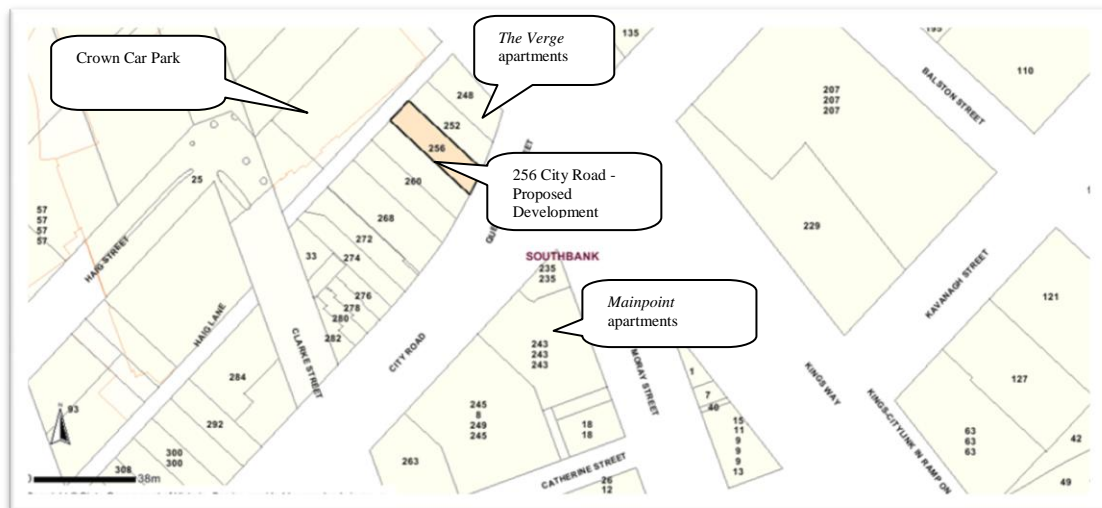


<b>APPLICATION FOR PLANNING PERMIT: 256-260 CITY ROAD, SOUTHBANK</b>	
<b>Application Number:</b>	2012/004821
<b>Proposal:</b>	Buildings and works associated with the development of a multi level tower comprising residential apartments and ground floor retail at <b>256-260 CITY ROAD, SOUTHBANK.</b>
<b>Applicant:</b>	Apex Vic Pty Ltd C/- Urbis
<b>Zoning:</b>	Capital City Zone – Schedule 3 (Southbank)
<b>Overlays:</b>	Design and Development Overlay <ul style="list-style-type: none"> <li>• Schedule 1 (Area 2 DDO1-A2)</li> <li>• Schedule 3 – Traffic Conflict Frontage</li> <li>• Schedule 60 (Southbank Area (DDO60A2))</li> </ul> Parking Overlay Precinct 1 (PO1) Land Subject to Inundation Overlay- Schedule 1 (LSIO1)
<b>Application Received:</b>	4 June 2012
<b>Further Information Requested and Received:</b>	29 June 2012 & 14 August 2012
<b>Revised Plans Received:</b>	3 July 2013 (Further Plan submitted informally 17 Sept. 2013)
<b>Number of Objections:</b>	N/A
<b>Recommendation:</b>	Permit

### **PROPOSAL**

1. To demolish the existing buildings and construct a 61 level residential tower (193 metres) providing 431 apartments, 104 car spaces, ground floor retail and communal recreation areas. The proposed gross floor area is 43,730 square metres on a site of 1265 sqm.
2. Details of the application are as follows:
  - Demolition of the existing buildings on site.
  - Ground floor retail spaces (totalling 317sqm) fronting City Road (partially raised to 3 metres AHD above the flood level).
  - All servicing and loading facing Haig Lane at ground level.
  - A nine level podium for car parking with a skin of apartments facing City Road.
  - A 61 level residential tower (193 metres total height).
  - Recreation facilities on levels 4 and 8.
  - A mix of one and two bedroom dwellings with an average of 8 apartments per level.
  - 104 car spaces and 216 bicycle spaces.



*Site Location Map*

3. The submission is supported by comprehensive reports including a Town Planning and Urban Context Report, Traffic Engineering Assessment Report, Waste Management Plan and Environmental Wind Speed Measurements Report.

