

# Planning Officer Report

## 134-160 Spencer Street, Melbourne

Planning Permit Application no. 2014/003203



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# Summary

The purpose of this report is to provide a detailed planning assessment of planning permit application no. 2014/003203. 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 the applications with a gross floor area exceeding 25,000 square metres (except on land shown as CCZ4 on the planning scheme maps under the Melbourne Planning Scheme).

The application includes a proposal to develop an 89 level, mixed use tower of 294 metres in height on the south east corner of Spencer Street and Bourke Street, opposite Southern Cross Station. Until its recent use as the "Savoy Tavern", it was a derelict, under utilised site on a prominent corner of the city. The proposed building features a unique, undulating glass façade tower above a six level podium activated with commercial uses to Spencer Street, Bourke Street and Godfrey Street.

The key issues for assessment are the built form including the height, setbacks of the tower and how the building addresses the ground level activation. The resultant impacts of the built form including visual impact, aviation airspace issues, wind impacts and overshadowing are also important issues which are discussed in detail in the body of the report.

The proposal also involves a hotel drop off area in Godfrey Street on the east side of the site and an important focus of assessment has been the car parking, waste management and access issues that affect the development's interface with Godfrey Street.

The substantial height of the building has raised the issue of protrusion into aviation airspace and also overshadowing of Batman Park and the north bank of the Yarra River corridor. The Applicant has agreed to lower the height of the building to address both aviation airspace requirements and to eliminate additional overshadowing of north bank

Public notification of the application has been undertaken due to the site's location in the Heritage Overlay. This has attracted 3 objections which have been considered.

The proposal is assessed to represent a high quality, landmark building on a strategic corner location that will deliver well designed housing, a hotel and ground level retail in the Capital City Zone.

The proposal is assessed to comply with State and Local section of the Melbourne Planning Scheme including the relevant zone and overlay and particular provisions.

## Recommendation

The application has been considered by the Planning Department of the City of Melbourne and the Officer's comments have been received. The Future Melbourne Committee has considered the matter and resolved to support the application subject to conditions.

**The recommendation to the Minister for Planning is to approve the planning application and grant a Notice of Decision subject to conditions.**

Figure 1 – View of the development from the east looking along Bourke St



Figure 2 View of the development from the south on Spencer St

## Application Details

The proposal is to construct an 89 storey mixed use tower with a distinctive curved façade. The proposed uses include a 4 star hotel, residential apartments and retail at ground level to activate the Bourke and Spencer Street elevations. Hotel pick up and drop off is proposed via Godfrey Street, a side street that runs parallel to Spencer Street on the east side of the site. On site car parking is proposed via a car park with four basement levels accessed from Godfrey Street.

Key elements	Comments
Land:	134-160 Spencer Street, Melbourne
Application No. and proposal:	2014/003203 - Development of a multi-storey building comprising dwellings, hotel and shops with associated on site parking. 780 residential apartments, 160 hotel rooms, 3084sqm of retail.
Building height	294.90 metres - 89 Levels
Car parking spaces Bicycle facilities and spaces	164 Car parking spaces 318 bicycle parking spaces
Loading/unloading Vehicle access	Refuse and loading area provided at ground floor with access off Geoffrey Street 6.1 metre wide driveway, via Geoffrey Street
Floor area (GFA)	90,739sqm/
Lodged:	11 August 2014
Zone and Overlay controls	Capital City Zone Schedule 1(CCZ1) Design and Development Overlay Schedules 1,2,3, 4 and 12 Heritage Overlay Schedule 501 Parking Overlay Schedule 1(PO1)
Why is a permit required?	Clause 37.04 Capital City Zone – Buildings and works and a planning permit is also required to construct a buildings or works that would cast a shadow between 11am and 2pm on 22 March and 22 September over public space, public parks and gardens, public squares, pedestrian routes including streets and lanes and privately owned plazas opened to the public.  Clause 43.01 Heritage Overlay – Buildings and works  Clause 43.02 Design and Development Overlay – Buildings and works
Procedures for Air Navigational Services- Aircraft Operations Surface (PANS-OPS) and Obstacle Limitation Surface (OLS)	The proposal breaches the OLS and accordingly approval would require a reduction in height to below the OLS or written consent is to be provided for the height from the relevant aviation authorities as deemed under the Airports (Protection of Airspace) Regulations 1996 (Commonwealth). A condition is recommended to reduce height to ensure compliance.
Applicant / Developer	Fragrance Group Pty Ltd C/- Urbis Pty Ltd
Public Notification	Required pursuant to the Heritage Overlay.  3 objections received

## Background

### Request for Further information

The permit application was lodged on 11 August 2014. A request for further information was made on 26 August 2014 which asked for a range of items including more detailed plans and colours and materials, an engineering report, a revised ESD report, pedestrian modelling, more detailed shadow diagrams, further detail about setbacks at the incremental curved levels of the building, a 3D model and a written response to relevant Local Policy in the Melbourne Planning Scheme in relation to built form.

In addition to the request, preliminary advice was provided to the Applicant. The comments indicated that the tower setbacks were insufficient and should be increased and the podium should have an improved design outcome for the public realm if it held the boundary rather than being indented.

A detailed response to the further information request was received on 16 September 2014 which satisfied the request and also made changes to the plans as follows:

- The podium design was revised to remove the curved indents to the podium
- The setbacks from the Savoy Hotel to the south were modified from a minimum of 2.9 metres and a maximum of 5 metres to a minimum of 5 metres and a maximum of 7 metres (the minimum and maximum measurement is due to the curved nature of the façade).
- The floor plans have been altered to add more three bedroom dwellings to improve housing diversity

Following receipt of the updated plans, the Applicant was directed to give public notice of the application on 14 October 2014. Three objections were received as a result of public notification.

#### Preliminary Advice and Modified Plans

Advice was provided to the Applicant on 28 October 2014 by email about a number of issues raised through more detailed planning and urban design assessment. This email was accompanied by a sketch plan that made practical suggestions for revised ground floor planning including moving the through block link further east, creating a more identifiable street presence and entry for the office component and other minor improvements. Other issues raised included the building's penetration of the OLS, internal apartment amenity, traffic and transport issues including the taxi drop off and bicycle entry.

