



9-23 Mackenzie Street, Melbourne

Planning Permit Application 2014/000838

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1 Application Details

Land / Address:	9-23 Mackenzie Street, Melbourne (Certificate of Title Volume 9244 Folio 985 and Plan of Consolidation 106642)
Application No:	2014/000838
Proposal:	Construction of a multi-storey building for the purpose of dwellings, shop and food and drink premises, use of the land for shop and a waiver of the car parking associated with the shop and food and drink premises uses
Use:	Residential Apartments (473) Ground floor shops and food and drink premises (328m ²)
Height:	38-storeys (127.5 metres)
Setbacks:	Mackenzie Street: minimum of 2.1 metres East: minimum of 5 metres West (Bell Place) minimum of 3.2 metres South: minimum of 2.79 metres
Floor area (GFA) [REDACTED]	GFA: 44, 484m ² [REDACTED]
Applicant:	UEM Sunrise (Mackenzie Street) Pty Ltd C/- Contour Consultants Australia Pty Ltd
Zone:	Mixed Use Zone (MUZ)
Overlay(s):	Schedule 12 to the Parking Overlay (PO12)
Restrictive Covenants and/or Agreements	Not Applicable (no such encumbrance applies)
Notification	Notification was undertaken via sign on site, newspaper notices and mail to adjoining owners/ occupiers. As a result of this process 4 objections have been received to date
City of Melbourne	Supports the application subject to conditions. To be considered at the Future Melbourne (Planning) Committee on 5 August 2014
Recommendation	Notice of Decision to Grant a Permit subject to conditions

1.1 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

NAME: [REDACTED]
Ph: [REDACTED]

SIGNATURE: [REDACTED]

DATE: 30 July 2014



2 Background

The permit application was lodged on 28 February 2014.

Further information was requested of the applicant on 26 March 2014 (within 28 days of lodgement) and a response provided on 22 April 2014.

3 Site and Surrounds

The site is located on the south side of Mackenzie Street, which sits between Exhibition and Russell Streets, Melbourne (refer to Figure 1). The site is regular in shape with a frontage to Mackenzie Street of 40.33 metres, a depth of 50.29 metres and an overall site area of 2,036m². The site includes a fall from north to south of 2.65 metres along Bell Place, 0.25 metres west to east along Mackenzie Street, and 0.5 metres from east to west along its southern boundary.

Figure 1 – Site Locality Plan



The site is currently used as an open air commercial car park. The site is not affected by any easements or restrictive covenants.

The site is abutted by Bell Place to the west which dog legs east north of 48-52 La Trobe Street, and CL1266 to the south which dog legs south to La Trobe Street.

The area is characterised by a mix of commercial, retail, service, hospitality, entertainment, transport and educational uses. Mackenzie Street is an east-west street within the Hoddle Grid, with a mixture of land uses, and a variety of building forms and building heights. There are several examples of recently approved and constructed residential towers, which are described in further detail below.

Land surrounding the site can be described as follows:

- To the **north** of the subject site, across Mackenzie Street, south of Victoria Street includes a 7/11 service station, a hotel, and residential use. The Carlton Gardens and the Exhibition Buildings are located to the north-east, and on the north side of Victoria Street is the South Carlton precinct.
- To the **east** of the site, at 333 Exhibition Street, is the Mantra Serviced Apartments that has frontages to Latrobe Street, Exhibition Street and Mackenzie Street. The complex comprises an 18 storey building, including hotel, office and ground level retail uses, as well as 7 levels of car park that abuts the shared boundary. The wall of the car park has a height ranging from 10 - 18.5 metres and the car park comprises a number of car spaces on individual allotments.
- Immediately **west** of the site is the Bell Place laneway, which is 3.6 metre wide. On the western side of Bell Place, at 33 Mackenzie Street, known as Mackenzie Tower or 33M, is a 33-storey building (measuring at 102.8 metres) containing 388 residential apartments, with two shops at the ground floor level. The building includes a podium to approximately 17 metres in height (which includes apartments with habitable rooms facing Bell Place), with a tower above. The tower has an L-shaped form and is setback 2.7 metres from its eastern boundary at the front of the site (with the Bell Place laneway the separation from the site boundary is 6.3 metres).
- To the **south** of the site is CL1266 where development beyond this is described as follows:
 - 30-34 Latrobe Street abuts the site at the south/eastern corner. The site contains a four storey (3 storeys as viewed from the site) residential building fronting Latrobe Street, known as the Sefton Apartments. The building was converted to residential units in 1998. It contains 17 residential apartments with three (3) apartments at the rear of this building which have windows and balconies oriented towards the site.
 - 36-40 Latrobe Street is a two storey building used for community/education uses. Planning permit TP-2011-471/A has been issued by the City of Melbourne for the redevelopment of this site including the construction of a 38-storey building (measuring at 114 metres in height). Of note, the building envelope is offset 2.69 metres from its northern boundary and includes dwellings commencing at Level 1 and above to its northern elevation.
 - 42 Latrobe Street is a five storey brick former warehouse that has been converted to retail and office with the addition of two upper levels used for residential purposes.