## **BACKGROUND**

4. There were two pre-application meetings for the site in December 2011 and in March 2012 (with the City of Melbourne). There was general support from both the Department and City of Melbourne of a 5 metre to-the-boundary setback.

## **SITE AND SURROUNDS**

5. The subject site comprises two lots, known as 252 City Road and 256 City Road, Southbank and is located on the north side of City Road near the Kingsway flyover. The site is almost rectangular in shape with a frontages to City Road and Haig Lane of 31 metres approximately and a depth of between 37-45 metres. The total area of the subject site is 1265 square metres and is currently operated as a two storey commercial premises.
6. The site is centrally located within the Southbank area with numerous examples of tower development completed or approved in the immediate vicinity. Detailed development surrounding the site is described as follows:

### **North:**

- The Crown Casino complex covers a large area to the north. The building immediately adjacent is a seven level concrete car park. There is laneway access to the north (Haig Lane) which acts as a service lane for the businesses fronting City Road and a secondary approach to the Crown car park entry.

### **South:**

- On the opposite side of City Road, to the south, is the recently constructed apartment building "Mainpoint" measuring approximately 35 levels at 235 – 243 City Road.

### **East:**

- To the east is a row of single or two storey Victorian style retail/ commercial premises fronting City Road. Further to the east at the corner of City Road/ Clarke Street is a 100 metre residential tower proposal.

### **West:**

- The neighbouring property to the east at 248-252 City Road is a 35 level (99 AHD) residential building and has just commenced construction (known as "the Verge"). A notice of decision to

grant a permit was issued by the City of Melbourne with the Minister approving the permit following a call-in of the application.

### STATUTORY CONTROLS

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

Planning Control	Permit/ Application Requirement(s)/ Decision Guidelines
Capital City Zone – Schedule 3 (Southbank)	<p>Under Clause 1 of the CCZ3 the use of the land for a dwelling is “as-of-right”.</p> <p>Under Clause 1 of the CCZ3 a permit is not required for the use of the site for a food and drink premises, as ‘retail premises’ is a Section 1 Use.</p> <p>Under Clause 37.04-4 a <b>permit is required</b> to construct a building or construct or carry out works.</p> <p>Under Clause 4 of the CCZ3 a <b>permit is required</b> to demolish or remove a building.</p> <p>Decision guidelines and application requirements are at Clause 3.</p>
Design and Development Overlay	<p>Under Clause 43.02 a permit is not required to construct a building or construct or carry out works if the requirements in the table to the Schedule are met.</p> <p>Under Clause 43.02-2 an application must be accompanied by a site analysis and urban context report which demonstrates how the proposed building or works achieve each of the Design Objectives and Built Form Outcomes of the schedule, and any local planning policy requirements.</p>
Design and Development Overlay- Schedule 60 (Southbank)	<p>Schedule 60 – Area 2 Southbank Central Core: Buildings or works should not exceed the Building Height or exceed the requirements specified. An application to Building Height or exceed the requirements specified must demonstrate how the development will continue to achieve the Design Objectives and Built Form Outcomes of the schedule and any local planning policy requirements.</p> <p>Schedule 60 to the Design and Development Overlay, sets out the following design objectives:</p> <ul style="list-style-type: none"> <li>• To ensure that the suitability of each development to its context takes precedence over the individual merit of the building.</li> <li>• To ensure that new buildings respect the future development potential of adjacent sites and allow for an equitable spread of development potential on these sites.</li> <li>• To ensure that new buildings respect the potential of future development on adjacent sites to access privacy, sunlight, daylight and an outlook from habitable interiors.</li> <li>• To ensure the height of new buildings does not overwhelm the public domain.</li> <li>• To allow daylight and sunlight to penetrate to the street and lower building levels.</li> <li>• To ensure development supports high levels of pedestrian amenity in relation to daylight, sky views, wind and sunlight. To maintain the visual dominance and views to the Arts Centre Spire as a civic skyline landmark. To ensure that development provides a high level of amenity for building occupants.</li> </ul> <p>Area specific design objectives for the Southbank Central Core and Southbank Interface (Areas 2 and 3) are:</p>