On 23 December, the Applicant submitted revised plans which made further changes to the proposal to address the above issues and overshadowing of the tower to the north bank of the Yarra river corridor. The plans are the result of extensive consultation with the City of Melbourne and the Department and represents a comprehensive refinement of the plans in response to all relevant urban design and planning issues. The plans have been changed as follows in response to the Department and the City of Melbourne's comments:

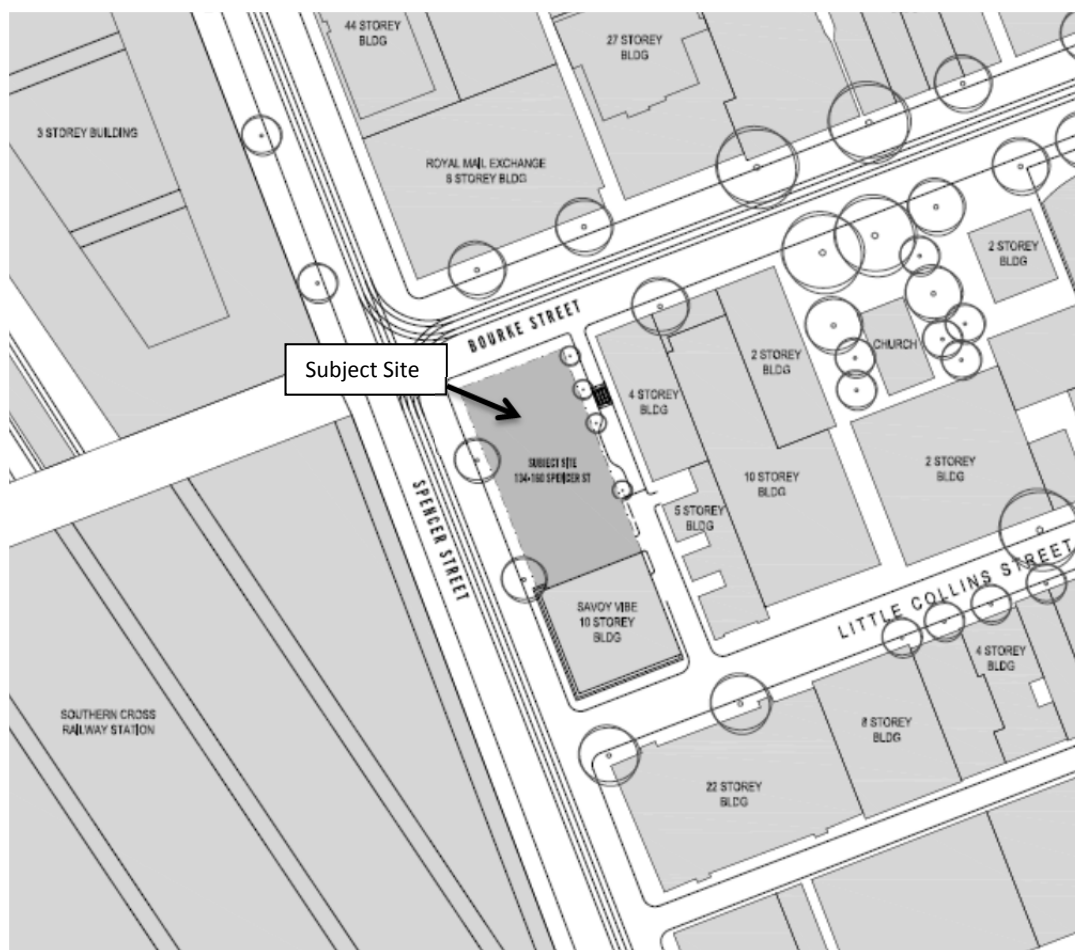
- The building has been reduced by 13 levels from 89 levels to 76 levels to ensure there will be no additional overshadowing of Batman Park 15m from the north bank of the Yarra River as required by the Melbourne Planning Scheme. (The Applicant has submitted an updated wind report with the application which demonstrates that the reduced height of the building will result in the same if not better environmental conditions as the submitted application.)
- The ground level planning has been revised in response to the Department's urban design advice to relocate the through block link further east to ensure it is a more useful pedestrian connection.
- The escalators at Bourke Street have been removed, first floor retail has been removed (replaced with hotel rooms) and retail space at ground level has been re-planned.
- An increased setback to the loading bay has been provided to allow for adequate entry and exit into Godfrey Street.
- Relocation of residential communal facilities to level 45 and 75 (from level 56 and 87).

The changes incorporated in this plan are all improvements to the design and it is recommended that while assessment technically relates to the 16 September 2014 planning permit application plans, conditions recommended on the Notice of Decision may reference the outcomes described in these plans which will be referred to as the 23 December 2014 revised plans.

## Site and Surrounds

The site is located on the south east corner of Bourke Street and Spencer Street, directly opposite Southern Cross Station. The site is rectangular in shape with side boundaries to Spencer Street and Godfrey Street of 60 metres and a frontage to Bourke Street of 30 metres with an overall site area of 1800 square metres. The site is generally flat but has a slight fall to the south. The land is occupied by a brown brick single storey building generally built to the boundary with a pitched roof. The site has been vacant for a significant period and has only been recently occupied and used as the “Savoy Tavern”. A large at grade car park is on the southern half of the site providing parking for staff and patrons of the tavern. The Savoy Tavern building is not cited as a heritage building, despite it being located within the Heritage Overlay.

**Figure 3 – Subject Site and Surrounds**



### North

To the north of the site is the former Mail Exchange building at 672-696 Bourke Street. This building contains office and retail uses and the ground floor is used as a hotel.

### South

The property to the south is occupied by a ten storey heritage listed hotel identified within the planning scheme as HO1077 known as the Savoy “Vibe” hotel. This building abuts the subject site with a blank rendered wall and has its primary outlook to Spencer Street and Little Collins St.



## West

The land to the west is occupied by Spencer Street Station.

## East

The site to the east is occupied by a B graded building within the Heritage Overlay which is known as the Melbourne Tramways and Omnibus building which is a four storey early Victorian Gothic revival building which has its primary presentation to Bourke Street and a simple presentation of a brick façade with fenestration on each level.

Godfrey Street is a 10m wide street on the east side of the site which extends from Bourke Street to Little Collins Street. It has recently been upgraded by the City of Melbourne, by widening the footpath on the east side of the lane. Godfrey Street is mainly used for through traffic and has no retail tenancies or primary entrances that address the lane.

# Proposal

The proposal seeks to demolish the existing building and construct an 89 level building. The building includes a 6 level podium which is activated with commercial and residential uses to Bourke and Spencer Street and hotel facilities on the rooftop of the podium. The proposed tower features a curved curtain wall façade, with cantilevered floors creating an undulating effect, vertically as well as laterally. This unusual design will represent a significant engineering and construction challenge, and accordingly the Department requested and received via further information a report from a structural engineer that verifies that the building can be constructed.

