

Department of Planning and Community Development
Statutory Approvals – Central City Planning
Delegation Report

Application No:	2011/011626
Land Address	1-7 and 9-15 Queens Bridge Street, Southbank
Application:	Permit application under s.47 of the Planning and Environment Act 1987 (P&E Act).
Proposal:	Development of land including demolition, associated works and the construction of a mixed use, high-rise building
Received:	3 October 2011
Planning Scheme	Melbourne Planning Scheme
More Information Requested:	31 October 2011
More Information Received:	29 November 2011

The Applicant

Name:	Schiavello (Vic) Pty Ltd
Address:	C/- [REDACTED] Urbis Pty Ltd [REDACTED]

PURPOSE

1. To brief you on Planning Permit Application No.: 2011/011626 for demolition of existing buildings and development of the land for a residential tower and showroom (Restricted Retail) and associated parking at 1-15 Queens Bridge Street, Southbank.

Key elements	Comments
Use	Residential (592 apartments) with ground- and mezzanine level restricted retail (2,170 sqm)
Height	Total of 71-storeys (276 metres) including a 9-storey podium (37 metres)
Setbacks	<ul style="list-style-type: none"> ▪ Between 8 and 13.6 metres from the northern boundary (proposed condition will increase minimum setback to 10 metres) ▪ 4.2 metres from eastern boundary ▪ Between 5 and 6.8 metres from southern boundary ▪ Between 3.7 metres and 5.3 metres from Queens Bridge Street
Floor area (GFA) [REDACTED]	GFA 107,127 sqm
[REDACTED]	[REDACTED]
City of Melbourne	Application referred on 14 October 2011. Response received 25 January 2012 supporting the application subject to an increase in tower separation with Freshwater Place residential tower to the north and reduction in height to 192 metres.

BACKGROUND / PREVIOUS APPROVALS

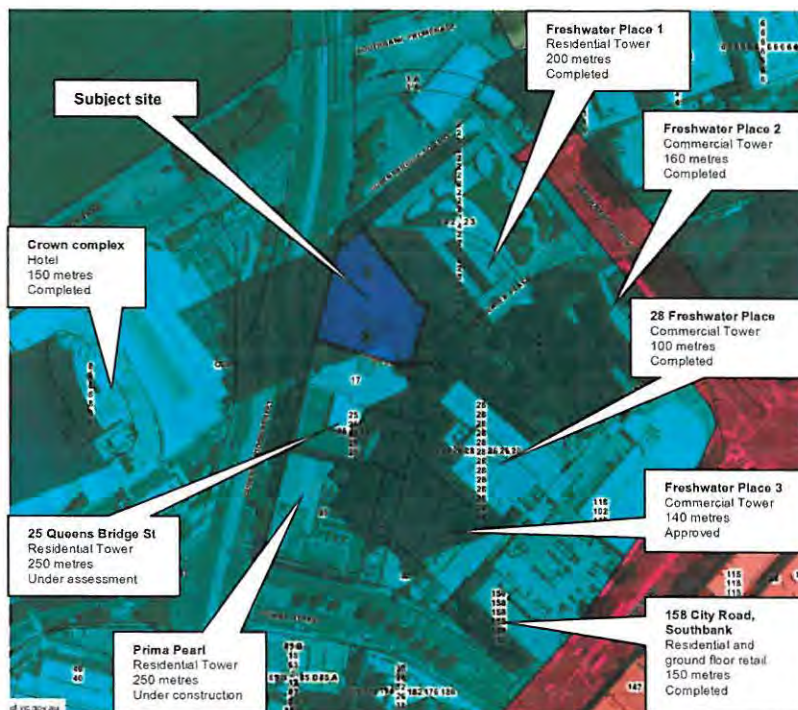
2. The Minister for Planning is the Responsible Authority for assessing this permit application under Clause 61.01 of the Melbourne Planning Scheme (the Scheme) as the gross floor area of the proposed development is greater than 25,000 square metres.
3. On 3 October 2011 the Department received an application for demolition of existing buildings and development of the land for a residential tower and restricted retail premises with associated parking at 1-7 and 9-15 Queens Bridge Street, Southbank. On 12 October 2011 the Department received supplementary information for the application that included the traffic report, wind assessment, waste management plan and ESD report.
4. On 31 October 2011 the Department requested further information and on 29 November 2011 Department officers met with the applicant and City of Melbourne officers where revised plans in response to the request were supplied. The revised plans show:
 - The entire building's footprint located within the site boundary with revised floor areas;
 - Inclusion of weather canopy 10 metres above the footpath along the Queens Bridge Street frontage;
 - Extension of internal privacy screening further along northern facade to minimise overlooking to/from Freshwater Place residential tower; and
 - Increase in bicycle parking from 120 to 123 spaces.
5. On 8 December 2011 revised plans were received showing the following:
 - Reduction in weather canopy clearance from 10 metres to 7 metres;
 - Introduction of disabled access doors to showroom and residential lobby at Ground Level; and
 - Clarification of average tower setback of 5.5 metres to Queens Bridge Street.
6. On 20 January 2012 the revised plans were received showing the relocation of the Fire Control Room from the Queens Bridge Street frontage to the residential lobby, creating a completely activated frontage.
7. The Minister for Planning has previously considered four permit applications for the site. Details are as follows:
 - 1-3 Queens Bridge Street - Alterations and additions to existing hotel (Permit No.: 134862 approved 14 May 1992);
 - 1 Queens Bridge Street - Construct an illuminated non-animated panel sky sign for the exhibition of a business advertisement (Permit No.: 134389 approved 21 November 1989);
 - 1-3 Queens Bridge Street – Alterations and extensions to existing hotel (Permit No: 134226 approved 21 November 1989); and
 - 9-15 Queens Bridge Street – Children's' Court (Permit No.: 134124 approved 28 February 1989).
8. The following permits have been approved by the City of Melbourne (at 1-7 Queens Bridge Street only):
 - Addition of a plant platform and alterations to existing facade (TP-2006-832);
 - Increase in floor space (TP-2003-983);
 - Construction of a security gate to the entrance of the basement car park (TP-1999-1147);
 - Construction of a canopy to the facade of the existing building (TP-1999-1124); and
 - Multiple signage applications.