	<ul style="list-style-type: none"> <li>• To avoid detriment to the public domain from the impacts of buildings.</li> <li>• To ensure that development has a pedestrian scale at the street level.</li> <li>• To provide for appropriate spacing between buildings so as to maximise light, air and outlook for occupants.</li> </ul> <p>The applicable requirements are: Tower height of 160 metres; Podium height not to exceed 30 metres; Development above the podium should be a minimum of 10 metres from the front, side and rear boundaries; Towers should be a minimum of 20 metres from an adjoining tower. This should not be varied unless:</p> <ul style="list-style-type: none"> <li>• The majority of the built form outcomes are met; and</li> <li>• There is an inequitable tower setback on a neighbouring site. The minimum setback between towers should be 10 metres.</li> </ul>
Land Subject to Inundation Overlay (LSIO1)	<p>Under Clause 44.04 a permit is required to construct a building or to construct or carry out works.</p> <p>Under Clause 44.04-3 an application requires a local floodplain development plan if a local floodplain development plan has been developed for the area and has been incorporated into the scheme. If this is the case, an application must be consistent with the plan.</p> <p>Under the Clause an application must be referred to the relevant floodplain management authority under Section 55 of the Act unless in the opinion of the responsible authority, the proposal satisfies requirements or conditions previously agreed in writing between the responsible authority and the floodplain management authority. The application was referred to Melbourne Water 14 June 2013.</p>
Schedule 1 To The Parking Overlay (PO1)	<p>Under Clause 2 to PO1 a permit is required to provide car parking in excess of the car parking rates specified in the schedule.</p> <p>The limitation policy allows for 433 spaces. The provision of 104 car spaces on site is below the maximum allowed; therefore no permit is required.</p>
Loading and Unloading of Vehicles (Clause 52.07)	<p>Under Clause 52.07 no buildings or works may be constructed for the manufacture, servicing, storage or sale of goods or materials unless space is provided on the land for loading and unloading vehicles as specified within the table.</p> <p>The site provides a loading facility that exceeds the requirements of the Clause; therefore no permit is required.</p>
Bicycle Facilities (Clause 52.34)	<p>Under Clause 52.34-1 a new use must not commence until the required bicycle facilities and associated signage has been provided on the land. The standard requires the provision of 130 spaces (87 spaces for residents and 43 for visitors). The application provides for 216 spaces, including 56 on the ground floor therefore no permit is required.</p>
Urban Context Design Response (Clause 52.35)	<p>Under Clause 52.35-1 an application for a residential development of four or more storeys must be accompanied by an urban context report and design response. This has been provided by the applicant.</p>

Integrated Public Transport Planning (Clause 52.36)	Under Clause 52.36-1 an application must be referred in accordance with Section 55 of the Act to the Director of Public Transport for a residential development comprising 60 or more dwellings or lots. On 30 July 2012 the application was referred to the Director of Public Transport.
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### General Provisions

8. **Responsible authority for administering and enforcing the Scheme:** The schedule to Clause 61.01 indicates that the Minister for Planning is the responsible authority for considering and determining applications in accordance with Divisions 1, 1A, 2 and 3 of Part 4 of the *Planning and Environment Act 1987* for approving matters required by the scheme in relation to developments with a gross floor area exceeding 25,000 square metres.
9. **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.
10. **Referral and Notice Provisions:** Under Clause 66.03 an application must be referred to the person or body specified as the referral authority; Clause 52.34 (Director of Public Transport), Clause 44.04-4 (Relevant floodplain management authority- Melbourne Water).

### POLICY FRAMEWORK

#### State Planning Policy Framework (SPPF)

11. The following policies within the SPPF are relevant:
  - Clause 11.01-2 (Activity Centre Planning)
  - Clause 11.04-4 (Central Melbourne)
  - Clause 13.04-1 (Noise Abatement)
  - Clause 15.01-1 (Urban Design)
  - Clause 15.02 (Sustainable Development)
  - Clause 16.01 (Residential Development)
  - Clause 17.01 (Commercial)
  - Clause 18 (Transport)