The site enjoys access to public transport with trams along La Trobe Street, buses along Russell Street and Melbourne Central Station a short distance away. The site is also in close proximity to shops, restaurants, bars and other services associated with its central location.

Recreational facilities and parks are readily accessible to the site, including Carlton Gardens located 200 metres to the north-east. This public space provides good opportunities for active and passive recreation within walking distance of the site.

4 Proposal

The application seeks approval to construct a 38-storey building for the purpose of dwellings, shop and food and drink premises, use of the land for shop and a waiver of the car parking associated with the shop and food and drink premises uses. The proposed gross floor area is 44,484m².

Details of the application are as follows:

- Construction of a residential tower measuring at 38-storeys (127.5 metres to the top of the roof plant, RL158.9 to AHD). The building includes a 6-storey podium (measuring at 19.2 metres to the centre of the site frontage to Mackenzie Street), with the podium offset 2.83 metres from its southern boundary at Level 1 to address amenity issues with the properties opposite CL1266, and the tower form above offset a minimum of 2.1 metres to Mackenzie Street, a minimum of 3.2 metres to Bell Place, a minimum of 5 metres to the east, and a minimum of 2.79 metres to the south;

- The tower comprises of 473 dwellings (214 x 1-bedroom, 239 x 2-bedroom, and 20 x 3-bedroom) and three tenancies at ground floor nominated as 'shop' and 'food and drink premises';
- Ground floor includes the shops (108m² and 160m²) and food and drink premises (60m²) totalling 328m² fronting Mackenzie Street and the corner of Bell Place;
- Car parking (123 spaces) and storage cages are provided from Bell Place via 2 car lifts including 20 spaces at ground level which are provided direct access from Bell Place. Provision of 557 bicycle parking spaces includes 180 at the lower ground floor accessed from CL1266, with the remainder within the car parking areas;
- A loading dock is provided off Bell Place to the south-west corner of the site;
- Residential facilities in the form of pool, gymnasium and terrace are provided at Level 5;
- The proposal removes the existing crossover to Mackenzie Street which will allow the reinstatement of an on-street car park;
- Materials and finishes include glazing (clear, tinted silver blue and silver grey and with pattern), precast concrete in charcoal, metal cladding, vertical shading fin in metallic aluminium, folded perforated metal within the podium, perforated aluminium balustrade and painted steel balustrade; and
- The submission is supported by comprehensive reports including a planning report, urban context report, wind tunnel assessment, heritage impact statement, traffic report, waste management report, and ESD report.

5 Planning Policies and Controls

5.1 State Planning Policy Framework

The State Planning Policy Framework (SPPF) provides the broad policy direction within the Victorian Planning Provisions. The planning principles set out under the SPPF are to be used to guide decision making on planning proposals across the state. The following 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 9 of this report.

5.2 Local Planning Policy Framework

The Municipal Strategic Statement (MSS) and Local Planning Policy Framework (LPPF) within Planning Schemes across Victoria outline principal characteristics of a given municipality (municipal profile) and provide specific visions, goals, objectives, strategies and implementation plans. The MSS within the Melbourne Planning Scheme identifies seven key themes for settlement, Environment and Landscape Values, Built Environment and Heritage, Housing, Economic Development, Transport and Infrastructure. The site is located within the original city centre (the Hoddle Grid) (Local Area 1 - Figure 5) as identified under Clause 21.12 of the Melbourne Planning Scheme.

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

Clause 21.03 (Vision) recognises the diverse roles of the city and local areas, with a vision being 'a thriving and sustainable City that simultaneously pursues economic prosperity, social equity and environmental quality'.

