

# Planning Officer Report

268 – 274 City Road, Southbank

Planning Permit Application No. 201535464



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## Summary

The purpose of this report is to provide a detailed planning assessment of planning permit application 201535464. This report is provided to the Minister for Planning to assist in considering and determining the planning permit application.

Under the Schedule to Clause 61.01 of the Melbourne Planning Scheme, the Minister for Planning is the responsible authority for applications with a gross floor area exceeding 25,000 square metres.

An application has been made for demolition and buildings and works with the construction of a multi-storey mixed use development comprising residential dwellings, commercial/retail uses and associated car parking.

A permit is required for demolition and buildings and works. Key issues for consideration include the development's strategic response to the surrounding environment and its immediate context, its response to the built form and amenity controls affecting the site and not adversely impacting on the amenity of adjacent uses/development and amenity (impact on the public realm).

The Melbourne City Council supports the application, subject to conditions relating to additional setbacks and small changes to the facade and ground level.

The Department's Urban Design Unit, Public Transport Victoria, Melbourne Water and VicRoads do not object to the application, subject to conditions.

The proposal supports the objectives of State and Local Policy including the Metropolitan Planning Strategy and the planning controls which affect the site and is considered to respond to the existing and evolving built form context of the area. On balance, the proposal is considered to respond to its site context and should be supported with conditions.

## Recommendation

The Future Melbourne Committee has considered the matter on 6 September 2016. The quorum for the meeting was lost and the agenda item was to be dealt with by an officer under delegation. The officers resolved to **support** the application, subject to conditions.

The recommendation to the Minister for Planning is to approve the planning application and issue and **notice of decision to grant a planning permit subject to conditions**.

## Application Details

Key elements	Comments
Land:	268-274 City Road, Southbank Lots 1 and 2 on TP 712524G, Volume 04644, Folio 740 Lots 1 and 2 on TP 409446R, Volume 04998, Folio 570 Lots 1 and 2 on TP 083409J, Volume 09535, Folio 440 Lots 1 and 2 on TP 756900G, Volume 08227, Folio 627
Application No.:	2015/35464
Proposal:	Demolition and buildings and works with the construction of a multi-storey mixed use development comprising residential dwellings, commercial/retail uses and associated car parking
Date lodged:	29 June 2015

<b>Zone and Overlay controls:</b>	Capital City Zone – Schedule 3 (Southbank) Design and Development Overlay – Schedule 1 (Active Street Frontage) (Area 3 – Major Pedestrian Areas and Key Pedestrian Routes within CCZ3 and MUZ) – City Road only Design and Development Overlay – Schedule 3 (Traffic Conflict Frontage) – City Road only Design and Development Overlay – Schedule 10 (see below) Design and Development Overlay – Schedule 60 Heritage Overlay (HO374) Land Subject to Inundation Overlay (LSIO) Parking Overlay – Schedule 1 (Capital City Zone – Outside the Retail Core)
<b>Design and Development Overlay 10 (Built Form Controls)</b>	DDO10 was introduced into the Melbourne Planning Scheme via Amendment C270. Clause 7.0 of DDO10 includes transitional arrangements, where the requirements of this scheme do not apply to an application made before the commencement of Amendment C262 & C270 to the Melbourne Planning Scheme. As such, these provisions do not apply to this application.
<b>Obstacle Limitation Surface (OLS) and Procedures for Air Navigational Services- Aircraft Operations Surface (PANS-OPS)</b>	The maximum building height, at approximately 187m AHD, is below the OLS and the PANS-OPS in this location.
<b>Tower Setbacks</b>	Haig Lane (North) 3 metres City Road (South): 5.7-7.5 metres 260 City Road (East): 5.0 metres minimum 33 Clarke Street (North West): 0m and 1.5 metres above level 22 282 City Road (South West): 0m podium to level 7 then 5 metres setback for tower above.
<b>Car parking and bicycle facilities</b>	215 car parking spaces, 322 bicycle spaces and 5 motorcycle spaces
<b>Gross floor area (GFA) and value</b>	GFA 50,597m <sup>2</sup> Development value \$120 million
<b>Plot Ratio</b>	Floor Area (GFA (50597m <sup>2</sup> )/Site Area (1432m <sup>2</sup> ) = 35:1 (approx.) (DDO10 not applicable)
<b>Applicant / Developer</b>	BKW Corporation Pty Ltd (Central Equity) C/- Urbis Pty Ltd
<b>Public Notification</b>	The application is exempt from third party notice and review rights under the zoning and majority of overlay controls. Notification was required under the Heritage Overlay provision and carried out by the applicant.



## Background

The permit application was lodged on 29 June 2015. Architectural plans were complemented by various reports including traffic, planning, ESD, wind and waste. Further information was requested on 27 July 2015 and a response was received on 15 October 2015. A number of discussion plans have been received to address issues raised by the Department and Melbourne City Council. A summary is as follows:

Plans/ submission	Date	Comment
Submission plans	29 June 2015	Proposed 67 storey residential tower with 570 dwellings (223.6 metres AHD).
RFI Plans	15 October 2015	67 Storey residential tower with 569 dwellings (223.6 AHD).
Reduced height plans	7 July 2016	Informal Plans with reduced height to a 55 storey residential tower with 475 apartments (187 metres AHD).
Heritage response	4 August 2016	Revised podium frontage to City Road to improved heritage response.
Revised plan TP108	8 September 2016	Remove borrowed light study
Tidy up plans and response to objections	7 October 2016	Provided further detail in response to objections and tidied up some errors in plans.
Decision Plans	28 October 2016	Melbourne Water response plans and consolidation of others from July 2016 – October 2016. Plans referred to in the notice of decision.

## Site and Surrounds

The subject site is known as No. 268-274 City Road, Southbank and fronts City Road to the south and Haig Lane to the north. The site is located within the Southbank precinct of Melbourne's Central City, south of the Yarra River. Refer to Figure 1 above for a Locality Plan.

The site is rectangular in shape and has a frontage of approximately 31 metres to City Road, 30 metres to Haig Lane and a total area of approximately 1,430m<sup>2</sup>. Topographically, the land is relatively flat.

The properties at No. 272 and 274 City Road are each occupied by a double storey brick building. The land at No. 268 City Road is occupied by a single storey brick building.

The property at No. 272 City Road is included in a Heritage Overlay. City Road is an arterial road which connects with Clarendon Street to the west and Alexandra Avenue to the east. Haig Lane is a local access and service lane and provides rear vehicle access to properties facing City Road and an entrance to the Crown car park.