#### Municipal Strategic Statement (MSS)

12. Clause 21.02 (Municipal Profile) recognises that the City of Melbourne is the premiere location for many of the State's economic, infrastructure and cultural facilities, and attracts a substantial daily population with people travelling to the city for work, leisure and shopping. In addition, the most significant gains in resident population are expected in the Central City, Docklands and Southbank.
13. Clause 21.03-1 (Vision) recognises the diverse roles of the city and local areas, with a vision being '*a thriving and sustainable City that simultaneously pursues economic prosperity, social equity and environmental quality*'.
14. Clause 21.04 (Land Use) sets out objectives and strategies to '*ensure residential development takes into account the amenity impacts of established and future uses, including noise impacts, and provides acoustic insulation in dwellings to protect future occupants*'.
15. Clause 21.05-2 (Structure and Character) identifies the need to reinforce valued characteristics of some areas and establish a new built form character for others in areas that have the capacity to absorb future development.
16. Clause 21.05-3 (Public Environment) notes the challenge in ensuring that new developments add positively to the overall character of Melbourne and '*create an accessible, safe, inclusive and*

engaging public environment'. Associated strategies seek to encourage excellence in urban design, public realm and improve pedestrian permeability and amenity.

17. Clause 21.05-5 (Sustainable Built Form) seeks to create a built environment that adopts environmentally sustainable design practices.
18. Clause 21.06-1 (Public transport) seeks to increase the patronage of public transport by (amongst other things) encouraging development in locations which can maximise the potential use of public transport.
19. Clause 21.07-1 (Environmentally Sustainable Development) encourages a reduction in the generation of greenhouse gas emissions and promotes energy efficiency resource use and waste reduction.
20. Clause 21.08-3 (Southbank) sets out the local area policies for Southbank and includes a vision for the area which is one of the major residential growth areas within the City of Melbourne providing significant residential development opportunities for high density, medium to high rise dwellings. Important principles for Southbank relevant to the application include:
  - Ensure that new tall buildings add architectural interest to the city's sky line.
  - Ensure tower buildings are well spaced and sited to provide equitable access to an outlook and sunlight for all towers.

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

21. The following policies within the LPPF are relevant:
  - 22.01 (Urban Design within the Capital City Zone)
  - 22.02 (Sunlight to Public Spaces)
  - 22.19 Energy, Water and Waste Efficiency

#### **Other relevant policy/ matters**

22. Other relevant policy/ matters include:
  - Design Guidelines for Higher Density Residential Development (Department of Sustainability and Environment, 2004) (referenced at Clause 15.01-2).

#### *Amendment C171*

23. This Amendment (Southbank Structure Plan) has been approved and gazetted since the submission of the application. The amendment rezoned the land from Mixed Use Zone (MUZ) to Capital City Zone (CCZ3) thus negating the requirement to provide notice of the application. It also altered the Design and Development Overlay from DDO38 to DDO60.

#### **NOTIFICATION**

24. The application is exempt from the notification and review rights under the Act. As outlined above the requirement to advertise was removed part way through the application process. The application had not proceeded to advertising when the land was rezoned. There was one submission received from the [REDACTED] (even though the application was not formally advertised). This submission [REDACTED].

#### **REVISED PLANS**

25. Revised plans were formally submitted by the applicant on 3 July 2013. The plans illustrate a revised ground floor layout following discussions with Melbourne Water.
26. A revised plan was informally submitted on 17 September 2013. This illustrates minor alterations in building form/ angle of the building, increased setbacks on the east and north boundaries and was provided at the request of the Department to address design issues.

#### **REFERRALS**

27. The application was referred to the Department's Urban Design Unit, the City of Melbourne, and pursuant to Section 55 of the Act to the Director of Public Transport and Melbourne Water. The following comments were provided:
28. **Urban Design (DTPLI).** Urban design is supportive of the application. This was subject to the introduction of a 2 metre setback to Haig Lane and a 3 metre continuous canopy on the frontage. They also recommended a strategy for ensuring the habitable room windows do not directly face one another by either a revised floor layout or the application of external architectural fins, which orient views away from the existing adjacent habitable room windows and appropriately considered for potential future development of the abutting site to west.
29. **City of Melbourne:** The application was formally referred on 21 June 2012 (under the provisions of the Mixed Use Zone) and again informally on 4 July 2013 (informally under the Capital City Zone). The City of Melbourne provided comments via an officer report on 5 August 2013 and confirmed this was Council's position on 12 September 2013.
30. The City of Melbourne are generally supportive of the application: "it is recommended that a letter be sent to DPCD advising of Council's in principle support for the proposal subject to the inclusion of the following conditions in any permit issued (selected):
- A staggered setback from the western boundary to provide improved outlook from the central west-facing apartments – retaining a minimum setback of 5.0 metres from the west boundary.
  - A minimum tower setback of 3 meters to Haig Lane.
  - Ensure the wind conditions will satisfy criterion acceptable for walking along the footpath adjacent to the site along City Road and the criterion for standing at the building entrance areas.
  - Ensure the wind conditions will satisfy criterion acceptable for walking along Haig Lane.
31. **Director of Public Transport:** offered no objection to the proposal and did not include any conditions as per their letter dated 30 July 2012.
32. **Melbourne Water:** offered no objection to the proposal subject to a number of conditions and footnotes to be included in the permit as per their letter dated 12 September 2012.