SUBJECT SITE AND SURROUNDS

9. The subject site spans two adjacent lots (1-7 and 9-15 Queens Bridge Street, Southbank) located on the east side of Queens Bridge Street, Southbank between the Yarra River (to

the north) and Power Street (to the south) with a combined total area of approximately 2,300 sqm.

10. The site has a frontage of 62.4 metres to Queens Bridge Street, with a 10 metre rear frontage to Freshwater Place's (FWP) privately-owned plaza area to the east of the site. The location plan is below:



11. The subject site is currently occupied by buildings:
- 1-7 Queens Bridge Street - the Queensbridge Hotel (3 storey development) now operating as the display suite for the Prima Pearl development under construction on the northeast corner of Power and Queens Bridge Streets; and
 - 9-15 Queens Bridge Street - a two-storey development operating as a furniture showroom.
12. To the south of the site (17-23 Queens Bridge Street) is a four-storey office building (1,097sqm), with car parking for 33 vehicles at Ground Level with office space above.
13. The southbound lane on Queens Bridge Street in front of the subject site operates as a bus and bicycle lane during Clearway restriction hours.
14. Both the immediate precinct and Southbank in general is experiencing significant change in its built form composition towards tall mixed use tower developments. Large scale developments in the vicinity of the subject site include:

Address	Height	Uses	Status
Eureka Tower – 7 Riverside Quay, Southbank	300 metres	Residential and ground floor retail	Complete
70 Southbank Blvd, Southbank	226 metres	Residential and retail	Approved

PROPOSAL

15. The proposal is to demolish the existing buildings and construct a 71-storey mixed use building (276 metres high including plant) for the purposes of residential and restricted retail uses.
16. The proposal [REDACTED], referred to as the *Queensbridge Tower*, adopts a tower-podium form with the 9-level podium extending to the title boundary on all sides.
17. The following is a brief overview of the proposed development:

Features	Total
Dwellings	592
Restricted Retail Premises	2,170sqm
Bicycle parking	188 spaces
Car parking	564 spaces
Gross Floor Area	107,127 sqm
Development value	\$275M

- Demolition of the two existing buildings on site;
- Provides a basement level (including car and bicycle parking);
- Provides a showroom at ground and mezzanine levels accessible from Queens Bridge Street;
- Provides an undercroft area providing access to the residential lobby, loading bay, and car park. Vehicular access is via left-in/left-out manoeuvre to/from Queens Bridge Street. The undercroft will provide pedestrian access from Queens Bridge Street to Freshwater Place's privately-owned public open space;
- Constructs a 9-level podium, measuring 37 metres in height to Queens Bridge Street, providing car and bicycle parking, shower facilities, and plant equipment;
- Constructs a 61-level residential tower (measuring 276 metres in height to Queens Bridge Street). The proposal has a modern, contemporary design adopting a curvilinear shaped tower made of three cylindrical forms joined by a constant arc;
- The tower comprises of 592 apartments (1, 1+study, 2, and 2+study, ranging from 59sqm to 124sqm). North-facing apartments have internally fitted vertical privacy screens to minimise overlooking to/from Freshwater Place residential tower;
- Provides amenity facilities on Levels 10 and 55, with plant equipment occupying Levels 10b, 54b, 70a and 70b; and
- The submission is supported by comprehensive reports including a wind tunnel assessment, traffic report, waste management plan, and ESD report.

STATUTORY CONTROLS

18. The site is affected by the following zone, overlays and particular provisions under the Melbourne Planning Scheme (the Scheme):

Zoning – Capital City Zone 1 – Outside the Retail Core (CCZ1)

19. The purpose of the CCZ1 is *to provide for a range of financial, legal, administrative, cultural, recreational, tourist, entertainment and other uses that complement the capital city function of the locality.*
20. Under the CCZ1 a permit is required to demolish a building and to construct or carry out works.
21. Under the CCZ1 a permit is not required for the use of the site for restricted retail premises or dwelling.

22. Under the CCZ1 demolition and removal of buildings, buildings and works are exempt from the notice, decision and review requirements of the *Planning and Environment Act 1987* (the Act).

Overlay - Design and Development Overlay, Schedule 1 – Active Street Frontage Capital City Zone (DDO1 – Area 2)

23. The purpose of the DDO1 is to *ensure ground floor frontages are pedestrian oriented, add interest and vitality to city streets and contribute to city safety by providing lighting and activity.*
24. Under the DDO1 (Area 2) buildings with ground-level street frontages to major pedestrian areas must present an attractive pedestrian oriented frontage to the satisfaction of the responsible authority, by providing:
- At least 80% of the street frontage as other uses, customer service areas and activities, which provide pedestrian interest and interaction.
 - Built scale appropriate to the street and pedestrians.
 - Clear glazing (security grilles must be transparent).
25. An application to construct a building or construct or carry out works is exempt from the notice, decision and review requirements of the Act.