Clause 21.04 1-1 (The original city centre – the Hoddle Grid) sets out objectives and implementation strategies for the various areas of Melbourne: "*Central City functions will be located in the Hoddle Grid. This area will be managed to facilitate continued growth where appropriate and limit change or the scale of development in identified locations to preserve valued characteristics. A strong emphasis will be placed on a quality public realm and good pedestrian amenity and connectivity.*"

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

Clause 21.07 (Housing) Seeks to encourage the most significant housing and population growth occurs in the Central City and Urban Renewal areas. It acknowledges the need to ensure residential developments in the Capital City, Docklands and Commercial Zones are designed to mitigate the amenity impacts from surrounding established and future uses, including insulation from noise.

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

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

Clause 21.12 (The Hoddle Grid) includes policies relating to Economic Development, Built Environment and Heritage and Transport which specifically relate to the unique and valued characteristics of the Hoddle Grid. It encourages the development of a range of complementary precincts within the Hoddle Grid that offer a diverse range of specialist retail, cultural and entertainment opportunities.

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

- Clause 22.02 Sunlight to Public Spaces
- Clause 22.17 Urban Design outside the Capital City Zone
- Clause 22.19 Energy, Water and Waste Efficiency

■ Clause 22.23 Stormwater Management (Water Sensitive Urban Design)

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

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

5.3 Statutory Controls (Permit Triggers)

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

Planning Control	Permit / Application Requirement(s) / Decision Guidelines
<p><i>Mixed Use Zone</i> (Clause 32.04)</p>	<p>Under Clause 32.04-2 a permit is not required for the use of the land for 'dwelling' or for a food and drink premises if the leasable area does not exceed 150m² (food and drink premises proposed at 60m²).</p> <p>Under Clause 32.04-2 a permit is required for the use of the land as 'shop' as the leasable area exceeds 150m² (the two tenancies total 268m²).</p> <p>Under Clause 32.04-6 a permit is required to construct two or more dwellings on a lot.</p> <p>Under Clause 32.04-8 a permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 32.04-2.</p> <p>Clause 32.04-11 outlines application requirements for buildings and works associated with a Section 2 use.</p> <p>Any application under this provision is not exempt from notice and appeal requirements.</p> <p>Decision guidelines are contained at Clause 32.04-13.</p>
<p><i>Parking Overlay – Schedule 12</i> (Clause 45.09) <i>and Car Parking</i> (Clause 52.06)</p>	<p>The provisions of the parking overlay works in conjunction with Clause 52.06 of the Melbourne Planning scheme.</p> <p>Under Clause 45.09-3 a schedule to this overlay may specify that a permit must not be granted to provide more than the maximum parking provision specified in a schedule to this overlay.</p> <p>Schedule 12 of the Parking Overlay specifies a maximum number of car parking spaces (calculated at 1 space/dwelling).</p> <p>Clause 52.06-5 specifies the rate for car parking associated with a 'shop' and 'food and drink premises' as 4 spaces/ 100m² leasable floor area.</p> <p>The limitation policy allows for 473 spaces. The provision of 123 car spaces on site is below the maximum allowed under the clause; therefore no permit is required for the 'dwellings'.</p> <p>A reduction in the associated car parking is required for the shop and food and drink premises which generate the need for 13 spaces.</p> <p>Decision guidelines are contained at Clause 45.09-5, within Schedule 12 of Clause 45.09, Clause 52.06-9 and at Clause 65.</p>