The development includes:

- Construction of 4 basement levels providing 164 car parking spaces accessed via Godfrey Street;
- Construction of a 6 level podium providing bike storage, gym, office tenancies, retail, hotel, restaurant and building services;
- The ground floor comprises a hotel lobby facing the Spencer Street frontage and 6 retail premises, building services including waste disposal, and vehicle ingress and egress via Godfrey Street;
- A through block arcade linking Spencer Street to Godfrey Street via the hotel lobby and a new café retail space;
- A terrace at level 2 with louvred window openings;
- A lap pool along the Bourke Street frontage at level 5;
- A full floor of communal resident facilities at level 6 including a landscaped terrace with BBQ facilities, a lap pool and spa.
- Building services at level 12;
- Communal resident facilities at level 45 including dining rooms and lounges;
- Level 75 sky lounge and gym facilities.

The land use mix within the development is as follows :

### Residential dwellings

Total number of dwellings: 920

One bedroom dwellings/apartments: 468

Two bedroom dwellings/apartments: 430

Three or more bedroom dwellings/apartments: 22

Residential hotel : number of rooms 280

Retail/Office : Leasable Floor Area 2,265sqm.

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

The thrust of the above policies is to encourage appropriate land use and development which enhances the built environment, delivers diversity in housing supply, land use mix and economic activity to meet existing and future needs and integrates with transport and infrastructure planning.

Due to the site's large size, gateway location proximate to key infrastructure including public transport and open space networks the site is considered to be a strategic redevelopment opportunity capable of delivering sustainable development that takes full advantage of existing settlement patterns and investment in transport, community infrastructure and social facilities.

## Local Planning Policy Framework

The Municipal Strategic Statements (MSS) and Local Planning Policy Framework (LPPF) within Planning Schemes across Victoria outline principal characteristics of a given municipality (municipal profile) and provide specific visions, goals, objectives, strategies and implementation plans. The MSS within the Melbourne Planning Scheme identifies several key themes for housing, economic development, built environment and heritage and infrastructure as per Clause 21.

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

Clause 21.12 (Hoddle Grid) sets out the local area policies for Central City and includes a vision for the area is to continue its primary place of employment, business, finance, entertainment, cultural activity and retail in Victoria as a 24-hour City, co-locates these uses with residential uses, and provides appropriate high quality built form that continues to make the city attractive for workers, residents and visitors. The Hoddle Grid is identified as a location which should support permanent and temporary residential development in the Central City which accommodates a diverse population. Clause 21.12 (Hoddle Grid) encourages:

- New dwellings are designed to provide occupants with a reasonable amenity level to ensure that existing and new businesses are not undermined by this interface;
- Active street frontages, interesting building tops and building design that promotes human scale, integrates with existing fabric, including respect for heritage buildings and provides visual interest, and;
- Development to incorporate a high level and quality of pedestrian and bicycle access.

With respect to specific local planning policies included within Clause 22 of the Melbourne Planning Scheme, the following key policies are relevant to the proposal:

- 22.01 - Urban Design within the Capital City Zone
- 22.02 -Sunlight to Public Spaces
- 22.04 – Heritage Places within the Capital City Zone
- 22.19 - Energy, Water and Waste Efficiency
- 22.23 - Stormwater Management (Water Sensitive Urban Design)

The thrust of the above policies is to encourage high quality urban design outcomes for public and private space and to ensure that development is environmentally sustainable and recognises its impact on the characteristics of heritage places.

An assessment against the above policies is provided further in this report.

### Metropolitan Planning Strategy (May 2014)

The government has released the Metropolitan Planning Strategy (Plan Melbourne) which is the vision for the city to 2050. The Metropolitan Planning Strategy recognises Melbourne’s population will increase to more than 6.5 million people by 2050. This additional population will require housing, employment and ancillary services and facilities. Part of the thrust of the strategy is to ensure this increased population can be catered for without unreasonably impacting on the existing qualities of Melbourne’s suburbs and unique precincts.

The proposed development is located on a large site at the edge of the city interfacing with key major streets and transport infrastructure. The site is well serviced by transport, open space and community infrastructure. The site’s Capital City Zoning, coupled with its large size and proximity to services makes it ideal to accomodate mixed use development of a higher density.

### Statutory Controls (Permit Triggers)

Planning Control	Permit / Application Requirement(s)
Capital City Zone- Schedule 1 (Clause 37.04)	<p>A permit is required to demolish, construct a building or construct or carry out works unless the schedule specifies otherwise.</p> <p>A permit is required that to construct a building or construct or carry out works which will cast a shadow across the north bank of the Yarra River between 11.00 am and 2.00 pm on 22 June. A permit may only be granted if the responsible authority considers the overshadowing will not prejudice the amenity of the Yarra River corridor.</p> <p>The table of uses specifies ‘accommodation’, ‘office’ and ‘retail premises’ (other than adult sex bookshop, department store, hotel, supermarket and tavern) are permitted as of right (Section 1 use) at Clause 1.0 of the Schedule. Accommodation includes dwellings and residential hotel.</p>
Design and Development Overlay- Schedule  Schedule 1 Area 2 Active Street Frontages	<p>Under Clause 43.02-2 a permit is required to construct a building or construct or carry out works unless the schedule specifies otherwise. Schedule 1 applies to all ground level works. It encourages buildings to feature at least 5 metres or 80% of the street frontage to be an entry, display window to a shop or food and drink premises or to other customer service areas and activities.</p>

Schedule 3 Traffic Conflict Frontage	The traffic conflict frontage affects the west side of the site and its interface with Spencer Street and discourages vehicular ingress or egress points (excluding loading bays). No vehicle crossovers are proposed along this frontage.
Schedule 4 Weather Protection	The overlay affects the north and west side of the site and requires a verandah for weather protection unless it is demonstrated to the satisfaction of the responsible authority that the particular circumstances do not require it. No weather protection verandahs are included in the proposal.
Schedule 12 Noise Attenuation	This Schedule requires that new residential or noise sensitive uses in the vicinity of the Docklands Major Sports and Recreation Facility include appropriate acoustic measures designed by an acoustic consultant to attenuate noise to a maximum level of 45dB in habitable rooms with windows closed and be fitted with ducted air conditioning.
Parking Overlay – Schedule 1 (Clause 45.09) & Clause 52.06	The provisions of the Parking Overlay works in conjunction with Clause 52.06 of the Melbourne Planning Scheme. Schedule 1 to the Parking Overlay requires a planning permit to provide car parking spaces in excess of the car parking rates in the schedule. Under the overlay, the car spaces must not exceed 1 space per dwelling. The development proposes to provide 164 car spaces which are well below this rate and accordingly a planning permit is not required under this overlay.
Loading and Unloading of Vehicles (Clause 52.07)	Under Clause 52.07 no buildings or works may be constructed for the manufacture, servicing, storage or sale of goods or materials unless space is provided on the land for loading and unloading vehicles as specified within the table. An ample sized loading bay is proposed to be provided which is in excess of the dimensions specified in the scheme and accordingly a permit is not required pursuant to this provision.
Bicycle Facilities (Clause 52.34)	Under Clause 52.34-1 a new use must not commence until the required bicycle facilities and associated signage has been provided on the land. The standard requires the provision of 318 spaces (including both resident, visitor and employee spaces).  The application provides for 318 spaces on site and therefore a permit is not/required to reduce this requirement.
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 (Public Transport Victoria) for a residential development comprising 60 or more dwellings or lots. The application was referred to Public Transport Victoria for comment.
General Provisions (Clause 61.01)	The schedule to Clause 61.01 indicates that the Minister for Planning is the responsible authority for considering and determining applications in accordance with Divisions 1, 1A, 2 and 3 of Part 4 of the 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.

