of the public realm surrounding the site, in particular Ulster Lane and the Parliament Station entry forecourt. Ulster Lane currently presents as an unlit connection to Little Collins Street. The Parliament Station entry, while operating efficiently, offers little by way of clear identification and weather protection.

Improvements will be realised though the construction of a canopy cube over Parliament Station providing a high quality design response, and improved station entrance along Spring Street. VicTrack and Public Transport Victoria are both supportive of the canopy cube.

The applicant also seeks to upgrade the ground surfaces surrounding the entry to Parliament Station and improve visual connection of the development from the street. This will be achieved through demolition of the existing solid balustrade surrounding the station entry and its replacement with a new frameless glass balustrade. Works within 87 Spring Street surrounding the site must be undertaken with the consent of PTV and VicTrack.

Other minor improvements proposed include installation of lighting and bench seating within Ulster Lane and the widening of the footpath in front of the site along Spring Street. These works require the consent of Council and are subject to their satisfaction. Permit conditions are recommended to require plans to be endorsed or modified to the satisfaction of the City of Melbourne.

Ulster Lane will be further enhanced by providing a retail use and improved elevation treatments along the length of the laneway. A waiting lounge for the car lift is proposed at the ‘knuckle’ of the laneway which will provide some passive surveillance.

11.4 Amenity

More than 10 submissions were received from owners and occupiers of surrounding land regarding interface amenity. Whilst there is no formal ability to review the decision, regard has been given to these concerns and are discussed further below.

Building interface

A key issue discussed in the case of *Highbury Venture Pty Ltd v Melbourne City Council* (17-23 Wills Street, Melbourne) was the appropriateness of setbacks, provision of aspect and its relationship with access to daylight for existing dwellings and the likelihood of development potential of adjacent sites.
The application is supported by a daylight analysis study prepared by Wood & Grieve Engineers which identifies the level of daylight provided to surrounding dwellings both before and after the development is constructed. In summary the study found that:

- For 27 Little Collins Street, while daylight on the east façade will be reduced, all apartments will continue to receive adequate levels of daylight to living and bedrooms.
- Apartments at 99 Spring Street will see no effect on the north and east face and a reduction in the day light penetration will be limited to the south west corner of the building.
- Windows at the rear of Alcaston House are still expected to receive natural daylight, albeit, reduced compared with existing conditions.

With respect to each building interface a discussion of the proposal’s response is as follows:

**Sheraton (27 Little Collins Street)**

The Sheraton apartment and hotel development is built to its eastern boundary, Coates Lane. Hotel units occupy the building up to level 14 with dwellings located from level 15 and above. There are a number of apartments on the east side of the Sheraton building that have a single aspect over the Esanda building separated only by Coates Lane.

While the daylight report identifies that light will still penetrate into bedrooms and living rooms the key consideration is whether the design response goes far enough to provide equitable access to light and aspect.

In the case of *Highbury Venture Pty Ltd v Melbourne City Council* the Council and the applicant determined that a 6 metre separation between towers, having regard to the particular merits of that case was an acceptable outcome. In this case, it is proposed to step the tower form back 3.45 metres so as to provide relief for apartments facing east in the north section of the Sheraton building to provide a 6.45 metre tower separation.

The balance of the tower moving south has limited setbacks with a minimum 5 metre separation between the towers. A further setback of the south-west portion of the tower should be included to assist with improving aspect and amenity for the centrally located apartments at 27 Little Collins Street. The introduction of a chamfer or recessing part of the profile of the proposed tower footprint. This matter may require the consolidation of apartments and can be addressed by permit condition.

The application also proposes fritted glass to minimise overlooking between opposite dwellings which is considered acceptable.

**99 Spring St**

The existing boundary condition and setback to Ulster Lane is largely maintained, with the exception for the extension towards Spring Street. In response to the layout of dwellings within 99 Spring Street it is noted that:

- Commercial office uses are provided on levels 1 to 4 with the balance of the building above used for dwellings. It is understood that level 5 contains 4 x 1 bedroom apartments, two of which have a single south facing aspect towards the subject site. Upon inspection of a level 5 apartment it appears that 2 apartments have been combined to create one space primarily used for a "home office".
- The balance of the dwellings, including those on the south side of the building enjoy the benefit of dual aspect and multiple light sources to the east, south and west, including sweeping views of the Parliament of Victoria, St Patricks Cathedral, Gordon Reserve and Treasury Gardens and beyond.

Having regard to the above conditions and study submitted by the applicant, it is considered that the loss of daylight to apartments within 99 Spring Street is primarily related to the lower level...
apartments in the south west corner which are already compromised by the Esanda building. A response to this condition by existing occupants, at least in one instance, has been the consolidation and use of the dwelling for commercial purposes. The remaining dwellings above level 5 have the benefit of dual aspect towards the east and west which will maintain a reasonable level of daylight access, aspect and amenity.

The applicant over the course of the planning process has submitted several iterations of plans to address this interface, culminating in the consolidation of apartments providing a single 3 bedroom apartment with dual aspect to Ulster Lane and Spring Street. The lift core as also been moved to the west to interface with the communal recreation space to minimise direct overlooking, which is an acceptable outcome. Windows facing Ulster Lane and 99 Spring Street have been offset and treated with fritted glass to prevent direct overlooking between apartments.

**Southern Interface**

The applicant has submitted that the heritage buildings south of the site are unlikely to develop. This is due to their registration on the VHR for both the exterior and in some instances interiors of the buildings as well as their fragmented land ownership. While this may be the case, the potential development of these sites should be responded to.

Interface concerns with Victor Horsley Chambers have been addressed through the provision of a setback of 5.55 metres.