Land immediately adjoining the site is described as follows:

**To the north**, on the opposite side of Haig Lane, is a multi-level car park associated with the Crown Casino complex.

**To the south** of the site, on the opposite side of City Road, is a recently completed 42 storey residential tower located on the corner of City Road and Moray Street (Mainpoint), and a 53 storey residential tower on the corner of City Road and Clarke Street which is nearing completion (Platinum).

**To the east**, fronting City Road (at No. 256-260 City Road), is a double storey brick building which comprises a business furniture retail outlet. In October 2013 a planning permit was issued for a 61 storey residential tower with a height of 193 metres on this site. Further to the east on the corner of City Road and Kings Way is a 34 storey residential tower which has been recently completed (Bella Apartments).

**To the west**, on the corner of City Road and Clarke Street, is a 70 metre residential tower, including office space (33 Clarke Street). A condition of approval for this development saw the inclusion of a Section 173 Agreement on Title, limiting the height of any future development on Lots 1A and 2B (the two lots within the southern corner at the intersection of Clarke Street and City Road) to a maximum height of 16 metres for heritage conservation purposes. There is also a Section 173 Agreement on the 33 Clarke Street site which requires the windows in the light court to be blocked along the eastern façade. (This decision/ condition was made at the Tribunal with the expectation that the subject site would be developed.)

## Proposal

The application seeks approval for demolition of the existing buildings on site (except for the front portion of the heritage property at 272 City Road) and buildings and works with the construction of a multi-storey mixed use development comprising residential dwellings, commercial/retail uses and associated car parking.

The podium will comprise 8 levels and will be constructed to the site boundaries with a height of approximately 28 metres, with a 3 metres screen above. The tower with a total height of 55 levels (including podium) will be set back between 5.7 - 7.5 metres to City Road, 3 metres to Haig Lane and 0- 5 metres to the western boundary. Part of the tower on the western boundary (to 33 Clarke Street) is constructed on the boundary to match the setback of this building.

The tower has indented floorplates every 11 levels. These areas will be provided with coloured glazing to differentiate the indented levels from the mass of the tower. The tower has been designed around the heritage building at No. 272 City Road to provide a setback from the facade. The podium wall behind the heritage building includes planters with climbers up wires on the façade.

Final plans were submitted October 2016. Whilst these are informal plans they are considered to be the decision plans. See below for specific details and a comparison from July 2015 to October 2016:

268-274 City Road Schedule of Comparison	June 2015 Application Plans		Oct 2016 Plans	
TOWER HEIGHT - to top of last apartment floor	211.20m		178.88m	
No. of Levels	67		55	
PODIUM HEIGHT - City Road	32.3m		28.16m	
TOTAL Apartments	570		475	
1 bedroom	237	42%	213	45%
2 bedroom	271	48%	204	43%
3 bedroom	62	11%	58	12%
saddleback bedrooms				
CAR PARKS	221		215	
CAR PARK - Ratio	0.39		0.45	
MOTORCYCLE PARKS	9		5	
BICYCLE STORAGE				
Residents	292		267	
Visitors	17		55	
TOTAL BIKE PARKS	309		322	
RETAIL TENANCIES - Tower Ground floor	185m2		172m2	
HERITAGE BUILDING - Commerical Area Grd, Levels 1 & 2	187m2		203m2	
GFA	56,582m2		50,597m2	
Site Area	1,432m2		1,432m2	
Plot Ratio	39.5 : 1		35.3 : 1	

## Planning Policies and Controls

### 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:

- Clause 9 (Plan Melbourne)
- Clause 10.04 (Integrated Decision Making)
- Clause 11 (Settlement)
- Clause 15 (Built Environment and Heritage)
- Clause 16 (Housing)
- Clause 17 (Economic Development)
- Clause 18 (Transport)
- Clause 19 (Infrastructure)

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 integrates transport and infrastructure planning.

## 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, Built Environment and Heritage, Housing, Economic Development, Transport and Infrastructure.

Clause 21.02 (Municipal Profile) recognises that the Melbourne City Council 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 the vision being '*a bold, inspirational and sustainable city*'.

Clause 21.04 (Settlement) identifies five types of areas within the City that are targeting urban growth and development. For the one of the urban renewal areas - Southbank, the following is applicable: '*Starting in the early 1980s as an "Engaging with the Yarra River Initiative", Southbank has been under urban renewal for close to 30 years. It has now brought the Yarra River into the heart of the city's life and provided a dynamic extension of the Central City with good commercial and residential high-density development opportunities. Southbank is home to the State's major arts facilities as part of its the internationally recognised Arts Precinct and other major activity areas including the Southbank Promenade, Melbourne Convention and Exhibition Centre and the South Wharf complex. The Southbank Structure Plan 2010 was prepared to update the 1999 and 2007 plans. It provides a vision and strategy for the next 30 years for the area's continued development as an extension of the central city, with a high-density mix of commercial and residential uses, a built form of a human scale and fine grain detail, greater permeability, activity and pedestrian priority at street level*'.

Clause 21.06 (Built Environment and Heritage) identifies Melbourne's character as a '*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 contemplates large scale urban redevelopment and 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 in the Central City and Urban Renewal areas. It acknowledges the need to ensure residential developments achieve high standards of amenity including access to sunlight, daylight and protection from overlooking. In addition, residential developments should be designed to mitigate the amenity impacts from surrounding established and future uses, including insulation from noise.

Clause 21.08 (Economic Development) seeks to maintain retailing as an important component of Melbourne's Capital City function.

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 21.11 (Local Areas) identifies the site as being located within the Urban Renewal Area of Southbank to which Clause 21.13 applies.

Clause 21.13-1 (Southbank) includes policies relating to the Economic Development, Built Environment and Heritage and Transport which specifically relate to the unique and valued characteristics of Southbank. It supports Southbank's development as an extension of the Central City, providing a mix of commercial and residential land uses. It encourages connection and integration of Southbank with the Central City and the Yarra River and seeks to improve the public environment of Southbank by providing public spaces, improving pedestrian facilities and upgrading streetscapes.

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

- Clause 22.01 Urban Design within the Capital City Zone
- Clause 22.02 Sunlight to Public Spaces
- Clause 22.04 Heritage Places within 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 that conserve and enhance heritage places, ensure that development is environmentally sustainable and recognises its impact on the public realm.