<p><i>Loading and Unloading of Vehicles (Clause 52.07)</i></p>	<p>Under Clause 52.07 no buildings or works may be constructed for the manufacture, servicing, storage or sale of goods or materials unless space is provided on the land for loading and unloading vehicles as specified within the table.</p> <p>The loading bay provided complies with the detailed requirements set out at Clause 52.07. Therefore, no permit is required under this clause.</p>
<p><i>Bicycle Facilities (Clause 52.34)</i></p>	<p>Under Clause 52.34-1 a new use must not commence until the required bicycle facilities and associated signage has been provided on the land. The standard requires the provision of 143 spaces (95 resident and 47 visitor spaces and 1 employee space). The application provides for 557 spaces, therefore a no permit is required under this provision.</p>
<p><i>Urban Context Report and Design Response for Residential Development of Four or More Storeys (Clause 52.35)</i></p>	<p>Under Clause 52.35-1 an application for a residential development of four or more storeys must be accompanied by an urban context report and design response.</p> <p>Under Clause 52.35-3 the responsible authority must inform the applicant in writing before notice of an application is given that the urban context report meets the requirements of Clause 52.35-2. A letter was sent confirming the above on 20 May 2014.</p>
<p><i>Integrated Public Transport Planning (Clause 52.36)</i></p>	<p>Under Clause 52.36-1 an application must be referred in accordance with Section 55 of the Act to the Director of Public Transport for a residential development comprising 60 or more dwellings or lots. On 7 March 2014 the application was referred to the Director of Public Transport.</p>
<p><i>General Provisions (Clause 61.01)</i></p>	<p>The schedule to Clause 61.01 indicates that the Minister for Planning is the responsible authority for considering and determining applications in accordance with Divisions 1, 1A, 2 and 3 of Part 4 of the Act approving matters required by the scheme in relation to developments with a gross floor area exceeding 25,000 square metres.</p>
<p><i>Decision Guidelines (65.01)</i></p>	<p>Under Clause 65.01 before deciding on an application the responsible authority must consider as appropriate a number of matters, including Section 60 of the Act.</p>
<p><i>Referral and Notice Provisions (Clause 66.03)</i></p>	<p>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, the Director of Public Transport is a specified referral body under Clause 52.36.</p>

6 Other Strategic Matters

6.1 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)

6.2 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).

7 Notification

Under the provisions of the Mixed Use Zone, and the Particular Provisions at Clause 52.06 (Car Parking), the proposal is subject to 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.

The applicant was directed to give notice to the owners and occupiers of the abutting properties were given notice under section 52 of the Planning and Environment Act 1987 (the Act). Signs were erected to the Mackenzie Street frontage and a copy of the notice (From 2) was published in the Melbourne Weekly and the Age for one issue.

As a result of this process, four objections were received (three from [REDACTED] including one petition objection with 214 signatures from the residents, and one from [REDACTED]) raising concerns for the following reasons:

- The proposed built form response does not provide a transitional height as sought by policy at Clause 22.12 of the Scheme. The overall height should be lowered.
- The proposal is imposing to this heritage precinct (heritage buildings fronting Russell Street).
- The amenity impact to [REDACTED] through the overshadowing during the morning period (sunlight access) to the east facing apartments and the proximity of the apartments with direct views across [REDACTED].
- The above ground car parking facing [REDACTED] may have a negative impact to dwellings at [REDACTED], in particular noise associated with car movements and lighting within the car parking areas.
- The proposal is considered to be an overdevelopment of the site and insufficiently sized apartments.
- The facilities are inadequate when compared to the number and size of apartments.
- There is inadequate access to daylight, sunlight and private open space for the proposed apartments.
- There is insufficient car parking provided.
- The removal of the existing car park will diminish parking options and place a greater pressure on on-street car parking.
- Construction management and mitigation measures for noise, dust and waste material.
- Loss of sunlight.
- Loss of views.
- Reduction in property values.

8 Referrals

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

Urban Design (DTPLI): Offered general support for the application subject to the tower being setback 5 metres from Bell Place in front of 36-40 La Trobe Street, internal bedrooms should be removed from Levels 34-36 southern apartment and that at Level 1 (Apartment 104), provide details of access and functionality of landscaped roofs to Bell Place, remove the podium facade indent on the northern corner to Mackenzie Street, rework the Mackenzie Street podium blades to increase transparency and limit projection, provide a glazed access to the bike areas off Bell Place and rationalise the internal ramp, and provide full materials and finishes details. These matters can be resolved through appropriate conditions.

City of Melbourne: Council provides in principle support for the application subject to conditions. The conditions seek an increase in clearance height to the first floor apartment to the corner of Mackenzie Street and Bell Place, redesign of some apartments to improve daylight and ventilation access, and a reduced crown form to the building top. Other minor matters were also raised and all of these comments can be resolved via condition, except the reduced crown form which is considered to provide visual interest.

Public Transport Victoria (PTV): offered no objection to the proposal and did not specify any conditions to be included on any permit issued. Letter dated 29 April 2014.

9 Assessment

9.1 Consistency with Planning Policy

The proposal achieves State and Local policy objectives by:

SPPF

- Supports the concentration of major residential, 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).
- Includes low car parking numbers and encourages alternative modes of transport (Clause 11.01-2 and Clause 18.01-1).
- 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 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 both the north and west interfaces which will enhance adjacent pedestrian spaces, and create a pleasant new pedestrian experience and provide greater safety for pedestrians (Clause 15).

