

1 – 11 Balston Street, Southbank

Planning Permit Application 2007/00531B
File Reference 2014/002846



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Summary

The purpose of this report is to provide a detailed planning assessment of the application to amend planning permit no. 2007/0531B. 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.

An application to amend the current permit has been made. The amendment request includes additional building height of 14 storeys, changes to the ground level frontages and various other matters.

A permit is required for buildings and works. Key issues for consideration include the built form response (in particular the increased building height), additional overshadowing of a nearby proposed park, extent of active ground level frontages, changes and alterations to the heritage building, wind impacts and internal apartment amenity.

The Department's Urban Design Unit and the City of Melbourne have concerns with the amended application. Public Transport Victoria has no objection to the proposal.

The applicant has addressed most of Council and the Department's Urban Design Units' concerns with subsequent plans. The officer report identifies where other concerns can be addressed by conditions.

Recommendation

The City of Melbourne objects to the application.

The recommendation to the Minister for Planning is to grant a Notice of Decision to approve an amended permit, subject to conditions.

Application Details

Land /Address:	1-11 Balston Street, Southbank (Lot B on Plan of Subdivision 647245K, Parent Title Volume 10630 Folio 391)
Application No:	2007/0531B
Proposal:	Request to amend Permit No: 2007/00531B for partial demolition of the existing building and use and development of a multi-storey building comprising dwellings and ground floor retail premises (other than adult sex bookshop, department store, hotel, supermarket and tavern)
Date lodged	30 July 2014, amended formally on 17 October 2014. Revised plans were informally submitted on 19 December 2014 and 12 March 2015
Zone and Overlay controls:	Capital City Zone Schedule 3 (CCZ3) Part Schedule 1 to the Design and Development Overlay (Area 2) (DDO1-A2) Part Schedule 3 to the Design and Development Overlay (DDO3) Schedule 60 to the Design and Development Overlay (Area 3) (DDO3) Heritage Overlay (HO368) Schedule 1 to the Parking Overlay (PO1)
Why is a permit required ?	Under Clause 37.03 Capital City Zone Schedule 3, a permit is required to construct a building or carry out works and to demolish or remove a building. Under Clause 43.02 Schedule 1 Area 3, a permit is required to construct a building or carry out works at ground level. Under Clause 43.02, Schedule 60, a permit is required to construct a building or carry out works. Under Clause 43.01, a permit is required to demolish a building and to construct a building or carry out works.
Height Procedures for Air Navigational Services – Aircraft Operations Surface (PANS-OPS)	The proposed building height at 153.8 metres (roof to lift motor room) in this location is below the OLS of 227 metres (RL to AHD).
Use:	Residential Apartments Approved (382) Proposed (557 or 485 as shown in informally revised plans dated 12 March 2015) Ground floor retail Approved (340m ²) Proposed (291m ²)
Height:	Approved 33 storeys (104.65 metres) Proposed 47 storeys (147.70 metres)
Setbacks:	Approved Balston Street: minimum 3.5 metres City Road: 5.425 metres East: minimum of 19.5 metres (tower separation 22.8 metres) South: 3 metres (tower separation 24.0 metres) Proposed Balston Street: minimum 3.6 metres City Road: 5.425 metres East: minimum of 15.5 metres (tower separation 22.75 metres) South: 2.975 metres (tower separation 23.03 metres)
Gross Floor area (GFA) █ :	GFA: Approved 37,344m ² Proposed 52,6161m ² █
Applicant/Developer:	Central Equity Construction Pty Ltd
Restrictive Covenants	There is a current Section 173 Agreement between City of Melbourne (Council) and the Owner (and successors in title) relating to the entire

and/or Agreements	length of the facade of the existing remnant heritage building. The agreement requires the owner to retain it, refurbish and restore it to a standard of finish and using materials which have been approved by Council and thereafter not alter or change the facade in any manner without first obtaining the Council's prior written consent.
Public Notification	Not deemed necessary: the trigger for notification is that the subject site is partly covered by a Heritage Overlay which is not exempt from notice and review rights. However, the heritage works proposed in the amended application are minor and there is an existing Section 173 Agreement whereby any changes to the heritage fabric are subject to the consent of the City of Melbourne. [REDACTED]
City of Melbourne	Object. Officer response on behalf of Council objecting to the application on the grounds of excessive building height, overshadowing of a proposed park and other undesirable design, amenity and land use outcomes.
Department Recommendation	Approval Issue Notice of Decision to Amend Permit subject to conditions

1 Background

The original planning permit was approved by the Minister for Planning on 1 February 2008. Endorsed amended plans were subsequently approved on 29 March 2010. Multiple applications have been approved for the extension of time for the commencement date for the planning permit. The most recent approval for the extension of time was issued on 15 January 2014, requiring that development commence by 1 December 2016.

The approved development comprises ground level apartments and retail tenancies, podium level car parking (with 256 on site car parking spaces), and 382 apartments with a maximum building height of 33 storeys (104.65 metres).