Decision Guidelines (65.01)	Under Clause 65.01 before deciding on an application the responsible authority must consider as appropriate a number of matters, including Section 60 of the Act.
Referral and Notice Provisions (Clause 66.03, 66.04 and 66.06)	Clause 66.03 requires an application to be referred to the person or body specified as the referral authority. The Director of Public Transport is a specified referral body under Clause 52.36.

## Notification

The Applicant was directed to give public notice of the application on 14 October 2014 via two signs on site, notices to adjoining properties and a notice in the Age. Two objections to the application have been received on grounds of heritage, impact on light and overshadowing and business disruption. The Applicant has provided a statutory declaration attesting that notice has been given as required by the Responsible Authority.

Notice of the application is only required under the Heritage Overlay, (the application is exempt from advertising under all other planning provisions) and accordingly the only valid grounds for objection relate to heritage matters. Both objections address the issue of heritage but also raise other matters which relate to loss of light, overshadowing and business disruption which are outside the scope of matters that can be considered under the Heritage Overlay. The objections state that the significant height and modern appearance of the building will have an adverse impact on the streetscape and neighbouring heritage buildings.

The grounds of the objections will be further considered and discussed under the section titled “Heritage” in this report.

## Referrals

### City of Melbourne

Notice of the application was given to the City of Melbourne under the Heritage Overlay.

The City of Melbourne is not a referral authority under the Melbourne Planning Scheme however as is the convention of practice between the Department and the City of Melbourne, the application was informally referred to the Council for comment.

The City of Melbourne reported the matter to the 2 December 2014 Future Melbourne Committee meeting of Council and resolved to support the application subject to conditions. The plans that were considered by Council were the plans submitted with the application. Since the application was referred to the City of Melbourne, there has been significant discussion and amendment to the plans (dated 23 December 2014) which have largely addressed all of the key issues raised in the Council’s Officer report. Key issues raised by the City of Melbourne are as follows:

- The City of Melbourne have provided general support for the proposed built form of the building except with regards to the setbacks to south that were a minimum of 2.9 metres. The Department and the City of Melbourne are of the same opinion in regards to this setback, which should be a minimum of 5 metres increasing to 7 metres and the 23 December 2014 plans now reflect this. A number of other more minor matters have been raised, such as weather protection to Spencer Street and Bourke Street and these will be addressed as permit conditions.

- The City of Melbourne have not expressed concern with the significant height of the building in the surrounding urban context except in regards to the extent of overshadowing that would occur to the north bank of the Yarra between 1-2pm. The amended plans received on 23 December 2014 have addressed this issue through the reduction in height of the building by 13 levels which would eliminate the overshadowing of the critical 15m strip of riverfront land on the north bank.
- The City of Melbourne have raised extensive comments in regards to traffic and parking, engineering design and loading and waste management design. In particular, the City of Melbourne were not satisfied with the drop off and design for Godfrey Street, the ramp design within the car park, provision of small car spaces, the location and size of the loading and the waste collection. The Applicant has worked with the City of Melbourne's traffic engineers since December and the traffic issues are now largely resolved and have been addressed by permit conditions.

In summary, there is support for the development from the City of Melbourne, and a number of matters raised by the City of Melbourne concur with the Department's assessment and will be addressed in recommended planning permit conditions.

#### **Urban Design (DELWP):**

The Application was referred internally to the Department's Urban Design Unit who provided comments to assist in the assessment of the application. The following issues were raised:

- The through block link does not provide direct entry to the hotel and is too close to Bourke Street to be meaningful and should be moved.
- The separate escalators should be in close proximity and accessed via a clear defined lobby.
- The setback to the Savoy Hotel is considered acceptable as it will allow for a future 10m separation if the Savoy site is ever developed further. The setback to Spencer Street should be increased from 3.65 metres to 5 metres.
- The aviation report indicates the proposal is only 2.1m below PANS/OPS and construction will involve penetration.
- The apartment amenity is not satisfactory.
- The office component of the development has insufficient identity.
- The layout of the ground level is very compartmentalized and is not ideal for pedestrian movement.
- No overshadowing of the Yarra will occur however north bank may be affected.
- Cyclist entry is not clear on the plans.
- The taxi drop off area should be relocated to the east side of Godfrey Street.
- The proposed Godfrey Street works do not improve apartment amenity.

A meeting with the Applicant was held on 4 November 2014 to discuss the Department's Urban Design Unit comments and at this meeting the Applicant was provided with a sketch plan which made suggested changes to address the above issues, particularly in relation to the ground level layout planning.

The revised plans received on 23 December successfully resolve all of the above issues as follows:

- The pedestrian link has been moved further east and the entry points to the link will be edged with glazed retail spaces that will enhance its visibility and legibility as a link.
- The escalators have been deleted and replaced with lifts. The success of the first floor office and retail spaces were considered doubtful by the Applicant and have accordingly been replaced with hotel rooms, which will still have a similar role in activating the podium elevations.
- The setback from the Savoy Hotel has been increased to a minimum of 5 metres and a maximum of 7 metres.
- The height of the development has been reduced by 13 levels to below PANS/OPS however a further height reduction will be required to be below OLS unless the applicant can demonstrate it has written approval from the relevant aviation authorities.

- The apartment layout has been improved and more three bedroom apartments have been added.
- As stated above, the office component of the development has been deleted.
- The ground level layout has been simplified with a mezzanine added so the retail spaces will be fully glazed and double height which will enhance the presentation to the street and enable pedestrians to see in and through the corner which will aid pedestrian legibility.
- The reduction in height of the building will address the issue of overshadowing.
- The cyclist entry, the taxi drop off and the Godfrey Street works have been addressed and will be discussed under traffic and transport.