Overlay - Design and Development Overlay, Schedule 4 – Weather Protection (DDO4)

26. The purpose of the DDO4 is to *provide protection from rain, wind and sun, without causing detriment to building or streetscape integrity.*
27. Under the DDO4 a permit is not required to construct a building or construct or carry out works if adequate weather protection to the street frontage is provided to the satisfaction of the responsible authority.
28. On the 8 December 2011 the applicant lodged revised plans that show a clear glazed canopy that runs along the majority of the Queens Bridge Street frontage at a height of 7 metres above the footpath, therefore a permit is not required.

Overlay – Design and Development Overlay, Schedule 38 – Southbank Central Core (DDO38)

29. The southern portion of the site (9-15 Queens Bridge Street) is affected by DDO38. It is noted that the height and setback controls under the DDO38 are discretionary.
30. DDO38 specifies that a permit is not required to construct a building or construct or carry out works if the building height and minimum building setback requirements are met. The applicable requirements are:
- Tower height of 160 metres;
 - Podium height of between 16-28 metres which responds to the dominant streetscape;
 - Tower setback up to 6 metres from all major streets;
 - For towers above 40 metres, a setback of 24 metres from an adjoining tower of similar height.
31. As the building height and minimum building setback requirements are not met, the application must demonstrate how the proposal achieves the Design Objectives and Built Form Outcomes of DDO38.
32. Under the DDO38 an application to construct a building or construct or carry out works for land that is within the Capital City Zone is exempt from the notice, decision, and review requirements of the Act.

Overlay – Design and Development Overlay, Schedule 40 – Arts Centre and River Environs (DDO40)

33. The northern portion of the site which is adjacent to Freshwater Place (1-7 Queens Bridge Street) is affected by the DDO40. It is noted that the height and setback controls under the DDO40 are discretionary.
34. Under the DDO40 an application to construct a building or construct or carry out works for land that is within the Capital City Zone is exempt from the notice, decision, and review requirements of the Act.
35. In the table to DDO40 there is a "Maximum Building Height" of 6 storeys and "Minimum Building Setback" from St Kilda Road of 13.2 metres that may be modified with a planning permit. As the building height requirement is not met, the application must demonstrate how the proposal achieves the Design Objectives and Built Form Outcomes of DDO40. In this case the setback requirement does not apply as the proposal is not located on St Kilda Road.

Particular Provisions

Clause 52.06 (Car Parking)

36. The purpose of Clause 52.06 is to ensure that car parking facilities are provided in accordance with any parking precinct plan.
37. The schedule to Clause 52.06 outlines car parking requirements for the CCZ1, and states that a permit is required to provide car parking spaces in excess of the car parking rates in Clause 2.0 of the schedule. Maximum car rates are provided below:

Component	Area/No.	Rate	Max. Provision	Proposed Provision
Dwellings	592	1 space per dwelling	592	550
Restricted Retail Premises	2170 sqm	5 x 2170sqm / 1000 sqm	11	14
Total			603 spaces	564 spaces

38. It is proposed to provide a total of 564 car parking spaces (66 spaces are provided via tandem pairs and dependent car stackers), including 14 car parking spaces in the basement level that are to be allocated to the showroom staff.
39. The provision of 564 car spaces on site (ratio: 0.93) is below the maximum allowed under the schedule, therefore a permit is not required under this provision.
40. Clause 3.0 states a minimum rate of one motorcycle parking space for every 100 car parking spaces must be provided, unless the responsible authority is satisfied that a lesser number is sufficient. This generates a requirement of 6 motorcycle spaces. A condition has been included on the permit to require the provision of 6 motorcycle spaces.

Clause 52.07 (Loading and Unloading of Vehicles)

41. Under Clause 52.07 a permit is required to reduce or waive the minimum requirements for the provision of loading bay space for loading and unloading vehicles as specified in the table below:

Floor area of building	Minimum loading bay dimensions	Proposed loading bay dimensions
2,600 sqm or less in single occupation	Area 27.4sqm	Area 62sqm
	Length 7.6m	Length (min.) 7.6m
	Width 3.6m	Width 7.7m
	Height 4.0m	Height 4.6m
For every additional 1,800sqm or part	Additional 18sqm	

42. The restricted retail premise requires a minimum of 27.4 sqm loading area. As the proposal provides a loading area that meets the above requirements, a permit is not required under this provision.