## 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
Clause 37.04 – Capital City Zone  Schedule 3 (Southbank)	<p>Pursuant to Clause 37.04-1, a permit is required to use the land unless specifically exempted by the schedule. No land use permit has been sought.</p> <p>Pursuant to Clause 37.04-4, <b>a permit is required</b> construct a building or construct or carry out works unless the schedule specifies otherwise. A permit is also required to demolish or remove a building or works if specified in the schedule.</p> <p>Schedule 3:</p> <ul style="list-style-type: none"> <li>• Specifies that no permit is required for ‘accommodation’ (provided that the ground floor has a floor to ceiling height of at least 4 metres), ‘office’ and ‘retail premises’ (other than Adult sex bookshop, Department store, Hotel and Tavern) as the uses are as of right (Section 1 use) at Clause 1.0 of the Schedule. No permit for uses has been applied for nor is required.</li> <li>• Specifies that a permit is required to demolish or remove a</li> </ul>

	<p>building at Clause 4.0 of the Schedule.</p> <ul style="list-style-type: none"> <li>Exempts the application from notice and appeal requirements.</li> </ul> <p>Decision guidelines are contained in Schedule 3.</p>
Clause 43.01- Heritage Overlay	<p>Pursuant to Clause 43.01-1 a <b>permit is required</b> to demolish a building and to construct a building or carry out works.</p> <p>Schedule 374 relates to '272 City Road South Melbourne'. The Schedule specifies that external paint controls apply.</p>
<p>Clause 43.02 – Design and Development Overlay</p> <p>Schedule 1 (Active Street Frontage) (Area 3 – Major Pedestrian Areas and Key Pedestrian Routes within CCZ3 and MUZ) – City Road only</p>	<p>Pursuant to Clause 43.02-2, a <b>permit is required</b> to construct a building or construct or carry out works. This does not apply if a schedule specifically states that a permit is not required.</p> <p>Pursuant to Clause 2.0 of <u>Schedule 1</u>:</p> <p>Buildings with provide a positive architectural response when viewed from street level and provide active street frontages and opportunities for engagement with pedestrians, by providing:</p> <ul style="list-style-type: none"> <li>At least 5 metres or 80% of the street frontage (whichever is the greater) as an entry or window which allows occupants to engage with the street.</li> </ul> <p>Pursuant to Clause 3.0 of <u>Schedule 1</u>:</p> <ul style="list-style-type: none"> <li>A permit is not required under this overlay for buildings and works other than at ground level.</li> </ul>
<p>Clause 43.02 – Design and Development Overlay</p> <p>Schedule 3 (Traffic Conflict Frontage – Capital City Zone) – City Road only</p>	<p>Pursuant to Clause 2.0 of <u>Schedule 3</u>:</p> <ul style="list-style-type: none"> <li>Vehicle ingress or egress points, excluding loading and unloading bays should not be constructed on a traffic conflict frontage or in a lane leading off a traffic conflict frontage.</li> </ul> <p>Pursuant to Clause 5.0 of <u>Schedule 3</u>:</p> <ul style="list-style-type: none"> <li>A permit is not required to construct a building or construct or carry out works other than those associated with the creation or alteration of a crossover or vehicle access way.</li> </ul>
<p>Clause 43.02 – Design and Development Overlay</p> <p>Schedule 10</p>	<p>DDO10 was introduced into the Melbourne Planning Scheme via Amendment C270. Clause 7.0 of DDO10 includes transitional arrangements, where the requirements of this scheme do not apply to an application made before the commencement of Amendment C262 &amp; C270 to the Melbourne Planning Scheme. As such, transitional provisions apply to this application and DDO10 is not applicable. (See below for applicable control - DDO60.)</p>
<p>Clause 43.02 – Design and Development Overlay</p> <p>Schedule 60</p>	<p>*Applied prior to introduction of DDO10.</p> <p>Pursuant to Clause 43.02-2, a permit is required to construct a building or construct or carry out works. This does not apply if a schedule specifically states that a permit is not required.</p> <p>The subject site is identified as being within Area 2 'Southbank Central Core and Southbank Interface'. Buildings and works should not exceed the requirements at Table 1 and 2 of DDO60 and should</p>

	<p>meet the built form outcomes. The specific requirements identified for Area 2 include:</p> <ul style="list-style-type: none"> <li>• Building Height: 160 metres.</li> <li>• Podium Height: 30 metres.</li> <li>• Tower separation: 20 metres from an adjoining tower.</li> <li>• Setbacks (above podium): 10 metres (front, side and rear boundaries).</li> <li>• Ground floor ceiling height: at least 4 metres.</li> </ul>
Clause 44.04 – Land Subject to Inundation Overlay (LSIO1)	<p>Pursuant to Clause 44.04-1, <b>a permit is required</b> to construct a building or construct or carry out works.</p> <p>An application must be referred to the relevant floodplain management authority under Section 55 of the Act (Melbourne Water).</p>
<p>Clause 45.09 – Parking Overlay</p> <p>Schedule 1 (Capital City Zone – Outside the Retail Core)</p> <p>Clause 52.06 – Car Parking</p>	<p>This overlay operates in conjunction with Clause 52.06.</p> <p>Pursuant to Clause 45.09-3, a schedule to this overlay may specify that a permit may not be granted to provide more than the maximum parking provision specified in the schedule to this overlay.</p> <p>Schedule 1 of the Parking Overlay specifies that a permit is required to provide car parking spaces in excess of the car parking rates in Clause 3.0 of the schedule.</p> <p>Clause 3.0 specifies the maximum number of spaces allowed as follows:</p> <ul style="list-style-type: none"> <li>• 1 space per dwelling</li> <li>• For other uses = (5 x net floor area of buildings on that part of the site in sq m)/1000 sq m or (12 x that part of the site area in sq m)/1000 sq m</li> </ul> <p>All buildings that provide on-site car parking must provide motorcycle parking for the use of occupants and visitors, at a minimum rate of one motor cycle parking space for every 100 car parking spaces, unless the responsible authority is satisfied that a lesser number is sufficient.</p> <p>Decision guidelines are contained at Clause 45.09-5 and at Clause 65.</p> <p>The proposal has 215 car spaces which is well under the 475 spaces allowed before triggering a planning permit therefore <b>no permit is required</b>.</p>
Clause 52.07 – Loading and Unloading of Vehicles (Clause 52.07)	<p>Pursuant to 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 proposal complies with dimensions of this clause. As such, <b>no permit is required</b> under this clause.</p>
Clause 52.29- Land	<p>Pursuant to Clause 52.29, <b>a permit is required</b> to create or Alter</p>

adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road	(remove) access to a road in a Road Zone, Category 1.  An application to create or alter access to, or to subdivide land adjacent to, a road declared as a freeway or arterial road under the Road Management Act 2004, land owned by the Roads Corporation for the purpose of a road, or land in a Public Acquisition Overlay if the Roads Corporation is the acquiring authority for the land, must be referred to the Roads Corporation under Section 55 of the Act
Clause 52.34 – Bicycle Facilities	Pursuant to Clause 52.34-1, a new use must not commence until the required bicycle facilities and associated signage has been provided on the land.  A permit may be granted to vary, reduce or waive these requirements.  The proposal generates a requirement for 114 resident spaces, 57 resident visitor spaces, 1 retail employee spaces and 1 customer retail spaces, a total of 173 spaces. The proposal provides 320 bicycle spaces. The overall number of spaces is above the minimum required however <b>a permit is required to reduce the visitor spaces</b> and for the design of spaces and facilities.
Clause 52.35 – Urban Context Report and Design Response for Residential Development of Four or More Storeys	Pursuant to Clause 52.35-1, an application for a residential development of five or more storeys in any zone must be accompanied by an urban context report and design response.  The application was accompanied by an urban context and design response.
Clause 52.36 – Integrated Public Transport Planning	Pursuant to Clause 52.36-1, an application must be referred in accordance with Section 55 of the <i>Planning and Environment Act 1987</i> to the Public Transport Development Authority for a residential development comprising 60 or more dwellings or lots.  By letter dated 3 December 2015, Public Transport Victoria advised that they do not object to the application, subject to one condition being included on any permit issued relating to bus operation. Given the reduction in the scale of the building is was deemed satisfactory to not re-refer the discussion plans.
Clause 61.01 – General Provisions	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 and Part 4AA of the <i>Planning and Environment Act 1987</i> and matters required by a permit or the scheme to be endorsed, approved or done to the satisfaction of the responsible authority in relation to developments with a gross floor area exceeding 25,000 square metres.
Clause 65 – Decision Guidelines	Pursuant to Clause 65.01, before deciding on an application the responsible authority must consider as appropriate a number of matters, including Section 60 of the <i>Planning and Environment Act 1987</i> .
Clause 66 – Referral	Pursuant to Clause 66.03 (Referral under State provisions) and Clause 66.06 (Notice under local provisions), an application must be

and Notice Provisions	referred to the person or body specified as the referral authority- Melbourne Water, Public Transport Development Authority and the Roads Corporation (VicRoads) – all determining referral authorities.
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## Other Strategic Matters

### **Metropolitan Planning Strategy**

Plan Melbourne was gazetted on 30 May 2014 (referenced at Clause 11.04) and outlines the long term plan to accommodate Melbourne future growth in population and employment.

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).

Plan Melbourne refresh focuses on climate change, housing affordability and updating Plan Melbourne to reflect current government transport commitments and priorities. The government is currently considering submissions which will inform a revised Plan Melbourne to be released in 2016.

### **Central City Built Form Review – Amendment C262 and Amendment C270**

Planning Scheme Amendment C262 was gazetted on 4 September 2015 to provide interim built form controls (until 31 December 2016) for a majority of sites within the Capital City Zone including the subject site. The amendment includes a new Schedule 10 to the Design and Development Overlay (Clause 43.02) resulting in the introduction of mandatory built form controls, a plot ratio control and makes Melbourne City Council a recommending Referral Authority at Clause 66.04.

Amendment C270 was gazetted on 23 November 2016 which introduces final controls for the Central City Built Form.

Section 7.0 of the Schedule 10 to the Design and Development Overlay contains transitional arrangements which excludes an application made before the commencement of Amendment C262 and C270. As the application for was made prior to this date (29 June 2015), this application is not subject to the interim controls nor the final controls.

### **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). These guidelines seek to ensure that buildings of five or more storeys are appropriately designed to complement the site and its surrounds and to provide a high standard of amenity to both future occupants and adjoining properties.

These guidelines are in the process of being replaced by the new Apartment Guidelines.

### **Homes for People: City of Melbourne Housing Strategy**

Homes for People: Housing Strategy (21 January 2015) looks at ways that the Council can improve the affordability and design of housing to meet the diverse needs of residents. Council has indicated that by 2031, it is estimated that an additional 42,000 homes will be built within the municipality for an additional 80,000 people. This growth will mostly occur within the city’s Hoddle Grid and urban renewal areas.

## Better Apartments

The *Better Apartments Draft Design Standards* were released in August 2016 as a joint initiative of the Department and the Office of the Victoria Government Architect. The draft standards were developed following the May 2015 release of *Better Apartments – A Discussion Paper*. The final design standards will be introduced later in 2016.

The draft standards include requirements relating to building setbacks, light wells, room depth, windows, storage, noise impacts, energy efficiency, and solar access to communal outdoor open space, natural ventilation, private open space, communal open space, landscaping, accessibility, dwelling entry and internal circulation, waste, and water management.

Once finalised, the design standards will replace the Guidelines for Higher Density Residential Development.

## Notification

Pursuant to Schedule 3 of the Capital City Zone, an application to demolish a building and construct or carry out works for a use in Section 1 of Clause 37.04-1, 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 Planning and Environment Act 1987.

Pursuant to Schedules 1, 3 and 60 of the Design and Development Overlay, an application to construct a building or 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 Planning and Environment Act 1987.

Pursuant to the Land Subject to Inundation Overlay an application under this overlay 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.

Pursuant to Clause 52.34- Bicycle Parking an application 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.

Pursuant to Clause 43.01 (Heritage Overlay) notification of the application is required. Under clause 43.01-3 there is no exemption from notice and review for partial demolition of the building and construction of a building.

On 4 August 2016 the Department advised the applicant that public notice was required under the provisions of section 52 of the Act- in particular the Heritage Overlay. They were required to:

1. Display 2 copy(s) of the public notice (Form 2) on the land on **City Road & Haig Street**.
2. Send a copy of the public notice (Form 2) to the neighbouring owners and occupiers (as identified by City of Melbourne) – consisting of almost 2000 addressees.
3. Publish a copy of the public notice (Form 2) in the Public Notice section of The Weekly Review for one issue.

The applicant advised that they had completed the advertising on 1 September 2016 (a statutory declaration was provided).

A total of nine submissions were received [REDACTED]

Submissions received related to the following:

- Excess density;

- Insufficient tower setbacks and inadequate podium activation;
- Insufficient parking and excess traffic;
- Lack of public benefit and parks;
- Overshadowing and loss of sunlight and privacy;
- Increased short term tenants/ visitors and decrease in property values;
- Health risk of more pedestrians on City Road;
- Heritage – excessive form of development surrounding the heritage property;
- Heritage- inappropriate materials and finishes adjacent to the heritage property;
- Lease on the site (rights to occupancy);
- Construction problems;
- Impediment to an adjacent window and general concerns over south west boundary wall (stormwater, safety, amenity);
- Amenity concerns over south west property being dwarfed by development.