### **Public Transport Victoria**

The application was referred to Public Transport Victoria who responded with two standard conditions that will be placed on the permit.

## **Assessment**

### **SPPF**

The suite of relevant State Planning Policy encourages planning to contribute to the economic well being of communities by supporting economic growth and development by facilitating decisions so that each area can build on its strengths and achieve its economic potential. It encourages the concentration of major retail, residential, commercial and other uses into activity centres which provide for a variety of land uses and are accessible to the community. Policy states that planning should ensure all new development responds well to the characteristics of its context with the aim of creating quality built environments which enhances the attractiveness, diversity, amenity and safety of the public realm whilst protecting the amenity of the public realm and minimizing detrimental impacts. Specific issues are identified including sustainable design and heritage, encouraging new development to improve efficiency in energy use and minimisation of greenhouse gas emissions and to conserve and enhance places of cultural heritage significance.

### **Municipal Strategic Statement**

A key focus of the MSS seeks to target urban growth and development into specific areas of the city. It encourages urban renewal in appropriate areas and to protect and maintain the existing character in valued established areas. The Hoddle Grid is identified as an area for central city functions and ongoing growth and development with an emphasis on creating a quality public realm and good pedestrian amenity. The MSS seeks to ensure the design of new tall buildings achieve a human scale at street level, respects the Hoddle Grid's pattern of fine grain lanes and adds architectural interest to the city's skyline. In terms of built form and heritage, the MSS encourages a strong distinction between development in the central city and other areas including Docklands and to ensure heritage buildings and their visual prominence are protected. The MSS encourages energy efficient design, efficient resource usage and waste reduction. The MSS supports the growth of the municipalities' residential population, with the strongest growth planned for the Hoddle Grid as well as urban renewal areas.

### **LPPF**

Local policies within the Planning Scheme provide more specific direction on development, providing guidance on the design and form of towers, protection of sunlight to key open spaces including the river corridor and energy and water usage. Clause 22.04 identifies the site within the Bourke West heritage precinct and the existence of important heritage buildings close to the site including the Mail Exchange and the Old Tramways Building.

## Consistency with Planning Policy

The proposed development is supported by relevant State policy as it is a major commercial and residential development located in the Central Activities District that will contribute a landmark building to the city's profile and revitalize the site with a building that that will activate an important intersection of the Hoddle Grid.

## Land Use

The proposed land uses of "accommodation", "hotel" and "shop" are as-of-right under the Capital City Zone and do not require a planning permit. The location of uses such as a hotel, residential apartments and retail are entirely consistent with policy found at Clause 11.01-2 (Activity centre planning) and Clause 21.08-2 (Business) in the Melbourne Planning Scheme which supports the Central City as metropolitan Melbourne's principle centre for commerce, professional, business and financial services and encourages the intensive concentration of high density residential, commercial and entertainment uses in Central Melbourne. Policy at Clause 21.12 Hoddle Grid also encourages provision of housing for permanent and short term residential development in the Hoddle Grid that accommodates a diverse population.

## Design and Built Form

The Municipal Strategic Statement identifies Central Melbourne's valued characteristics and structure and seeks to protect this character along with identified heritage assets. It emphasises that new buildings should make a positive contribution to the public realm, including through sustainable design and be safe and engaging, particularly at pedestrian level. Relevant policy at Clause 21.12 Hoddle Grid particularly encourages tall buildings to have a human scale at street level. Buildings should respect the street pattern and heritage buildings. Policy encourages tall buildings to add architectural interest to the city's skyline.

Further relevant guidance in relation to built form is found at Clause 22.01 Urban Design within the Capital City Zone and Clause 22.04 Heritage Places within the Capital City Zone.

## Height

One of the key characteristics of the proposed building is its significant height of 294.90 metres.

On 23 December 2014, following discussion with both the City of Melbourne and the Department, the Applicant provided revised plans that showed reduction in height of the building from 89 levels to 77 levels and to a height of 259.10 metres including plant.

The height of the building is conditionally supported because the policy context supports intensive concentration of development in the Hoddle Grid and there are no applicable overlays that control height. The height and form of the building and the corner location of the building will contribute towards a distinctive landmark building marking the termination of Bourke Street and the edge of the Hoddle Grid, offering dynamic interest to the city's skyline. Height must be considered in relation to other factors such as design, setbacks and context and it is considered that subject to addressing impacts on aviation airspace and overshadowing, the site is an appropriate one for a tall building.

At the reduced height of 259.10 metres, the building will still be above the Obstacle Limitation Surface in relation to aviation airspace, and until such time that written approval of this height can be given by the relevant authorities, the height of the building will need to be reduced to be below the OLS level. This is a requirement that lies outside of the Melbourne Planning Scheme nonetheless, the States have entered into an agreement with the Commonwealth to protect aviation airspace and accordingly this must be respected and the height of the building reduced.



Paramount in the assessment of the acceptability of height is consideration as to what are the impacts of the proposed height. The key issues raised by the height of the building are the impact on sunlight access to key public spaces in the site environs, wind impacts, the streetscape and heritage impact.

Wind tunnel testing, discussed in further detail below, shows that the proposed building will not cause any further adverse wind conditions around the site and an updated wind report statement following the reduction in height of the building has indicated that the height reduction would maintain this standard if not improve it.

The reduction in height of the building from 89 to 77 levels will ensure that overshadowing that would have occurred to the north bank of the Yarra at a height of 294 metres will now be eliminated. While shadows will still be cast by the building, they will largely fall across existing development and will not affect any key public spaces.

The site is located within the Heritage Overlay and accordingly the Planning Scheme provides policy guidance that the prominence of heritage buildings should be maintained and new development should respect heritage character. It is important to note that the Planning Scheme does not require a transitional scale to heritage buildings in the Hoddle Grid; this is only encouraged in the Retail Core, and particular heritage areas, which does not include the Bourke West precinct.

The proposed building will be setback a minimum of 12 metres and maximum of 16.97 metres from the west boundary wall of the historic Tramways building to the east. The full separation of the width of Godfrey Street between the development and the Tramways building plus the respectful podium height of the proposed building will ensure that the proposed development will not cause detriment to the heritage place. The 5 metres from the Savoy hotel is not a significant setback but is considered adequate to ensure clear separation and room for the Savoy building to be appreciated. The Mail Exchange, located to the north of the site will be least affected by the proposed height given it enjoys separation of the full width of Bourke Street.