Clause 52.34 (Bicycle Facilities)

43. The purposes of Clause 52.34 are to encourage cycling as a mode of transport, and to provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities.
44. Under Clause 52.34-3 a bicycle space for:
- An employee or resident must be provided either in a bicycle locker or at a bicycle rail in a lockable compound.
 - A visitor, shopper or student must be provided at a bicycle rail.
45. Under Clause 52.34 the minimum bicycle space rates are provided below:

Component	Area/No.	Requirement Rate	Min. Required	Proposed
				Total
Dwelling	592	1 space per 5 dwellings (residents)	118 spaces (residents)	118 (Levels 1 & 3) (residents)
		1 space per 10 dwellings (visitors)	59 spaces (visitors)	
Shop	2,170 sqm	1 space per 600 sqm of leasable floor area (employee)	4 spaces (employee)	5 (Level 1) (employee)
		1 space per 500 sqm of leasable floor area (shopper)	4 spaces (shopper)	
Total			186	188

46. The proposal provides a total of 188 bicycle spaces on-site via Ned Kelly rails.
47. The proposal exceeds the minimum requirement of 186 spaces, and therefore a permit is not required to reduce the number of bicycle spaces.
48. Table 2 to Clause 52.34-3 states that 1 shower must be provided for the first 5 employee bicycle spaces plus 1 to each 10 employee bicycle spaces thereafter. The proposal generates a requirement for 1 shower.
49. Table 3 to Clause 52.34-3 requires that 1 change room or direct access to a communal change room to each shower be provided. The proposal generates a requirement for 1 change room or direct access to a communal change room.
50. The revised plans received on 29 November 2011 show a total of 6 showers and change rooms (separate male and female) located on Level 2 directly below the bicycle storage area on Level 3 accessible by internal stairs. This satisfies the requirement of Clause 52.34-3, and therefore a permit is not required.

Clause 52.36 (Integrated Public Transport Planning)

51. Under Clause 52.36-1 an application must be referred in accordance with Section 55 of the Act to the Director of Public Transport (DPT) for a residential buildings comprising of 60 or more dwellings. On 14 October 2011 the application was referred to the DPT, and on 16 November 2011 referral comments were received. They are discussed below under 'Referrals'.

General Provisions

52. **Decision Guidelines:** 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. This is discussed below under 'Assessment'.

POLICY FRAMEWORK

State Planning Policy Framework (SPPF)

53. The following policies within the SPPF are relevant:

- Clause 11 (Settlement)
- Clause 15 (Built Environment and Heritage)
- Clause 16 (Housing)
- Clause 17 (Economic Development)
- Clause 18 (Transport)

Local Planning Policy Framework (LPPF)

54. The following policies within the LPPF are relevant:

- Clause 21.02 (Municipal Profile)
- Clause 21.03 (Vision and Approach)
- Clause 21.03-1 (Vision)
- Clause 21.04 (Land Use)
- Clause 21.04-1 (Housing and Community)
- Clause 21.04-2 (Retail, entertainment and the arts)
- Clause 21.05 (City structure and built form)
- Clause 21.08 (Local Areas)
- Clause 21.11 (Reference documents)
- Clause 22.01 (Urban Design within the Capital City Zone)
- Clause 22.02 (Sunlight to Public Spaces)

Reference Documents

55. The **Southbank Structure Plan (Final Draft) 1999** is listed as a Reference Document at Clause 21.11 (Reference Documents) and Clause 22.01 (Urban Design within the Capital City) of the Scheme. The Plan designates the site as part of the Arts Precinct for entertainment and tourism uses and recommends a built form of between 2 to 6 storeys. Given the extent of high rise residential development in the area it is considered that the Plan bears little relevance to the present-day development pattern in the area. In light of this, Amendment C171 (due for review at Panel in February 2012) seeks to replace the Plan with the **Southbank Structure Plan 2010**. The revised Structure Plan has been adopted by Council and is a seriously entertained document. The revised plan proposes a

number of built form controls to deliver a new streetscape vision that aims to improve the liveability and vibrancy of Southbank.

56. Clause 15.01-2 (Urban Design Principles) states that planning must consider, where relevant, the ***Design Guidelines for Higher Density Residential Development*** (Department of Sustainability and Environment [DSE], 2004) in assessing the design and built form of residential development of four or more storeys.

NOTIFICATION

57. Under the CCZ1 applications to demolish or construct or carry out works, and for buildings and works under DDO1, DDO4, DDO39 and DDO40 are 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.
58. Although exempt from third party notice and review rights, a total of 34 letters of concern have been received to-date predominantly from residents, [REDACTED] who have raised concerns with the following:
- Potential heavy traffic problems on Queens Bridge Street;
 - Height;
 - Loss of views from the Freshwater Place apartments;
 - Wind impacts; and
 - Aesthetic value of Freshwater Place and associated impact on the apartments' market price.
59. These issues are discussed further below however it is noted that loss of views and market value to a property are not considered relevant planning considerations.

REFERRALS

60. Under Section 55 of the Act the Director of Public Transport was referred the application and on 16 November 2011 provided written confirmation that it did not object, subject to conditions on any permit.
61. On 14 October 2011 the application was referred informally to the City of Melbourne (CoM). In a letter dated 23 January 2012 Council provided in-principle support for the proposal, subject to conditions requiring a minimum 10 metre tower separation with Freshwater Place residential tower and a reduction in height to 192 metres to accord with the recommended setbacks and height controls outlined in the Southbank Structure Plan 2010 (Am C171). In the same letter Council requested that the Department to require the applicant to contribute to improvements to pedestrian access and road traffic management in the immediate area of the site.
62. On 14 November 2011 and 22 December 2011 DPCD's Urban Design Unit provided comment on the proposal, and are generally supportive of the proposal. They suggest permit conditions requiring the following:
- Amended plans showing a minimum 10 metre tower separation with Freshwater Place to the north;
 - Amended plans showing the weather canopy with a clearance of 5 metres to the pavement and clarification of the extent the canopy projects out from the building;
 - Further details on all publicly visible facades, the undercroft, materials and finishes and lighting; and
 - Detailed documentation confirming that the proposed internal screening fins will be formed of impact resistant material and be tamper-proof.