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 which acknowledges human scale and activation at ground level and provides a context for surrounding heritage buildings.
- Making a striking contribution to Melbourne's skyline.

LPPF

- The development is fully designed to all visible sides and highly responsive to its context. It will enhance the physical quality and character of Melbourne's streets and lanes through a new safe and high amenity pedestrian link and a new use facing Bell Place (Clause 22.01).
- The proposal responds to Clause 22.02 by ensuring that the building will not result in significant overshadowing.
- Responds to Clause 22.19 and Clause 22.23 by including environmentally sustainable building initiatives.
- The development achieves an appropriate balance, as supported by Clause 22.20 (CBD Lanes), of utilising Bell Place for necessary 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.

9.2 Land Use

The proposed uses replace an existing open air car parking. The proposal is consistent with many policy directions, and contributes to the on-going revitalisation of a 24-hour Central Activities District.

The development responds appropriately with the broad strategic intent for mix use development as outlined in the State Planning Policy Framework (SPPF), Local Planning Policy Framework (LPPF), including the MSS and the zoning control.

It is noted that the dwellings and food and drink premises are as of right uses in the zone. The proposed shops at ground floor include a leasable floor area that exceeds 150m² which requires permission. It is considered that this use is appropriate when consideration is given to the purpose of the zone and the uses are considered to contribute to the vitality of the area.

The land use mix and concept of redeveloping the site is not in contention. The key issues in this matter relate to design and built form, tower separation and setbacks, internal amenity and overall functionality of the site. These matters are discussed further below.

9.3 Design and Built Form

9.3.1 Urban Context Response, Height, & Architectural Design

The proposal is 38-storeys (127.5 metres to the top of the roof plant, RL158.9 to AHD) in a podium tower typology. The building includes a 6-storey podium (measuring at 19.2 metres from the centre of the site frontage to Mackenzie Street).

The built form within the surrounding area is varied from high-rise building directly next door to the site at 33M, Concept Blue, Abode (320 Russell Street) and approved tower at 36-50 La Trobe Street. The area presents a mix of building age, heights and sizes, with consistent wide streets.

Local Policy 'Urban Design outside the Capital City Zone' seeks to ensure that built form outcomes respond to the site context, provide desirable outcomes on site and to the public realm. The proposed podium provides a human scale and one that is consistent with the building heights within the surrounding area, including the podium at 33 Mackenzie Street. Given the width of Mackenzie Street and the scale of buildings within the surrounding area, the overall height of the podium of 6- storeys is considered to provide an appropriate pedestrian scale.

There are no built form controls (Design and Development Overlay) that affects the site.

The height is appropriate due to the size of the site and existence of an active and proportion scaled podium. The high-rise buildings within the area provide a scale of height transitioning to the City. The proposal response to urban design policy at Clause 22.17 as follows:

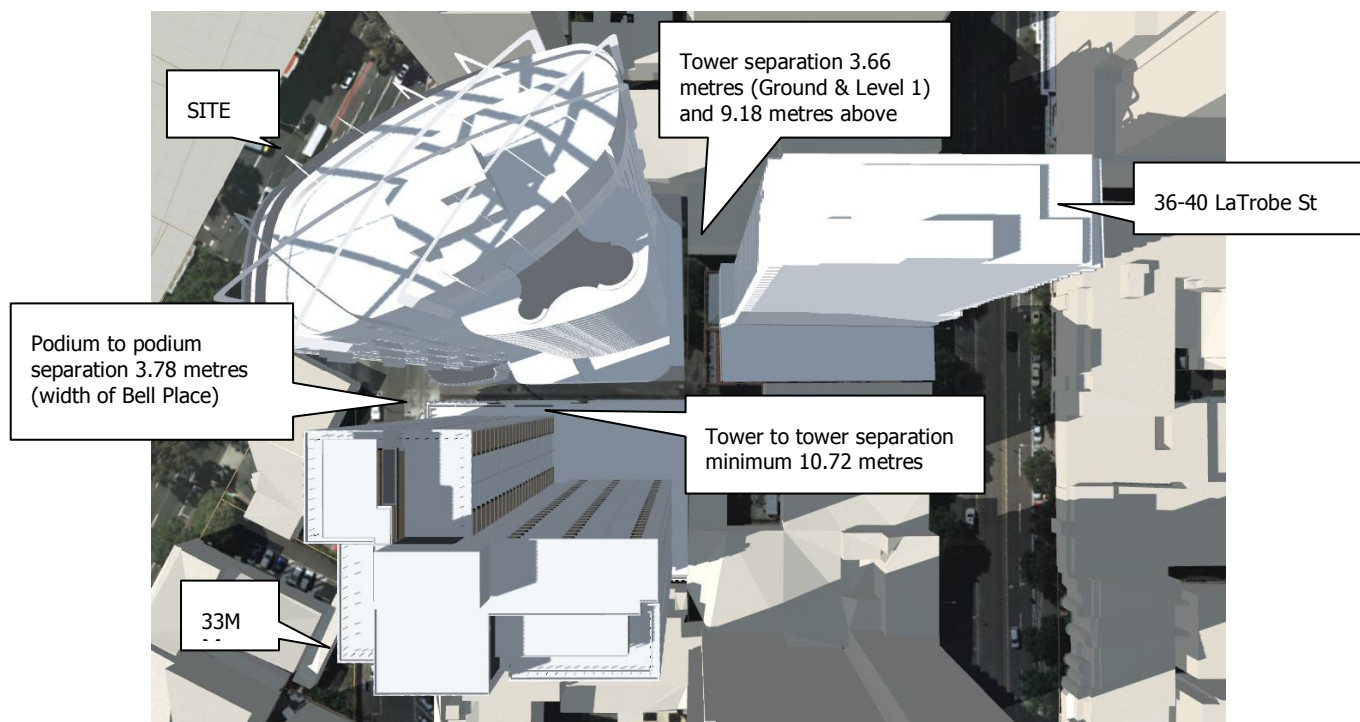
- The development create an appropriate pedestrian scale through the low scale podium which is well articulated and provides an appropriate grain which reflects the prevailing pattern in the surrounding area;
- The podium tower form is consistent with the emerging built form within the area including those at 33M, Concept Blue, and the towers south within the Hoddle Grid;
- The proposal is well designed and articulated. The elevations feature glazing, balconied and a variety of materials to create visually interesting facades. Building plant is screened and provides visual interest to the city skyline;
- The site is not located within a sensitive heritage streetscape. The development provides an appropriate scale through the podium height;
- The proposal provides increased density, provides street definition and pedestrian amenity and does not unreasonably overshadow public open space; and
- The development provides an acceptable development with regard to massing and produces acceptable built form outcomes with regard to pedestrian amenity (wind amelioration, shadows and shelter).

Policy sets out under Clause 22.20 (CBD Lanes) includes the maintenance and enhancement of the intimate environments of lanes by setting back higher tower form to ensure a sense of openness that reinforces the human scale. The tower setbacks from Bell Place and CL1266 are consistent with this policy.

9.3.2 Tower Separation, Interface to adjoining properties & Internal Amenity

The key issue relates to the building interface with the existing apartment building at 33M and the approved redevelopment at 36-40 La Trobe Street. The relationship, including distances to the adjoining sites is demonstrated in **Figure 2** below.

Figure 2- tower separation between 33M & 36-40 La Trobe Street



The development at 33M includes an L shaped tower form, where the closest interface with the site includes the form towards the northern portion of the site. The podium to podium tower offset is the width of Bell Place, 3.78 metres, and provides a minimum of 10.72 metres between the towers. The

podium separation includes screening to avoid direct views. Details of this should be provided as a condition of any approval. The tower separation (above podium) is considered to be appropriate and provides a reasonable degree of separation. Combined with the offset of the finished floor level through the two buildings (an offset of 2.3 metres) avoids direct views into habitable rooms.

The redevelopment approved at 36-40 La Trobe Street (south of the site) includes built form to the northern boundary at ground and first floor, with upper balconies and living areas of 2.69 metres from its northern boundary. Tower separation is 3.66 metres at the lower levels and 9.18 metres above (refer to **Figure 2** above). During the consideration of the application, improving the amenity of the redevelopment of 36-40 La Trobe Street was carefully considered and resulted in the proposal being setback from its boundary from Level 1 in order to provide reasonable amenity to this site. An increase in this setback to 5 metres from the centre of the laneway would further alleviate amenity concerns to this site. This can be a condition of any approval to issue.