While the building is of a significant scale, the impacts of the height of the building are assessed to be reasonable subject to conditions and can be supported.

## **Design, Built Form and Setbacks**

The design of the building, with its undulating curved façade, is distinctive and will make a positive contribution to the city profile. In addition to providing striking visual interest that will appear different from each directional perspective, the undulations and curvature of the façade will enhance views and amenity from within the building and assist in ameliorating wind conditions and down drafts.

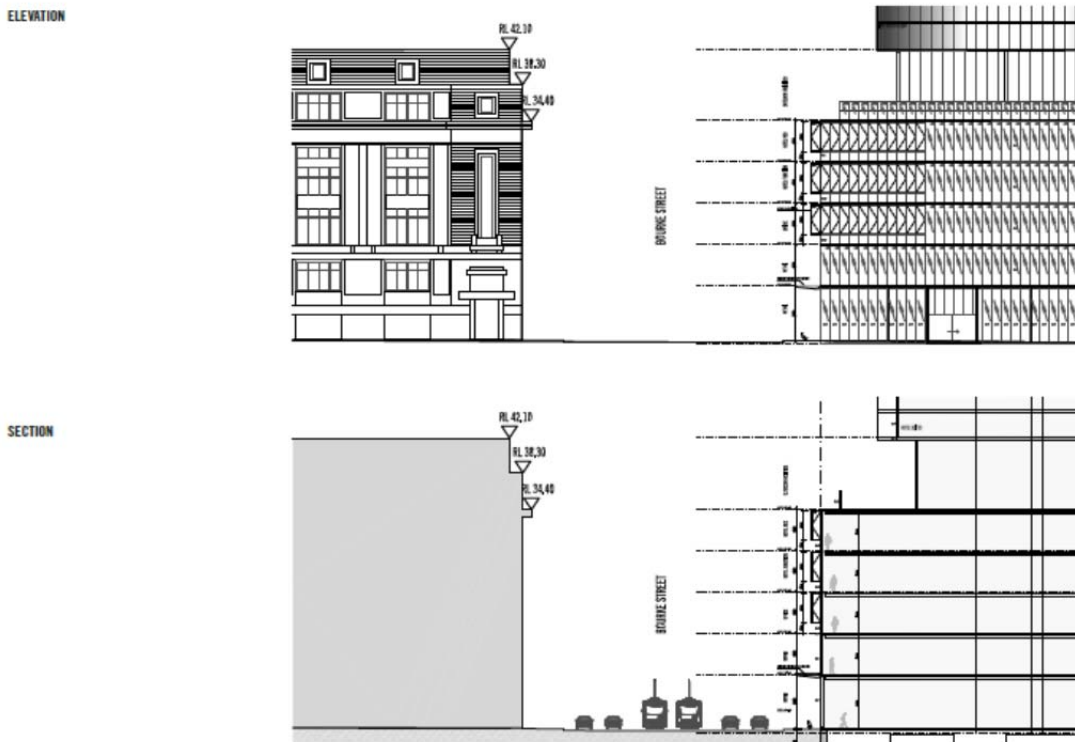
Given the façade's unique construction, the Applicant was asked to provide a statement from a structural engineer verifying that the building as shown can indeed be built. This statement has been received from engineering firm WSP Structures and states that a key concern in its design is the acceleration performance under wind load which is within acceptable levels with the use of a roof top damper as was used with Eureka Tower. The statement notes the challenges of building such a building but that it is structurally feasible. This statement will form part of the approved endorsed documents if the proposed building is approved.

Clause 22.01 Urban Design Within The Capital City Zone provides guidance on all broad aspects of building design. It encourages podiums to be generally of 35-40 high metres except where a different parapet height exists or there is a need to provide a context to a heritage building. In this instance the proposed building's podium will be 34.4 metres in height and has been designed to respond to the height of the Tramways building. The detailed elevation with height datum (Figure 4) and the coloured perspective below (Figure 5) illustrate that this is an appropriate and contextual design response and the height of the

podium together with the separation provided by Godfrey Street will ensure the Tramways building will not be visually over-powered.

**Figure 4**

01/02\_INTERFACE TO ROYAL MAIL EXCHANGE



**Figure 5**



Clause 22.01 encourages towers above podiums to be setback 10 metres from street frontages and development above 45 metres to be setback 24 metres from any surrounding podium-tower development.

The proposed tower will be setback 8 metres from the Bourke Street frontage with the east and west end curved points reducing further to 6 metres. While reduced from the 10 metres encouraged by policy, these setbacks expressed in an articulated, curved façade, together with the height of the podium are considered

to provide an appropriate transition between the height of the tower and the pedestrian scale of the street as illustrated in the above perspective image (see Figure 5).

The tower will be setback 4.7 metres from the Spencer Street frontage reducing to 1.9metres at the north and south corners. These setbacks are significantly reduced but are considered acceptable in the context of the corner location providing a defined edge marking the termination of the city grid.

A setback of predominantly 7 metres reducing to 5 metres at the east and west corners is provided on the south elevation. While reduced, these setbacks are generally satisfactory and considered to provide adequate separation from the Savoy Hotel. It is noted that the City of Melbourne agree that these (amended) setbacks to this elevation are satisfactory.

It is unlikely that key sites immediately adjacent the site will be developed due to heritage controls. The old Tramways building, the former Mail Exchange building and the Savoy Hotel are all important for heritage, with the Old Tramways building in particular listed on the Victorian Heritage Register. Further development of this site would be limited by heritage controls and therefore creates a context whereby the proposed tower is unlikely to be joined by other towers in close proximity.

## Heritage

The site is partially covered by Heritage Overlay HO501 which is the Bourke West Precinct. A permit is required for buildings and works under the Heritage Overlay and the key purpose of the overlay which is relevant to the development is:

“To ensure that development does not adversely affect the significance of heritage places.”

Clause 22.04 Heritage Places Within the Capital City Zone is relevant to the development and seeks to ensure new development complements the character, scale, form and appearance of heritage precincts. The Statement of Significance for the Bourke West precinct describes the precinct as follows:

*Architecturally diverse but coherent in scale and picturesque setting, this precinct contains highly expressive elements of the late 19th and early 20th century city. Apart from containing a rare and interesting mix of diverse functions and building types, this precinct includes a range of government services located in the western quarter of the City. Some buildings such as Unity Hall (1916), Hudsons's Stores (1876-77) and the Old Tramways Building (1891) have important historical associations with transport and the Spencer Street railway yards. The comparatively low levels of even the tallest buildings contrast well with the single-storey structures on the southern side of Bourke Street, enabling the taller structures to be seen from their original perspective.*

The key attributes of the area are described as follows:

- A group of architecturally diverse 19th and early 20th century buildings that are consistent in scale and associated with public services and warehousing.
- The dominance of the Tramways Building on the south side of Bourke Street and the Mail Exchange building on the north side.
- The amenity of the garden around St Augustine's Church

Under the Heritage Overlay, the proposal seeks demolition and construction of a contemporary tower and podium development. Given that the existing building on the site is not important for heritage, the demolition of the building is supported. The Bourke West precinct is notable for being architecturally diverse and it is therefore considered appropriate that the architecture of the building is contemporary and does not attempt to replicate heritage characteristics.