ISSUES AND ASSESSMENT

63. The application has been assessed against all relevant policies within the Melbourne Planning Scheme. The key issues worthy of discussion are:
- Compliance with State and Local Planning Policies
 - Compliance with Reference Documents
 - Design, Built Form and Urban Context
 - Traffic and Access
 - Shadowing
 - Wind Assessment
 - ESD
 - Landscaping
 - Public Realm Improvements
 - City of Melbourne's comments

Compliance with State and Local Planning Policies

64. The proposed development is considered to respond appropriately to State and Local planning policies, as follows:
65. The proposal is consistent with the strategic intent for this area of Southbank (Clause 21.08) which indicates that increased residential density and high-rise development is to be encouraged. Southbank is projected to experience significant population increase and the proposal will provide residential dwellings to respond to this projected population increase within the area.
66. The proposal provides housing choice and diversity in a centrally located area identified as experiencing significant population growth that is supported by existing infrastructure and public transport (Clauses 11.01, 16.01, 18.01, 21.02, 21.03, 21.04, and 21.08). The provision of bicycle parking and facilities beyond the minimum requirements furthers the policy objective of promoting sustainable transport options (Clause 18.02).
67. The proposal is for a high-rise development with an innovative commercial use of the lower levels of the building that provides pedestrian interest and contributes to pedestrian safety (Clauses 17.01, 21.04, and 21.08). The proposed undercroft linking Queens Bridge Street to Freshwater Place's privately owned public open space and improvements to Queensbridge Square further the policy objectives of creating functional environments and good quality public realms, and enhancing street life (Clause 15.01 and 22.01).
68. In light of the irregular shape and constrained nature of the subject site and the building envelope and orientation of the adjacent property, the proposal achieves a high degree of architectural merit and manages amenity impacts through innovative design and orientation and satisfactory tower separation (Clause 15.01, 21.04, 21.05, and 21.08).

Reference Documents

69. The architects [REDACTED] have successfully achieved 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. The design furthers the objectives of the Guidelines by offering an adequate level of pedestrian engagement and safety, visual interest and architectural merit.
70. The **Southbank Structure Plan 2010** designates the area for mixed uses and specifically seeks to introduce the following built form strategies (as applicable to the subject site):
- Mandatory maximum podium height of 40m;

- A minimum tower separation of 10 metres;
- Tower setback above podium to be 10 metres from a primary or secondary street frontage, 5 metres from a side boundary and 2 metres from tertiary streets; and
- Standardise the discretionary height control to 160 metres.

71. While the proposal exceeds the discretionary height control by 70% (DDO38) and does not achieve the recommended 10 metre setback from the street frontage, it is considered that the proposed development generally complies with the overall intent of the Plan. Through innovative design of the podium and tower elements the proposal maintains a human scale and solar access at street level, delivers an active street frontage, and achieves the 5 metre setback to the southern boundary. A condition on the permit will achieve a 10 metre tower separation with Freshwater Place to the north.

Other

72. Amendment C162 reviews the Municipal Strategic Statement (MSS). The draft MSS has been exhibited but has not been incorporated into the Scheme. It has however been adopted by Council and is a seriously entertained document. The site is identified as being within an 'Urban Renewal Area' and it is considered that the proposed development satisfactorily addresses the key objectives of Clause 21.03 (Integrating Transport With Land Use and Development), 21.04 (Integrating Public Realm and Private Realm), 21.05 (Eco City – Zero Carbon And Adapted For Climate Change), and 21.06 (Land Use Amenity and Diversity) of the draft MSS. However, it is noted that the MSS is subject to change.

Design, Built Form, and Urban Context

Demolition

73. Under the CCZ1 a permit is required for demolition or removal of buildings. The Queensbridge Hotel is a 'C' graded building and part of a Streetscape Level 3 (South Melbourne Conservation Study, January 1997). Given that the building has been altered since the Study (see previous permits above), and that no heritage overlay affects the sites, the demolition of the existing 'C' graded buildings is considered to be acceptable. The proposal also includes a replacement building which is consistent with the decision guidelines of the Capital City Zone which seeks to avoid vacant sites.

Tower Height, Separation and Setbacks

74. Under the DDO38 and DDO40 the "Maximum Building Heights" and "Minimum Building Setbacks" are as follow:

Design and Development Overlay	Maximum Building Height	Minimum Building Setback
DDO38	160 metres	<ul style="list-style-type: none"> ▪ 24 metre tower separation ▪ 6 metres from all major streets
DDO40	6 storeys	<ul style="list-style-type: none"> ▪ 13.2 metres from St Kilda Road (not applicable)

75. Under the DDO38 and DDO40 an application to exceed the Building Height or reduce the Minimum Building Setback must demonstrate how the development will continue to achieve the Design Objectives and Built Form Outcomes of these schedules and any local planning policy requirements. The Design Outcomes and Built Form Outcomes are as follows:

DDO38
Design Objectives
<i>To provide for appropriate spacing between buildings so as to maximize light, air and outlook.</i>
<i>To create a high quality mixed use area with a high level of pedestrian amenity.</i>
<i>To encourage high rise and high density residential development mixed with low density commercial development to complement and support the function of the city and service the local area.</i>
<i>To ensure that the design of new development respects the development potential of adjacent sites.</i>
<i>To encourage exemplary architecture and innovative building design.</i>
<i>To orientate buildings to complement and respond to the unique Southbank street system</i>
Built Form Outcomes
<i>Higher tower building forms at street intersections and other landmark sites which improve legibility of the urban form.</i>
<i>Tower developments that are well spaced to equitably distribute access to an outlook and sunlight between towers.</i>
<i>Development which ensures adequate solar penetration at street level by provision of upper level setbacks, tower siting and orientation.</i>

DDO40
Design Objectives
<i>To ensure development supports high levels of pedestrian amenity related to access to sunlight and sky views and a pedestrian friendly scale.</i>
<i>To maintain the existing low-scale river edge urban form along the river corridor.</i>
<i>To maintain the landscape character of St.Kilda Road as a dominant visual element in the area.</i>
<i>To maintain the visual dominance of and key views to the Arts Centre Spire from St.Kilda Road and from the south along Sturt Street</i>
Built Form Outcomes
<i>The importance of St Kilda Road as a grand entrance to the City is maintained through the use of building setbacks with landscaped garden frontages</i>
<i>Development that protects and enhances the Yarra River (including views to and from it), as an important natural recreational and tourism asset of Melbourne.</i>
<i>Low scale development that enhances the sense of openness, maintains access to sky views and maximises solar access.</i>
<i>A consistent building scale strengthens the pedestrian focus of the area</i>

76. At 276 metres in height, the proposal exceeds the suggested building heights of DDO38 and DDO40. Given the large scale developments either constructed, under construction, or approved in the precinct (see Subject Site and Surrounds above) it is considered that the proposal is consistent with an emerging building scale in the area. Further, the existing and emerging built form of the precinct consists of high-rise residential towers combined with commercial uses, into which the proposal comfortably sits.
77. The tower, which is based on three cylindrical shapes joined by tangential arcs, is set back the following approximate distances:
- Between 8 metres and 13.6 metres from Freshwater Place residential tower to the north (Freshwater Place tower is set back 3 metres from the common boundary);
 - Between 5 metres and 6.8 metres from the southern title boundary;
 - Between 3.7 metres and 5.3 metres from the western title boundary; and
 - 4.2 metres from the eastern title boundary.
78. Whilst the proposed tower does not achieve the setbacks suggested under DDO38, the curvilinear shape creates a varied tower separation that is considered to provide appropriate spacing so as to maximise light, air and outlook. Further, the podium height (37 metres) is both sympathetic to the existing podium heights in the area and adequately breaks up the building massing to achieve a pedestrian friendly scale.
79. There are a number of residential developments approved or completed in the City that have less than a 10 metre tower separation/5 metre setback from a common boundary, including:
- 475-511 Swanston Street and 8-32 Franklin Street – 6 metre tower separation (Permit No.: 2002524);
 - 58-64 A'Beckett Street – 5 metre setback to common boundary (Permit No.: 2010/026164);
 - 410 Elizabeth Street – between zero and 4.4 metre setback from common boundaries (Permit No.: 2009/001015);
 - 245 City Road – 10 metre average tower separation with minimum of 7 metres (Permit No.: 2009/004752);

- 80 Collins Street – approximately 5 metre tower separation (Incorporated Document, Am C128);
 - 568-580 Collins Street – between 1 and 4.5 metres tower separation (Permit No.: 2010/012518);
 - 500 Elizabeth Street - between zero and 6 metres setback from common boundaries (Permit No.: 2009/000987); and
 - 399 Little Lonsdale Street – between 9 and 10 metres tower separation (Permit No.: 2009/001035).
80. To achieve a 10 metre tower separation recommended in the *Southbank Structure Plan 2010* to be reviewed at Panel in February 2012, a condition has been included on the permit requiring amended plans to show a minimum tower separation of 10 metres to Freshwater Place to the north, while maintaining a minimum setback of 5 metres to the southern title boundary.
81. It is considered that the proposal respects the development potential of the adjacent site at 17-23 Queens Bridge Street. The proposed tower provides a minimum setback of 5 metres and a maximum of 6.8 metres from the common boundary, necessary to achieve a minimum 10 metre tower separation.

Street Level Frontages and Pedestrian Interest and Amenity

82. The revised plans received on 20 January 2012 show a total frontage of 63 metres, of which 47 metres is occupied by active uses (restricted retail premise and residential lobby). The remainder of the frontage (14 metres) forms the entry to the undercroft area. Together, the active uses occupy approximately 73% of the total frontage or approximately 3 metres less than the required amount under DDO1 – A2. Taking into account the level of pedestrian interest, orientation, and circulation the proposal provides, on balance this is considered acceptable.
83. It is considered that the proposal responds well to the requirements of DDO1 – A2, DDO38 and DDO40, as the showroom and office frontages will provide an adequate level of pedestrian interest, interaction, and amenity.
84. The restricted retail premise is a modern architecturally designed showroom completely visible through clear glazing to the street frontage at both ground and mezzanine levels and accessible from Queens Bridge Street. The inclusion of a clear glazed weather protection canopy along the Queens Bridge Street frontage will enable views upwards to the tower element providing further visual interest and amenity for pedestrians.
85. The incorporation of an undercroft area (lined with a green wall feature) and the location of a residential lobby provides an adequate level of activation, pedestrian interest and amenity and improves pedestrian circulation through the precinct. This is considered an appropriate response to the unique Southbank Street system.