The stair core and store space have also been located at the closest point to the rear of Portland House which provides opportunity for Portland House to be developed without compromising the amenity of future residents within the proposed development. The inclusion of a further requirement to offset any building on the common boundary has been included in a condition to require that the proposal must be setback a minimum of 3.2 metres from the common boundary.

With respect to Alcaston House, the interface with the boundary is a solid wall therefore avoiding the issues of borrowed amenity towards the south. North facing windows are located at the rear of Alcaston House. It is believed that these windows are associated with a stair core, bedrooms, living areas and a kitchenette. These dwellings appear to also have aspect towards Spring Street which will maintain internal amenity.

With respect to Anzac House the key consideration is the resolution of amenity for apartments which rely on outlook and aspect across Anzac House. In order for the development to obtain a building permit with windows on the boundary it is understood that a minimum 6 metre wide light and air easement to the benefit of south facing single aspect apartments are required to meet the Building Code of Australia 2014 (BCA) Clause F4.2.

The applicant has engaged in discussions with the RSL to explore acquisition of air rights across the entire depth of Anzac House. Should this be successful it is considered to be an acceptable outcome as it secures the amenity for apartments, however, the timing of such an agreement is unknown. It is recommended that a permit condition be applied which requires implementation of a light and air easement on Title prior to the commencement of works, including demolition. If this is not possible then redesign of apartments to remove windows from the southern boundary will be triggered.

This approach is considered appropriate as Section 62(2) of the *Planning and Environment Act 1987* empowers the responsible authority to impose any condition it sees fit so as a development is certain, reasonable and able to be achieved.

**Internal amenity**

The development proposes a mix of dwelling types and sizes with a range of 1, 2 and 3 bedroom apartments. Level 43 includes 1 x 4 bedroom apartment. Apartment layouts have been designed to avoid habitable rooms with borrowed light, the majority include balconies, reasonable storage and where possible widows have been orientated towards streets and laneways. Where windows are proposed opposite existing dwellings they have been offset and screened to minimise direct views which is considered reasonable in a central city context. The development is provided with communal facilities including a wine store, swimming pool and gymnasium.
Acoustic

Any noise emanating from dwellings will be associated with normal residential activities. Permit conditions can be used to ensure new dwellings within the proposal are acoustically treated to provide an appropriate level of internal amenity with respect to external noises experienced within a City environment.

11.5 Wind

The application was accompanied by a wind effect statement and wind tunnel test prepared by Mel Consultants. In summary, the statement found that wind levels in ground level areas adjacent to the site, without reliance on street trees, were either on or within the criterion for walking comfort for all wind directions, with one exception. The exception is for the north-west wind direction at the corner of Spring and Little Collins Streets for which wind conditions exceed criterion for walking comfort, however it is noted that this is the same as existing.

Wind conditions along Ulster Lane have been shown to be either on or within the criterion for long term stationary activities. No testing has been carried out for the private lane south of the subject site and can be required by way of permit condition.

11.6 Car Parking, Bicycles, Traffic and Loading, Waste

The car parking limitation for the proposal is a total of 304 car parking spaces. The development proposes a maximum of 247 spaces. A total of 3 motorcycle spaces are provided which satisfies the requirements of the Melbourne Planning Scheme. The proposal generates a statutory requirement of 92 bicycle spaces (61 for residents and 31 for visitors) and provides 105 bicycle spaces, however, there is no distinction between visitors and resident parking. A permit condition is recommended to address this matter.

Council has raised concerns regarding the layout and access to parking facilities, potential impacts of queuing within Coates Lane and impacts on loading due to columns of the building landing in the lane. The permit application is supported by a traffic assessment prepared by Cardno which has considered the matters identified. In summary the salient points from the assessment and the applicant’s response are as follows:

- By setting back the ground level, the proposed development upgrades Coates Lane to a two-way passing lane, thus significantly improving the access arrangements for the subject site and adjoining properties also using the lane.
- There are mechanisms proposed to ensure service rate assumptions are achieved, such as countdown system for vehicle retrieval, non-contact garage opening system and guidance systems both external and internal to assist drivers when entering and existing the car park.
- The system will prioritise inbound vehicles over outbound vehicles to ensure queuing is minimised.
- The service rates for each car park system will restrict queuing of inbound vehicles to no more than four vehicles, of which three will be accommodated within the car lifts and one stationed within a waiting bay area in Coates Lane.
- Due to the proposed widening of Coates Lane, other vehicles will be able to bypass the stationary vehicle within the waiting bay.
- The anticipated service time for inbound vehicles is 135 seconds, which is to enable the user to enter the cabin, including 45 seconds “user time” for the driver to exit the vehicle and retrieve their belongings. While the total operation might take up to 3 minutes, this will occur simultaneously as the next user enters the system.
- The outbound service time will be slightly longer at 180 seconds; however by using a parking management logarithm, there will be an automatic reallocation of spaces to maximise efficiency at specific times of a day.
- The swept path diagram prepared by Cardno demonstrates the ability for a 6.4m long waste collection vehicle to access the loading dock from Coates Lane without encroaching the footpath and/or columns on the western side of the lane.
Issues regarding inadequate detailing of swept paths and clearance to buildings as well as impacts of car queuing in Coates Lane can be managed through the requirement of a Road Safety Audit as recommended by Council.

A permit condition is also recommended requiring the provision of a waste management plan that complies with Council’s 2014 Waste Guidelines.

Overall, the provision and number of bicycle parking, car parking, traffic generation, loading, car park layout and access arrangements are acceptable subject to minor changes which can be implemented by way of permit condition.

12 Recommendation

That planning permit 2014/000435 for the demolition of a building and construction of a multi storey residential development with ground floor retail be issued subject to conditions.