## **ASSESSMENT**

### ***Residential Policy Context***

33. The proposed use for residential apartments and ground floor retail replaces an underutilised site in a central area of Southbank. The proposal is consistent with many policy directions, will increase the residential population and contribute a 24-hour Central Activities District.
34. The development provides higher density housing and responds appropriately with the broad strategic intent for housing as outlined in the State Planning Policy Framework, Local Planning Policy Framework, including the new Municipal Strategic Statement (MSS). The proposal is consistent with State policy to encourage a diversity of housing types at higher densities in and around activity centres. 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.

### ***Design and Built Form***

35. Southbank is one of the major residential growth areas within the City of Melbourne providing significant residential development opportunities for high density, medium to high rise dwellings. The general built form in Southbank is high density with the immediate site surrounds including towers ranging from 90m to 300m. Under the DDO60 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 the schedule and any local policy requirements.

### ***Height***

36. The proposal exceeds the preferred building heights of DDO60 (160 metres). Built form outcomes relating to Area 2 – Southbank Central Core aim to ensure this area provides an appropriate

backdrop for the lower scale surrounds, including buildings fronting the Yarra River and that the dominant streetscape scale is maintained.

37. The proposal is approximately 33 metres above the 160 metre control but sits in context with a number of tall structures such as Eureka Tower (300 metres high) and Freshwater Place (comprising two towers of 200 metres & 207 metres). The proposal provides an appropriate scale and backdrop to surrounding areas. The extra height is unlikely to be discernable from street level positions and will not materially alter the experience from the street. The extra overshadowing as a result of the extra 33 metres in height has minimal impact.
38. Given the large scale developments either constructed, under construction, or approved in the precinct it is considered that the proposal is consistent with the building scale in the area. The DDO60 height controls are not mandatory. It is reasonable to allow a tower of this height in a city, particularly in an area that promotes high density buildings.

#### *Setbacks*

39. The building setbacks are the central issue in the consideration of the application. [REDACTED]  
[REDACTED]. Since the application was submitted the new DDO60 has been introduced which provides greater emphasis on internal apartment amenity and ensuring towers are more comfortably spaced with 20 metre tower-to-tower separation.
40. The size of the site, in particular the width at approximately 31 metres dictates that that a 20 metre tower setback from an adjoining tower development is not achievable and the 10 metre front, side and rear setback requirement difficult to achieve in the current market place.
41. Therefore there are two choices in regards to this application, either:
  - Refuse the application on the basis of lack of a 20 metre setback and set a benchmark for tower separations. In the medium term the market will correct itself with sites consolidated to achieve 20 metre setbacks; or
  - Allow the minimum standards to be applied to this site and 10 metre tower-to-tower setbacks based on ensuring the majority of built form outcomes being met.
42. The majority of the built form outcomes have been met in particular there is an equitable access to an outlook and some sunlight between towers and adequate sun penetration at street level. There is also an inequitable tower setback on a neighbouring site at the Verge (3 metres to the boundary), which the applicant has had to compensate for to ensure a minimum 10 metre tower separation.
43. The applicant has revised plans to ensure the living room windows of the proposal have an oblique view north or south and do not solely face the neighbouring site to the east ('The Verge') or the possible development site to the west. This is similar to the proposed 10 metre setback between habitable rooms for Freshwater Place and the approved 1-15 Queens Bridge Street, Southbank (Planning permit reference 2011/011626).
44. The setbacks to the western boundary are a uniform 5 metres. The City of Melbourne requested that a splay be built into the building line to ensure oblique views to the north and south. This will ensure better internal amenity in the event that the neighbouring site to the west is developed. This minor increase in setback on this boundary is generally supported and the applicant has provided a sketch plan on 17 September 2013 to illustrate the alteration in the form. A condition of permit has been added to formalise this arrangement.
45. The northern setback is currently zero for the entire height of the tower. It is noted that the Verge apartments and the proposed development at 33 Clarke Street have a zero metre setback on the northern side however these buildings are substantially shorter. In order to meet the objectives of DDO60 and improve the wind environment in Haig Lane a condition of permit has been added to increase the setback to 2-3 metres with the agreement of the applicant. This will allow a 5 metre



setback to the centre point of Haig Lane. (The applicant has agreed to increase the setback to 2-3 metres as per sketch plan dated 17 September 2013.)