Design, Siting, and Orientation

86. Designed by project architects [REDACTED], the proposal demonstrates both exemplary architecture and innovative building design. Notable examples of this include:
- The extruded curvilinear tower is an innovative response both to the dominant theme of curved tower facades in the precinct (e.g. Freshwater Place, Casino Tower, East End Upgrade of Crown Complex, and Prima Pearl) and to the irregular shape and constrained size of the subject site;
 - The use of high quality warm platinum glazing for the tower gives the tower a sleek and slender appearance;

- The podium height (37 metres) and gridded treatment is responsive to that of Freshwater Place and breaks up the massing of the tower giving the proposal a human scale; and
 - The incorporation of a green wall feature along the undercroft provides a high degree of pedestrian interest and circulation.
87. Additionally, the building will make an impressive architectural addition to the city, especially on this prominent corner site. The proposed height of the tower in combination with the orientation of the podium will strengthen the corner and provide additional definition to this 'gateway' from the city to Queens Bridge Street and Southbank. This further improves the legibility of the urban form.
88. Through a condition on the permit the tower element will be oriented in a way that achieves a minimum 10 metre tower separation with Freshwater Place residential tower to the north.
89. The proposal responds well to the requirements of Clause 22.01 (Urban Design within the Capital City Zone) across the policy areas of Building Design, Facades, City and Roof Profiles, Projections, Wind and Weather Protection, Public Spaces, and Access and Safety in Public Spaces.
90. The proposed building fits within its context as the site is located in an area where there are numerous buildings of comparable scale such as Eureka Tower (300 metres high), Prima Pearl (225 metres), Freshwater Place (comprising three towers of 200 metres, 220 metres & 138 metres). In considering a proposal for a 225 metre high tower at a site affected by DDO38 VCAT held that a building taller than 160 metres cannot simply be considered as an overdevelopment and may be permitted if it achieves the built form requirements of the schedule. Further, it is reasonable to assume that the Tribunal would interpret the DDO40 in a similar manner, and place more weight on the extent to which the built form outcomes have been met rather than assessing the proposal on height alone.
91. In light of the above assessment it is considered that the proposal achieves the Design Objectives and Built Form Outcomes of DDO38 and DDO40, and therefore the application to exceed the Building Height and to reduce the Minimum Building Setback should be supported.
92. Ultimately, it is reasonable to allow flexibility in assessment of tower developments in the city, particularly in an area that promotes high density buildings and where the objectives of the overlay control have been met.

Internal Amenity

93. Developments for new and refurbished residential uses should incorporate design measures to attenuate noise associated with the operation of other businesses and activities associated with a vital 24-hour capital city. The decision guidelines of the Capital City Zone specify that *'habitable rooms of new dwellings adjacent to high levels of external noise should be designed to limit internal noise levels to a maximum of 45dB in accordance with the relevant Australian Standards for acoustic control'*. A condition has been included on the permit to deal with this.
94. The building design provides a good standard of amenity for future residents. There is limited reliance on borrowed light, with approximately 10% of the apartments including a bedroom which relies on borrowed light and approximately 60% of apartments having wintergardens.
95. Additionally, the site is within walking distance to public open space particularly Queensbridge Square and the Yarra River Promenade with excellent access to local amenities and public transport.

Traffic and Access

Traffic Impact

96. A Traffic Assessment Report (Cardno, dated 30 September 2011) was provided with the application. An addendum report was received on 29 November 2011 in response to City of Melbourne Engineering comments dated 7 November 2011.
97. The report anticipates that traffic generation and reliance on private vehicles during commuter traffic periods will be low. It concludes that *'the anticipated traffic generation to the surrounding intersections is considered to be low in traffic engineering terms and is expected to have no significant effect on traffic conditions'*. The report also concludes that the proposal is expected to have no significant effect on bus services on Queens Bridge Street.

Access and Safety

98. The proposal includes an undercroft providing pedestrian access to/from Queens Bridge Street and Freshwater Place's privately owned public open space and retail outlets. Given the undercroft will provide access for vehicles and pedestrians it is considered appropriate to include a condition on the permit requiring amended plans to demonstrate clear demarcation between pedestrians and vehicles to ensure safe and efficient access and movement.
99. Vehicular access to the car park, drop-off area, and loading bay will be via a left-in left-out turn to Queens Bridge Street. The presence of tram stop infrastructure on Queens Bridge Street restricts site access to left-in/left-out turns. Improvements to the signalling and tram infrastructure will enable city-bound vehicles to complete a U-turn on Queens Bridge Street to access the development (see Developer Contributions section below).
100. The revised plans indicate a 1.5 metre wide bicycle access path from the undercroft to the goods lift through the loading dock area. The addendum to the Traffic Report recommends the installation of bollards to protect bicycle access. The addendum recommends a condition on the permit that requires the provision of line marking and signage at the drop-off area and each access ramp in the undercroft area. It further recommends that barriers/signage be provided to discourage pedestrians from accessing the immediate vicinity of the vehicle access ramps. These recommendations have been included as conditions on the permit.

Shadowing

101. The Local Policy 'Sunlight to Public Spaces' (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. The shadow studies provided with the application show that the proposal does not cast a significant level of additional shadows to the street level between 10am and 2pm on 22 September. No additional shadowing over Freshwater Place's privately owned public open space to the east of the site is caused by the proposal. The proposal will have minimal impact on access to sky views and solar access from most other vantage points.