## Referrals

### **Melbourne City Council (Section 52 referral):**

The application was considered at Council’s Future Melbourne Committee On Tuesday 6 September 2016. The future Melbourne committee resolved:

*“Due to a number of Councillors declaring conflicts of interest for Agenda item 6.3 the quorum for the meeting was lost and this agenda item will now be dealt with by an officer under delegation. We advise that the City of Melbourne supports the application subject to conditions outlined in the Delegate Report.”*

**Urban Design (DELWP informal referral):** Originally the Urban Design Unit did not support the proposal. However after the reduction in height the proposal is now supported.

*“We note the proposed reduction to the height of the tower and the podium and support these amendments to the form of the building.*

*Our previous comments identified the potential for privacy issues between habitable rooms and the adjacent building to the north. We note that this is proposed to be addressed through inclusion of obscure glazing to some windows. The plans don't appear to provide sufficient detail to fully communicate the proposition. We recommend further information be sought to demonstrate the effectiveness of the proposed screening strategy.”*

**Public Transport Victoria (PTV) pursuant to Section 55 of the Act:** Offered no objection to the original application plans by letter dated 3 December 2015, subject to a condition being included in any permit regarding bus operation.

**VicRoads (pursuant to Section 55 of the Act): Letter dated 7 January 2016.** Offered no objection subject to two conditions relating to reinstating kerb and channel on City Road and a truck wheel wash.

**Melbourne Water (pursuant to Section 55 of the Act):** Originally objected to the application (letter dated 13 November 2015) however following the submission of revised plans this was superseded

by a 'no objection' letter dated 16 November 2016. The support of the proposal was subject to condition, which have been added to the Notice of Decision.

## Assessment

### Consistency with Planning Policy

The proposal is broadly compliant with State and Local policy objectives with particular regard to providing higher density residential development in close proximity to existing infrastructure, services and amenities. The proposed uses and built form outcomes are considered to contribute positively to the central city and provide a mix of apartment sizes in a location close to jobs and services. The proposal supports State and Local policy as follows:

#### State Planning Policy Framework (SPPF)

- The proposal incorporates residential, commercial and retail spaces within the development which are well located to public transport and amenities (Clause 9.01).
- The proposal will provide a liveable and walkable residential environment due to its proximity to key services and infrastructure (Clause 11.01-2).
- Increasing the supply of housing in existing urban areas and locating new housing in an area that offers excellent access to services and transport (Clause 16).
- Providing a diversity of housing typologies to meet increasingly diverse needs (Clause 16).
- Providing a pleasant pedestrian experience and provide surveillance and safety for pedestrians (Clause 16).

#### Municipal Strategic Statement (MSS)

- Clause 21.02 recognises that the Melbourne City Council is the premiere location for many of the State's economic, infrastructure and cultural facilities in the Central City.
- The proposal responds to Clause 21.13 (Southbank) through:
  - Supporting Southbank's development as an extension of the Central City, providing a mix of commercial and residential land uses.
  - Supporting a mix of uses, including residential development, with ground floor retail and small scale business uses.
  - Encouraging high rise tower development to the north of City Link.

#### Local Planning Policy Framework (LPPF)

- Clause 22.01 (Urban Design within Capital City Zone) seeks to create and enhance public spaces within the Capital City Zone to provide sanctuary, visual pleasure and a range of recreation and leisure opportunities. The surrounding area is undergoing regeneration and it is acknowledged that any design must be an exemplar for the area and of outstanding architectural quality. The proposal incorporates a range of materials and design approaches ensuring that the tower will appear as an attractive object in the public realm.
- Clause 22.02 (Sunlight to Public Spaces) requires that the proposal allows sun penetration to public spaces, minimises overshadowing and achieves comfortable and enjoyable street environments for pedestrians. The public spaces affected by this proposal are streets only (in the area south of City Road) and no public park areas are affected. As such, the level of overshadowing is considered acceptable.

- Clause 22.04 (Heritage Places within the Capital City Zone) has an objective to conserve and enhance all heritage places, and ensure that any alterations or extensions to them are undertaken in accordance with accepted conservation standards. The applicant has provided a heritage report outlining the extent of heritage fabric to be retained. The Council's heritage adviser provided comments in support of the proposed alterations to the heritage fabric. On this basis the proposal is supported from a heritage perspective.
- Clause 22.19 (Energy, Water and Waste Efficiency) and Clause 22.23 (Stormwater Management Water Sensitive Urban Design) has not been sufficiently addressed within the application or within the report dated June 2015 so will be required by way of a permit condition.

## Land Use

The proposed dwellings and retail uses are as of right and no permit is required under the zone. Notwithstanding, the development responds appropriately with the broad strategic intent for housing opportunities as outlined in the State Planning Policy Framework (SPPF), Local Planning Policy Framework (LPPF), including the MSS and the zoning control.

## Design and Built Form

The standard model for developing taller buildings in the City is based on a 35-40 metre high podium (except where a different parapet height already exists or where the need to provide a context for a heritage building justifies a variation from this norm) with the tower element setback from this podium level by at least 10 metres, as described at Clause 22.01 (Urban Design within the Capital City Zone). It is also policy to encourage buildings, including towers to align to the street pattern and to respect the continuity of street facades.