The development successfully achieves the high standard of architecture and urban design sought from the policy and objectives expressed in the *Design Guidelines for Higher Density Housing* (DSE 2004) so as to ensure that residents can live comfortably with one another and with appropriate levels of internal and external amenity, including provision of storage.

9.4 Street Level Activation and Pedestrian Safety

The proposed development incorporates retail tenancies at ground floor to Mackenzie Street and Bell Place and the remainder of the podium includes apartments 'skinning' the podium car parking to Mackenzie Street. The inclusion of these active frontages will also serve to increase the perception of safety in this area. The upper level apartments provide passive surveillance of the site's immediate surrounds.

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

The application was accompanied by a wind tunnel test which demonstrates that the building is appropriately designed to deflect wind downdrafts from penetrating to street level. The wind report provided with the application indicates that wind conditions are within or on the criterion for walking comfort in all wind directions including the podium rooftop spaces, with the introduction of a canopy to the north-east of the podium rooftop.

Local Policy, Clause 22.02, requires that development not cast additional shadows between 11.00am and 2.00pm at the equinox that would prejudice the amenity of public spaces. An analysis of shadowing has been carried out for 22 September. The analysis shows the additional shadowing will occur over properties to the west and south, predominantly contained within existing shadowing conditions. Given the overall height of the proposed building, increased overshadowing is inevitable. It is noted however that the development does not overshadow any public parks or gardens, public square or major pedestrian route, it is therefore considered to be acceptable.

9.5 Environmentally Sustainable Design (ESD)

Clause 22.19 seeks to ensure that the design, construction and operation of buildings minimise the production of greenhouse gas emissions and maximises energy efficiency, to minimise potable water use and minimise waste going to landfill. An ESD report has been submitted with the application which demonstrates that the proposal has been designed to embrace, meet and exceed the current mandatory sustainability benchmarks of the National Construction Code, identify practical and robust ESD design initiatives, that can be embraced by the future building occupants and provide operational energy, water and waste savings for the life of the building and incorporate a broad range of initiatives throughout the building, to ensure a sustainable design outcome is achieved. A Waste Management Plan has also been submitted with the application and has been considered by the City of Melbourne and is supported subject to conditions.

Clause 22.23 Stormwater Management (Water Sensitive Urban Design) seeks to achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999 (or as amended). The development has responded to policy through the use of vegetation to the podium rooftop (Level 1 & 5). The supporting response to Clause 22.23 indicates how best practice water quality is to be achieved. A landscape management plan would enable the further consideration of these policy objectives.

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

The level of car parking provided for the dwellings on site is supported, which is under the maximum limitation policy, and commensurate with the site's level of access to public transport, employment and facilities. Bicycle parking is also provided on site, which will encourage cycling both within and to the City for the journey to work.

The reduction in car parking associated with the ground floor food and drink premises and shops is considered to be appropriate. The uses generate the need for 13 car parking spaces. The reduction in car parking is considered to be appropriate as the site is located with excellent access to alternative modes of transport, particularly public transport; the future customers of these tenancies are likely to be incidental passerby's rather than users which are arriving by car as a destination; the site is located on the fringe of the CBD where a maximum limitation car parking policy applies and no on-site car parking would be accepted for these uses.

The application provides 123 car parking spaces, well under the maximum limitation (Clause 45.09, 52.06), provides bicycle parking spaces in excess of the requirements (Clause 52.34) and provides appropriate loading and unloading facilities on site (Clause 52.07). City of Melbourne in their response has raised some detailed matters for further resolution regarding parking and traffic. These matters can be resolved via conditions.

9.7 Objections

The objections received raise concerns regarding built form response (transitional height), heritage response, amenity impact to [REDACTED] (overshadowing, loss of light, noise, direct views), overdevelopment of the site, insufficiently sized apartments and amenities for residents, inadequacy of car parking provided, construction mitigation measures, and a reduction in property values.

With regard to built form response, amenity impact and car parking, commentary has been provided above. Matters regarding direct overlooking, construction management, noise, light spill from car parking areas have been resolved through appropriate conditions. Loss of views and property values is not a relevant consideration to the permit application.

10 Recommendation

That a Notice of Decision to Grant a Permit 2014/000838 for construction of a multi-storey building for the purpose of dwellings, shop and food and drink premises, use of the land for shop and a waiver of the car parking associated with the shop and food and drink premises uses be issued subject to conditions.

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Date: 30 July 2014

Approved by: [REDACTED]

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