Wind Assessment

102. The Environmental Wind Assessment (MEL Consultants, dated September 2011) submitted with the application concludes that the wind conditions around the proposed development will be mostly within the criterion for walking comfort. The report concludes that little significant impacts will be caused by the proposed development. Further, the two test locations in Freshwater Place's privately owned open space show that the wind conditions will be either on or within the criterion for walking comfort.
103. On 12 December 2011 the Department received a Load Impact Analysis Report from [REDACTED] [REDACTED] is considered significant'. On 12 December 2011 the applicant was requested to provide a response. On 21 December 2011 the applicant provided a response stating that a full wind tunnel assessment of the proposal addressing these concerns would take at least 6-8 weeks and that the applicant would accept a condition on any permit to require full wind tunnel assessment to test these concerns. A condition has been included on the permit requiring a full wind assessment assessing the structural and glazing integrity [REDACTED] [REDACTED]

ESD

104. The proposed building is a residential development and therefore the ESD requirements are contained within the 'Building Code of Australia'. A memorandum was provided with the application [REDACTED] that states that the development aims to achieve an average of 6 star rating over all apartments under the NatHERS Scheme. The Memorandum outlines a number of sustainability measures required to achieve this standard, including the potential to incorporate a green roof at the roof level to improve stormwater capture quality.

Landscaping

105. The proposal will provide a garden and amenities area at the rooftop to the podium. Depending on the results of the full ESD report a green roof at the uppermost roof may also be included (see ESD above). It will also include a number of street trees along Queens Bridge Street in front of the subject site and continue the bluestone paving treatment through the undercroft from Freshwater Place's privately owned public open space to Queens Bridge Street.
106. The proposal will also incorporate a green wall treatment and lighting to the inside façade of the undercroft providing additional pedestrian interest and in accordance with Crime Prevention through Environmental Design Principles (CPTED).
107. Additionally, the proposal seeks to make off-site improvements to Queensbridge Square by removing the clear glazed barrier that currently exists preventing efficient pedestrian access to/from Queens Bridge Street (see Public Realm Improvements below). [REDACTED] [REDACTED]

Public Realm Improvements

108. Given the scale of the building envelope and extent of car parking provision it is considered appropriate to include a condition on the permit requiring the developer/owner to enter into a legal agreement with the City of Melbourne under Section 173 of the Act requiring a financial contribution towards resolving ongoing public realm, traffic, and public transport issues that have a nexus with the proposed development, including:
- Upgrades to Queensbridge Square to provide direct pedestrian access from the Square to Queens Bridge Street. Given the ongoing lease agreement between the Owners' Corporation and the City of Melbourne the upgrades will be located outside of the area subject to the lease;
 - Upgrades to traffic signalling on Queens Bridge Street to enable city-bound vehicles to perform a U-turn in order to access the building safely and efficiently;
 - Upgrades to the existing tram stop to a level access tram stop (super stop); and
 - Improved pedestrian crossing on Queens Bridge Street.
109. [REDACTED]
110. The developer's project team have agreed to a permit condition requiring a financial contribution towards the above items.
111. The City of Melbourne is supportive of the permit requirement for the developer to contribute to the abovementioned off-site improvements [REDACTED]
112. There are precedents where owners/developers of land for which the Minister for Planning is the Responsible Authority have been required to provide financial contributions towards the provision of traffic, public transport and public realm infrastructure/upgrades in the absence of a Development Contributions Plan Overlay (DCPO), for instance:
- i. In Docklands development contributions are negotiated through Development Agreements;
 - ii. In Footscray, a condition was included on the permit [REDACTED] requiring the owner to enter into a Section 173 legal agreement as an interim measure while long-term contribution arrangements are formalised through a DCPO process to provide public realm and traffic signalling infrastructure; and
 - iii. At [REDACTED] the Incorporated Document required the owner of the land to enter into a Section 173 legal agreement to provide public transport and public realm infrastructure.
113. It is considered that the legal agreement satisfies the test established in *Harmon Pty Ltd v Casey City Council* (2006) VCAT 629 to ensure legal agreements reasonably relate to the permitted development, is in aid of a number of planning purposes, does not give effect to an ulterior purpose, and is clear and certain.

City of Melbourne's Comments

114. The City of Melbourne supports the proposal subject to a 10 metre tower separation with the adjacent Freshwater Place residential tower, a reduction in height of the building from 276 metres to 192 metres, and the inclusion of a number of standard conditions. The standard conditions and 10 metre tower separation requirement have been included in the permit.

115. In relation to height, the DDO38 requires that a building over 160 metres to be of good design and should achieve the nominated design objectives and built form outcomes. In this instance, it is considered appropriate to include a condition that requires the owner/developer to provide a financial contribution towards resolving ongoing public realm, traffic, and public transport issues that have a nexus with the proposed development (see Public Realm Improvements above).

RECOMMENDATION

116. The application has been assessed against all relevant State and Local Policies, and the relevant application requirements and decision guidelines of the Capital City Zone, Design and Development Overlays, and Particular Provisions of the Melbourne Planning Scheme. The proposal is considered to demonstrate exemplary architecture and be appropriate and consistent with the above-mentioned considerations. Through conditions on the permit the proposal will provide improved outcomes for the public realm including pedestrian access and circulation; traffic management; and public transport infrastructure. It is therefore recommended that a permit be granted subject to conditions.

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