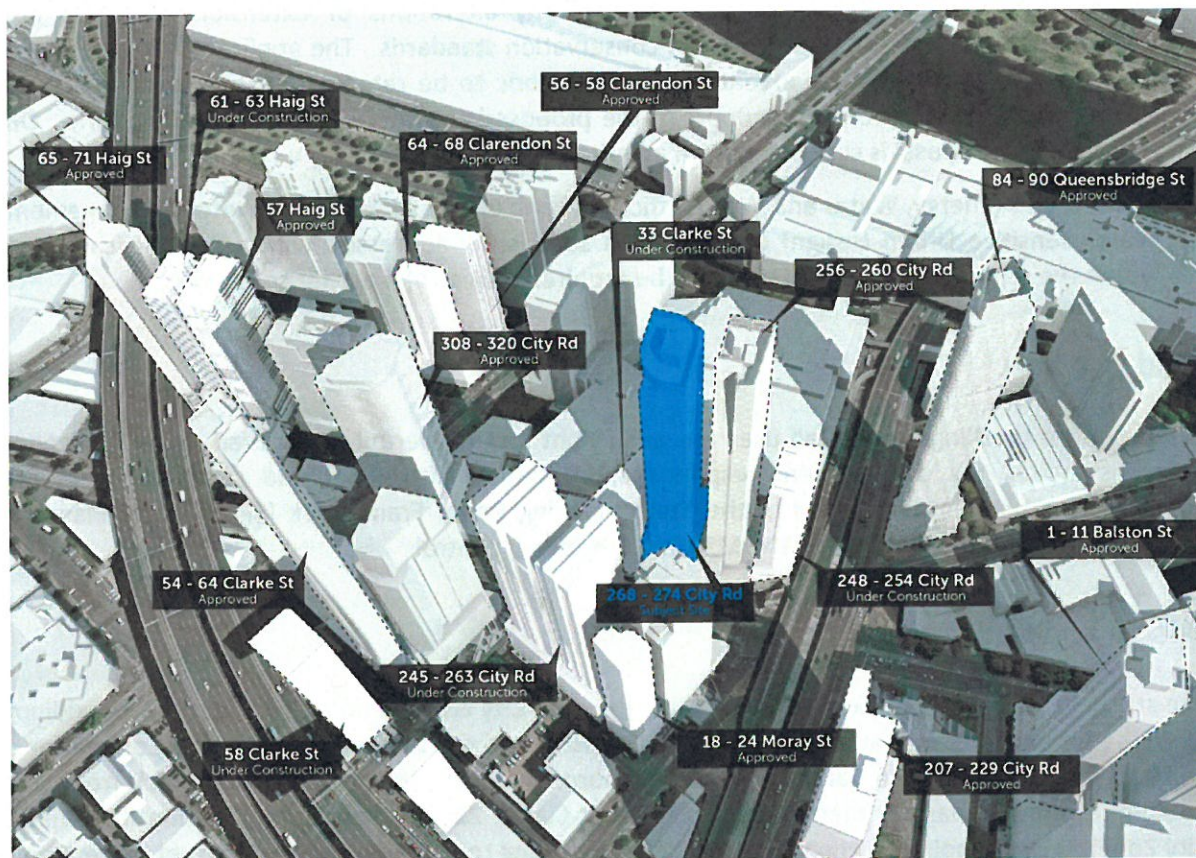
The purpose of tower setbacks is to protect the quality and enjoyment of the public realm, ensure development equity and ensure a reasonable level of internal amenity. Tower setbacks assist in providing pedestrian scale, sunlight penetration, views to the sky, the deflection of wind downdrafts and light and ventilation to buildings.

The performance measures contained within Clause 22.01, the Guidelines for Higher Density Residential Development and Schedule 1 to the Capital City Zone (CCZ1) set performance benchmarks for good development. Key themes of connectivity, edge-quality, building envelope, internal amenity, architectural design and activation are common threads through these planning provisions and the proposal generally complies.

## Height

With regards to building height, a discretionary maximum height of 160 metres, with a podium height of 30 metres has been applied to the site under Area 2 of DDO60. The proposed building will have an overall height of 179 metres excluding the roof plant and lift overrun projecting above the tower. While this will exceed the discretionary height limit by approximately 20 metres, the proposed height responds appropriately to the context (see context figure below).

**Figure 3: Proposed site in context with other towers in Southbank**



In particular the adjacent site the east has been approved at approximately 190 metres within the same DDO60 control; 256-260 City Road is an approved 61 storey tower with a 9 storey podium on a site of 1265m<sup>2</sup>.

The subject site is located within a broader area characterised by tall tower developments. There are numerous examples of existing and approved tower developments within proximity of the site within the DDO60 area:

- The Platinum tower (263-265 City Road, Southbank) with a height of 160 metres to the south of City Road and Mainpoint tower (241 City Road, Southbank) with a height of 140 metres to the south-east of City Road.
- The approved tower with a height of 174 metres to the north-east over Kings Way at the intersection of Queens Bridge Street (84-90 Queens Bridge Street).

### **Architectural Design**

A statement has been prepared by the architect which describes the composition and form of the building and the reasons for the architectural approach taken. The proposed design has been derived following a context analysis. The proposal will reflect the preferred podium tower typology and reinforce the podium wall, particularly along City Road. The building has been designed to acknowledge the historic significance of No. 272 City Road. The tower form and setbacks respect existing and future development, protecting the amenity of residents in the proposed and adjoining towers. The inclusion of indented floorplates every 11 levels has the effect of creating a scaled collection of stacked forms, thereby somewhat reducing visual bulk.

### **Setbacks and general amenity**

The proposal has only partially achieved the minimum (discretionary) setbacks required in the DDO60, which has a preferred 10 metres tower setback to all boundaries. The 5 metre setback to the eastern side will mirror the setback on the neighbouring site (at 256-260 City Road) ensuring equitable development.

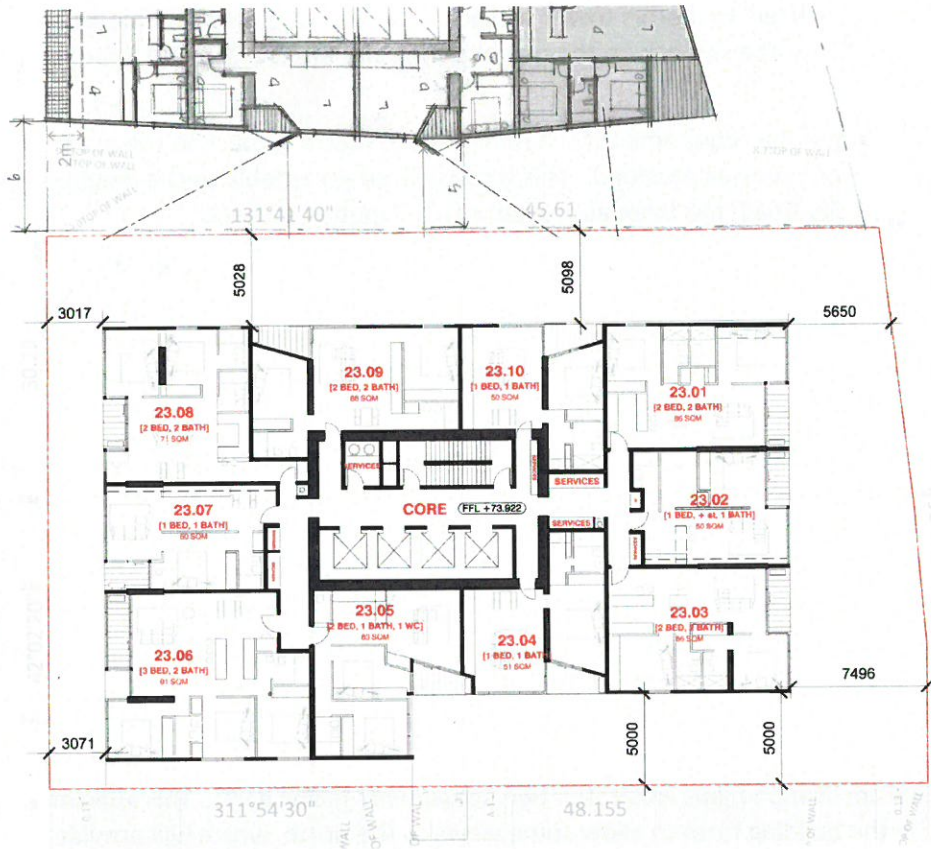
The proposal has not met the requirement for a minimum 10 metre setback to the north (Haig Street) with a setback of 3 metres provided. This is considered acceptable as the neighbouring proposal (at 256-260 City Road) has been approved with a 3 metres setback.