*Podium form and design*

46. DDO60 indicates a preference for a 30 metre podium height. The proposal has a podium height of between 18-33 metres onto City Road, which is considered appropriate. The proposal has a skin of apartments facing City Road, which is a good design outcome particularly given the dominance of car parks in podiums along this part of City Road.
47. The Verge apartments has a number of apartments in the podium on the western boundary that will be affected by this development. There is a small light court on its western boundary facing the application site. The light court provides light and air to bedrooms of apartments on levels 4-7. The podium of the subject site cannot be setback further if the car circulation is to operate effectively. The light court has been poorly designed and the application site should not be forced to compensate for this design failure.
48. There are also four Verge apartments in the City Road podium that are setback from the frontage and the new podium of subject site will partially block light to these apartments. The applicant has agreed to a condition for a minor cut-away to the car park podium on the south eastern boundary to allow greater light to the living area of these four apartments.

*Amenity for residents*

49. The proposal has placed a significant emphasis on internal amenity ensuring that no bedroom will rely on borrowed light, which is becoming increasingly utilised in high rise developments.
50. The development contains outdoor built in balconies for most apartments and there are areas of shared services such as outdoor area and gym.
51. Refinements to the design during the application process will ensure that if developments are completed on neighbouring sites then the proposed development will continue to enjoy reasonable levels of amenity. Condition 1 requirements have been added to ensure a slight slay in the façade alignment.

**Microclimate (Wind, Weather Protection, Light and Shade/ Overshadowing)**

52. The Environmental Wind Assessment submitted with the application concludes that wind conditions around the proposed development have been shown to be either on or within the criterion for walking comfort. A condition of permit will be added to ensure standing comfort around the entrances to the apartment on City Road and Haig Lane.
53. 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. An analysis at 10am, 11am, 12pm, 1pm and 2pm has been carried out for 22 September. The analysis shows that additional shadowing will occur over properties to the south generally. Given the overall height of the proposed building (significantly taller than currently occupying the site), increased overshadowing is inevitable. It is noted however that the development does not overshadow any key public spaces during this time, and it is therefore considered acceptable.

**Car Parking / Loading and Unloading of Vehicles/ Waste Collection/ Bicycle Facilities**

54. The level of car parking provided on site does not trigger a permit and is supported and commensurate with the site's level of access to public transport, employment and facilities. Bicycle parking is also provided on site and in good locations within the building, which will encourage cycling both within and to the City for the journey to work.
55. The layout of parking areas and on-site waste and loading provision is generally supported by the City of Melbourne and is therefore considered acceptable.

**SUMMARY & CONCLUSION**

- 56. The proposed development has been assessed against the provisions of the Melbourne Planning Scheme and is generally compliant. Consideration has been given to the referral responses and the provisions of the design overlay and local design policy. There is justification for a departure from the suggested height and setback requirements in DDO60 due to good policy outcomes overall.
- 57. The applicant has refined the design during the application process to ensure basic levels of amenity will be provided for future residents of the site and neighbouring sites – particularly to the north and west. The new DDO60 has been introduced into the planning scheme partially way through this application and in this instance it would be unreasonable to mandate a 20 metre tower separation as encouraged by DDO60.
- 58. The proposal is generally supported by all the key referral agencies including the City of Melbourne.

Southbank is intended to be developed more intensively and if this site is to be developed and provide a contribution to the housing provision in Melbourne then partial concessions have to be made on this site. Given the design of the building, the surrounding land forms and layout, the activate ground floor and podium levels, the proposal should be approved.

**RECOMMENDATION**

- 59. That planning permit application at 256-260 City Road, Southbank is approved subject to conditions.

Prepared by:   
Name:   
Title:   
Phone:   
Date: 25 September 2013

Approved by:   
Name:   
Title:   
Phone:   
Date: 25 September 2013