A heritage report has been submitted with the application prepared by Heritage Architect Bruce Trethowan and this report notes that the design and particularly the height of the podium has been directly guided by the height of neighbouring heritage places to provide a contextually responsive transition between buildings.

The development will undoubtedly bring a significant scale to the precinct however it is noted that heritage places within the Hoddle Grid frequently co-exist with tall buildings and therefore the scale of the building is only at issue if it significantly detracts from neighbouring heritage places. In this regard, the design and treatment of the building at the lower podium levels and street level are considered to be the most important aspects of the design in terms of responding to heritage context. The interface with the adjacent heritage buildings is managed through a range of strategies including incorporation of a defined podium which clearly references the height datum of the neighbouring heritage places. This has an important role in providing an appropriate streetscape transition and integrating the new fabric with the old.

The setbacks of the tower from the podium of 5-7m from the Savoy hotel and the separation of the proposed building from the Tramways building to the east by Godfrey Street also provide important “breathing space” for the heritage buildings which will ensure they are able to be appreciated in their own right.

Finally, the significant extent of activation to the corner of Godfrey Street and Bourke Street, the full extent of Bourke Street and the majority of Spencer Street together with the louvre detailing of the podium provides fine grain detail which also enhance integration of the proposed contemporary building with the heritage places, which have multiple openings and intricate detailing.

Overall, the project is considered to be responsive to the neighbouring heritage places and precinct, adding a further layer to the existing diversity of the precinct. The coloured perspective image at Figure 5 and Figure 2, illustrates that while distinctly different from the neighbouring heritage places, the proposed building will not detract from the heritage places.

## Street Level and Pedestrian Safety

It is a strong theme of State and Local planning policy that new buildings contribute to community and cultural life by improving safety, diversity, the quality of living and working environments and should enhance the visual and social experience of pedestrians. Also relevant to this assessment are the three Design and Development Overlay Schedules 1 (Active Frontages), 2 (Traffic Conflict Frontage) and 4 (Weather Protection) which seek to ensure new developments have activated frontages, do not include new vehicle crossovers to certain streets and enhance pedestrian amenity by providing weather protection.

The ground floor of the development, is highly activated with an entirely glazed frontage to Bourke Street and Spencer Street, with building supports set in from the glazing. The ground level will be of double internal height and the highly glazed nature of the façade will support pedestrian safety as pedestrians will be able to see through and be seen from the tenancies.

The Bourke Street edge will be occupied by retail shops and a cafe tenancy will occupy the corner set into Godfrey Lane, which creates a good opportunity to activate the laneway environment, consistent with Melbourne's character. In addition, a through block arcade will be added south of this tenancy to allow easy access direct to Spencer Street. The Spencer Street elevation will be activated with a café on the corner, the hotel lobby set in from the corner and the residential lobby taking up the majority of the elevation. Given the number of dwellings in the building, the residential lounge is likely to be a very active space and will also give life to this portion of the streetscape. A 7 metre section of the west elevation will be occupied by fire booster cupboards and the balance of the Godfrey Lane elevation south of the pedestrian arcade will necessarily be occupied by servicing requirements, vehicle access and loading. The proposal represents a highly activated outcome to almost the entire length of the main pedestrian interfaces (Bourke and Spencer Street) which will revitalise and enliven this significant corner of the Hoddle Grid, consistent with policy.

Weather protection has not been provided to the Bourke and Spencer Street elevations of the building. The site is on a north west corner of the Hoddle grid and therefore is quite exposed to prevailing weather and an appropriate verandah, consistent with the contemporary design of the building should be required by condition of the permit.

Given the scale of the development and its location at a strategic intersection, adjacent to Southern Cross Station, pedestrian volume modelling was required as part of the application to determine whether the development would have any significant impacts on the pedestrian infrastructure and crossings around the site. A report prepared by Arup consultants found the development would contribute an additional 600 pedestrian trips to the intersection and would potentially create need for a second pedestrian crossing to be provided at Spencer Street or an additional green-man cycle. Accordingly, it recommended that a condition of the permit address this issue and require further testing and possible pedestrian crossing, footpath widening or other public realm works to be funded by the applicant, as required, in consultation with and for the approval of the City of Melbourne and Vic Roads.

## Microclimate (Wind, Overshadowing) & Internal Amenity

The decision guidelines of Clause 37.04 require a consideration of potential for increased ground level wind speeds and the effect on pedestrian comfort and the amenity of public spaces. Policy at Clause 22.01 also identifies that towers should be setback from podiums to assist in deflecting downdrafts from to street level.

Wind tunnel testing was conducted for the development and has concluded that the development generally achieves walking criterion for all locations through some specific design features including a partially vented podium, however the proposed development is unlikely to alter the existing condition of the north east corner of Bourke Street and Spencer Street which is over the walking criterion.

Given the site is on one of the most highly pedestrian trafficked intersections of the city and is likely to encourage even more pedestrians given the number of dwellings and ground level retail, the development should be designed to ensure better than walking criterion level of comfort will be achieved at ground level to support the ground level uses. Ideally short term stationary criterion should be achieved and addressed via a condition of the permit.

A total number of 780 apartments and 160 hotels rooms are included in the development. A range of apartment types of 1, 2 and 3 bedroom apartments will be provided. The minimum size of one bedroom apartments is 40-41 sqm however most are larger than this at generally the 43-47 sqm size. The apartment amenity is assessed to be good, with many apartments provided with 6 sqm area balconies, well designed floor plans and good access to natural light and outlook. The development includes ample resident's facilities including a gym, pool, private dining rooms, entertainment screening rooms, lounges and a full level of BBQ areas, spas, outdoor gardens and lounges. A second pool will also be provided for the hotel facility. The combination of adequately sized, well planned apartments and extensive residential facilities provide for very good residential amenity.