To the west the setbacks vary from 0 metres (northwest - adjacent to 33 Clarke Street) to 5 metres (southwest - adjacent to 276-282 City Road). These setbacks fit into the context of the surrounding development – the part of the tower on the northwestern boundary (to 33 Clarke Street) is constructed on the boundary to match the zero setback of this building. The setback of 5 metres to the southwest allows this site to be developed in future.

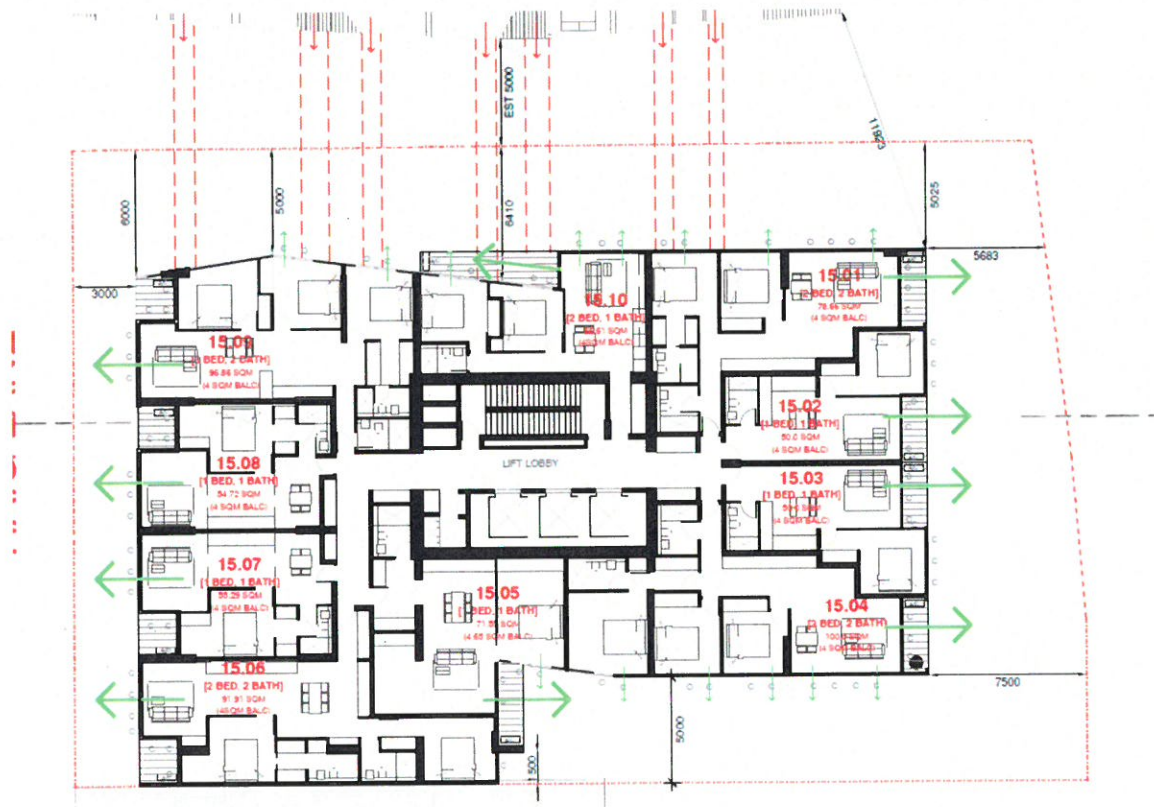
Amendments have also been made to the design to focus views from living rooms in a north or south direction. Again there is only one apartment centrally located (facing west) however there are views now afforded to the south. It was not considered necessary from a design or amenity perspective to increase the setbacks to the 33 Clarke Street site above level 47 or redesign the crown of the building (as suggested by the Melbourne City Council, Conditions 1a and 1b).

The revised plans submitted in October 2016 provide an improved amenity outcome for residents. The windows on the eastern side have been designed with alternate obscure and clear glazing to align with the various living spaces of the building at 256-260 City Road. The central apartment within the eastern side (typically apartment 10) is the only one with a living area not facing north or south (the original application plans illustrated two apartments facing east). This apartment benefits from a 'cut out' in the building form to allow some views to the north, which will provide adequate amenity (see Figures 3 and 4 below). The outlook from two apartments on level 9 (09.05 and 09.10) are blocked by structural elements and do not provide adequate amenity- a condition will be added to correct this situation.

**Figure 4: 'Original' Typical Floorplan:**



**Figure 5: Revised Typical Floorplan:**



## Heritage Response

The Council's heritage advisor commented as follows (provided 27 July 2016 referencing the previous comments dated 16 December 2015 regarding the original plans):

- *'It is my recommendation that the previous advice that the application has heritage merit.*
- *The urban design advice regarding the articulation of the street frontage to enhance the appreciation of the parapet line, and streetscape character of both HO374 and HO375 should also be adopted.*
- *The design detail of a proposed canopy that would either unify the street frontage or differentiate the heritage building with an interpretive verandah should also be submitted for approval as a part of an integrated presentation of place rather than being treated as a later and discrete issue.'*

As this is a local heritage overlay the support of Council in the proposal is a primary consideration and the Department concurs with their advice. The proposal is typical of several others on City Road and the surrounding area where heritage buildings have been integrated with tower forms. The additional apartments in the podium facing City Road will add to the activation of the street and the podium form and design will sit in context with the heritage property.

The applicant has stated that:

*Significant consideration has been given to the detailed built form composition adjoining the building to improve this relationship. This façade detail can be further refined if required to ensure the lower levels respond positively to the heritage fabric.*

Additional plans were prepared and submitted through the course of the application to respond to the heritage fabric and improvements to the separation to the heritage building, the façade details it is considered that the response is appropriate for the heritage building.

## Street Level Activation and Pedestrian Safety

Under DDO1, the City Road frontage is identified as a major pedestrian route. In accordance with the Overlay, 80% of the frontage should be active, allowing occupants to engage with the street. The proposal meets this requirement by maximising glazing along the City Road frontage to provide interest and contribute to street activity. At ground floor, the proposal provides three tenancies fronting City Road with glazing proposed along the width of two of these spaces, with the other comprising the heritage building. This is supported, particularly as it incorporates the heritage building into the design.