### **Overshadowing**

Clause 37.04 (Capital City Zone Schedule 1) states that a permit is required to:

*"To construct a building or construct or carry out works which would cast a shadow between 11.00 am and 2.00 pm on 22 March and 22 September over public space, public parks and gardens, public squares, major pedestrian routes including streets and lanes, and privately owned plazas open to the public. A permit may only be granted if the responsible authority considers the overshadowing will not prejudice the amenity of those areas."*

Clause 22.02 more specifically controls overshadowing of the north bank of the Yarra River between 11am and 2pm on 22 June.

The significant height of the development means that the building would cast long shadows that extend to Batman Park and the north bank of the Yarra and would overshadow it between 1pm and 2pm on 22 June. In response to discussions regarding the overshadowing impact of the building, the Applicant has chosen to amend the plans to reduce the height of the building to 76 levels that would satisfactorily address the overshadowing of north bank and the promenade. Plans have been provided which indicate this and these plans would be referenced in a permit condition.

### **Acoustic**

An acoustic report prepared by Vipac consultants was submitted with the application and considered the acoustic requirements of DDO12 – Noise Attenuation as well as internal acoustic requirements to ameliorate general environmental noise. It is recommended a standard condition be placed on the permit to ensure compliance with DDO12.

## Environmental Sustainable Development (ESD)

An ESD report prepared by Ark Resources has been submitted with the application and details that the development will achieve in excess of a 4 star Green Star multi-residential rating and will include a range of ESD features including:

- Rainwater harvesting system for toilet flushing and irrigation
- Solar photovoltaic at roof level
- High performance glazing and energy efficient building services, appliances and fixtures
- Environmentally preferable internal finishes.

The required standard of 4 star Green Star will be achieved for the development and an appropriate condition will be placed on a permit for the development to ensure implementation of these measures.

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

Since the application was lodged, the Applicant has had detailed discussions with the Traffic Engineering Department at the City of Melbourne which has resulted in a number of positive changes to the vehicle entry and egress and the loading arrangements for the development.

The initial application included an indented hotel drop off and pick up bay approximately midway along the site boundary to Godfrey Street. The City of Melbourne did not support a Godfrey Street indented pick up/drop off area because it would block pedestrian flow and force pedestrians on to the street. It would also result in alterations to footpath widening works only recently completed by the City of Melbourne. Accordingly this proposal has been amended by the Applicant and the indented bay deleted. Although no formal drop off area can be provided within the site, Godfrey Street provides a good opportunity for drop off because the street is devoid of any other business frontages or crossovers and is of ample dimensions (10m). It is likely that a revised drop off arrangement will be negotiated with Council, given it is a council road and outside of the site. The Applicant has advised the Department that it is willing to work with Council and fund alternative drop off arrangements and accompanying streetscape works upgrade, however this will be subject to the City of Melbourne's approval.

The loading area has been redesigned, relocating the loading bay further into the site to enable better access and manoeuvrability without impeding traffic flow in Godfrey Street. The loading and waste disposal area is now ample in size and swept path diagrams have been provided to Council's satisfaction demonstrating adequate access and egress.

In response to concerns raised by both the Department and the City of Melbourne, the access to the basement car park has been re-designed to separate the entry to prevent vehicle conflict. Swept paths have been provided by Cardno, the Applicant's traffic consultant, to demonstrate the safety and ease of access. The applicant has also indicated that it will fit the car park with traffic warning signals and mirrors to support safe access.

The provision of car spaces is low for the development (a total of 164 spaces) and this is consistent with the limitation policy of the Parking Overlay. Council supports the provision of parking for the residential component but has noted that the car parking for the hotel is insufficient despite there being no requirement for hotel car parking in the Parking Overlay. Overall, the site's location adjacent a major train station and multiple tram routes and in close proximity to commercial car parks mean that there is unlikely to be negative impacts as a result of no provision of parking for the hotel component of the development.

## PANS/OPS and OLS

The application as submitted included an overall tower height of 294 metres. This is just below the PANS/OPS height limit of around 296 metres. The construction of the building and use of cranes would mean penetration of the PANS/OPS height limit.

On 18 May 2012 Commonwealth, State and Territory Ministers considered the National Airports Safeguarding Framework at the Standing Council on Transport and Infrastructure meeting. This Framework was developed by the National Airports Safeguarding Advisory Group (NASAG), comprising of Commonwealth, State and Territory Government planning and transport officials, the Australian Government Department of Defence, the Civil Aviation Safety Authority (CASA), Air Services Australia and the Australian Local Government Association (ALGA)

Ministers agreed to implement the Framework, which is a national land use planning regime to protect airports and communities from inappropriate off-airport development. The agreement represents a collective commitment from Governments to ensure that an appropriate balance is maintained between the social, economic and environmental needs of the community and the effective use of airport sites. It is the responsibility of each jurisdiction to implement the Framework into their respective planning systems. Each state and territory will align their respective planning processes with the Framework principles and guidelines, as appropriate.

Work is underway by the Department of Environment, Land, Water and Planning to develop strategic policy which implements this agreement at a Victorian State level. In the meanwhile, it has become clear that the appropriate statutory planning approach should be to ensure via planning approvals that new buildings do not protrude into aviation airspace. The new approach is therefore to require a height reduction of the building to below the controlled activity height until the applicant can provide written approval from the aviation authority of the height above OLS or PANS/OPS.

On 23 December 2014 the Applicant submitted amended plans which reduced the height of the building to 76 levels and 259 metres in height to eliminate overshadowing of the north bank promenade. This height reduction is fully supported as a strategy to address overshadowing however at 259 metres, the development is still over the OLS height of approximately 226-228 metres. Accordingly it is recommended that a condition be placed on the permit which requires a reduction in height to a height than can be constructed without penetration of the OLS (including cranes) until such time that approval in writing is provided.

## Recommendation

Through the process of the application, the Applicant has responded meaningfully to feedback and requests of both the Department and the City of Melbourne resulting in positive improvements to the development in a number of areas.

The overall height of the development has been reduced significantly and will be reduced further via conditions to reduce overshadowing impacts to public open spaces and address aviation requirements.

Other changes have been made to increase setbacks from neighbouring heritage places and improve the pedestrian's experience of the development at ground level. Major revision has also occurred to the vehicle access and egress to ensure vehicle access and loading arrangements are safe, convenient and well designed.

Subject to these changes which will be addressed by planning permit conditions, the development is assessed to be well designed and align positively with the Melbourne Planning Scheme. The proposal will deliver benefits of providing good quality housing supported by appropriate amenities, a new hotel, and ground level retail to activate a key corner of the city within a striking tower form that will contribute a distinctive landmark to Melbourne's city profile.



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