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

Clause 22.01 (Urban Design within the Capital City Zone) and Clause 22.02 (Sunlight to Public Spaces) are applicable when considering the microclimate conditions on streets and public spaces. Clause 22.01 recommends that towers be appropriately setback above the podium to assist in deflecting wind downdrafts from penetrating street level. A Wind Report prepared by Windtech (7 October 2015) was submitted with the application and a supplementary letter was provided 30 June 2016. There are some recommendations provided however the building has changed since the application

was lodged and a revised wind report is required. This will be required by a condition on the notice of decision to grant a permit.

Clause 22.02 recommends that development should not reduce the amenity of public spaces by casting any additional shadows on public parks and gardens, public squares, major pedestrian routes including streets and lanes, and privately owned plazas accessible to the public between 11.00am and 2.00pm on 22 September. There is some additional overshadowing to the streets in Southbank but not into any public parks. As such, the level of overshadowing is considered acceptable.

## Internal Amenity

The proposed development provides dwelling diversity with a range of sizes and configurations. Dwellings range in size from 50m<sup>2</sup> to 230 m<sup>2</sup> and there is a range of one bedroom, two bedroom and three bedroom dwellings. All dwellings have a balcony and no bedrooms rely on borrowed light. The floor-to-floor heights are approximately 3.15 metres resulting in 2.7 metre ceiling heights. All dwellings will be supplemented by the communal facilities on Level 8 comprising a gym, lounge/dining room, cinema, and swimming pool. The area provided for communal facilities is less than 2.5sqm per apartment however as each apartment has a balcony this is considered appropriate. Additional storage is provided in the car park area and is considered acceptable.

The proposal responds well to the State and Local Planning Policy framework and the Design guidelines for Higher Density Residential Development which encourages the need for diverse housing stock to meet the needs of existing and future populations. With the proposed modifications, the proposed development will provide a sufficient level of internal amenity for future residents.

## Environmental Sustainable Design (ESD)

An ESD Report has been provided with the application. However Clause 22.19 (Energy, Water and Waste Efficiency) and Clause 22.23 (Stormwater Management Water Sensitive Urban Design) has not been sufficiently addressed within the application or within the report dated June 2015 so will be required by way of condition on the notice of decision to grant a permit.

## Environmental Assessment

Due to the proposed sensitive use (residential) and the location within Southbank, an initial environmental site assessment is considered necessary. This can be addressed via a condition on the notice of decision to grant a permit.

## Car Parking, Bicycle Facilities, Loading and Waste Collection

The proposal was supported by a Traffic Engineering Assessment prepared by Cardno dated October 2015 with a revised traffic report provided 4 July 2016. Car vehicle and loading bay access of a sufficient size is provided from the Haig Street side. There is also a bicycle entry provided for visitor bicycles.

The level of car parking provided on site is supported. The provision of 215 car spaces is under the maximum limitation policy (476 car spaces maximum limit) and is appropriate given the site's proximity to public transport and facilities. Bicycle spaces (352 bicycle spaces provided, 144 spaces required) and motorcycle spaces (5 motorcycle spaces provided and 5 required) are also provided on site, which will encourage alternative modes of transport both within and out of the City. These spaces require some adjustment in number and layout to meet the minimum requirements and a

condition has been added to the notice of decision. The loading area provided complies with the relevant dimensions of Clause 52.07.

Melbourne City Council's Traffic Engineer provided comments as follows:

- *The parking provision is considered acceptable (subject to standard note on permit re parking permits).*
- *Convex mirrors should be provided within circulating aisles.*
- *Provision of bicycle spaces on the footpath is not supported.*
- *The bicycle parking provision is inadequate (particularly excessive ratio of over bonnet bicycle parking)*
- *It appears there is not a level route between the loading area and the resident lifts to enable residents to conveniently move in and out and receive deliveries.*
- *Some of the storage units shown on level 3 and above are not accessible as they are blocked by other storage units.*

The Department agrees with these comments and will be added as conditions of permit.

The proposal was supported by a Waste Management Plan prepared by Salt3 Pty Ltd dated 1 July 2016. Melbourne City Council's Waste Engineer commented:

*ESG reviewed the revised WMP and found it to be unacceptable and noted that the following items needed to be addressed:*

- *The 15m<sup>3</sup> compactors will be collected by Council weekly. Any collections above this frequency will be at the buildings cost.*
- *An amendment to part of the WMP is suggested*
- *Hard waste area and bins are not shown on the scaled drawings – This will need to be rectified to finalise assessment.*

*If the application was supported, these issues could be addressed via a permit condition for an amended WMP.*

A revised waste management plan will be required as a condition of the Notice of Decision to Grant a Planning Permit.

## Response to objections

All the issues raised in the objection letters have been considered. The application was exempt from notification of all matters except demolition of a heritage building and construction of a building in a heritage overlay. None of the objections raised the partial demolition of the heritage property as a reasons for their objection.

Many of the issues raised have been discussed elsewhere in this report (such as heritage or intensification of development) or can be addressed through a permit condition (such as construction and stormwater management). Many issues raised were not specific to planning scheme policy and therefore minimal weight can be attached to comments. These include matters of property values, lease issues and views to the city (for example).

One objection related to a window on the boundary at the second level of 276 City Road and the objector requested a light court cut out in the car park podium to provide amenity. The room appears currently to be non habitable but has been granted a planning permit from the Melbourne City Council for a dwelling. The Melbourne City Council has advised that the window in question is

within 900 mm from the title boundary and may not be granted a building permit for fire rating reasons. This is primarily a building issue that has to be resolved independently between neighbouring parties and the Melbourne City Council.

## Conclusion and Recommendation

Having assessed the amended plans against the relevant planning controls, it is recommended that the proposal be supported for the following reasons:

- The building height and setbacks are considered to appropriately respond to the built form environment of the surrounding area and the strategic context of the site.
- The proposed height (of 187 metres) is above the 160 metres specified in DDO60 and variation to the setback policy is required but this is considered appropriate in the context of this Southbank location and other permits granted in the area.
- The proposed building will provide for housing in a location with excellent access to a range of facilities and services.
- An appropriate level of internal dwelling amenity is achieved (i.e. no borrowed light habitable rooms and 2.7m floor-to-ceiling heights) and the minimum separation of 10 metres provided to the adjacent residential building to the east is equitable (5 metres on each site).
- Appropriate car parking and bicycle parking has been provided subject to conditions.
- Adequate provision is made for loading and unloading of vehicles.
- An appropriate response to the heritage building has been provided. In particular the partial demolition of the rear of the heritage building was not opposed by Council or any of the objectors and is therefore considered acceptable.

It is recommended that a Notice of Decision to grant a Planning Permit 201535464 for demolition and buildings and works with the construction of a multi-storey mixed use development comprising residential dwellings, commercial/retail uses and associated car parking in accordance with endorsed plans.