The amended permit application was lodged on 30 July 2014.

Further information was requested from the applicant on 15 August 2014 (within 28 days of lodgement) and a final response provided on 9 October 2014.

Amended plans were formally submitted on 17 October 2014 responding to various issues raised by the City of Melbourne and the Department. Both Council and the Department still had concerns; the primary concern relating to the extent of additional overshadowing.

Revised plans and documents were informally submitted on 19 December 2014 and 12 March 2015, primarily to respond to overshadowing and built form concerns. The latest revised plans illustrate a revised architectural form in order to neutralise any additional overshadowing on the proposed park on the nearby former JH Boyd School site. The building form has been chamfered in two corners from level 17-47 on the Balson Street/City Road corner and from level 9 to 47 on the south-east corner of the building. The applicant has illustrated that from the period 11 am to 2 pm on the 22 September, measured at half hourly intervals across the 3 hour time period, there is a reduction in the extent of overshadowing of the proposed park (at each half hourly interval) as compared with the current permit.

Also, in two letters to the Department dated 8 and 19 December 2014, the applicant has committed to providing a development contribution (by way of a Section 173 Agreement) [REDACTED]

[REDACTED] It is noted that there is no planning requirement for a development contribution for the subject site but that it is being offered as a net community benefit.

2 Site and Surrounds

The site is located on the south-east corner of City Road and Balston Street, within the Southbank precinct (refer to Figure 1). The site has a frontage of approximately 51.26 metres to Balston Street to the south-west and 46.25 metres to City Road to the north-west, with a site area of 2,369 m².

The site is currently developed with a two storey commercial building which incorporates a rendered brick heritage facade that fronts both street frontages. The rear of the original heritage building has been demolished to leave only the original façade intact.

An agreement under Section 173 of the *Planning and Environment Act 1987* applies to the land which requires the retention and refurbishment of the existing heritage facade. It stipulates that the owner cannot "alter or change the façade in any manner without first obtaining the Council's prior written approval or consent."

No easements affect the site.

The Southbank Precinct, within which the subject site is located, is currently undergoing significant change and is characterised by a variety of commercial and residential developments of varying height and scale.

The subject site is within walking distance of the central city and is readily accessible to public transport and a range of other facilities and services.

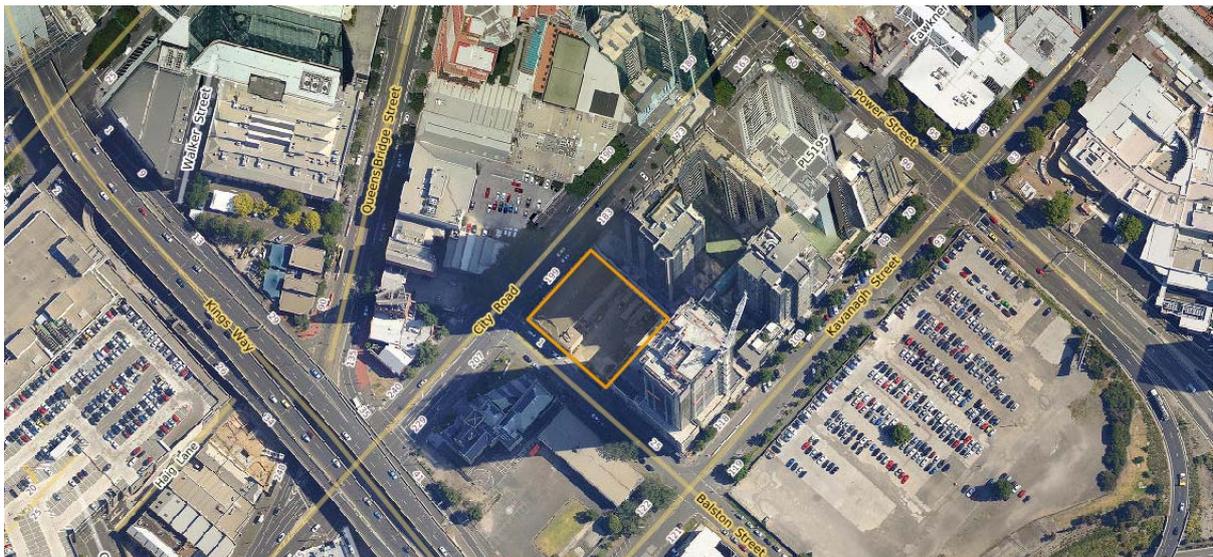


Figure 1 – Site Locality Plan

Development surrounding the site includes:

- To the **north** of the subject site, across City Road, is a row of predominantly 1 and 2 storey commercial buildings with vehicle accessways to basement or at-grade car parking facilities. On-street parking is provided along the northern and southern sides of City Road.
- To the **east** are a number of residential towers within the block between Kavanagh Street, Balston Street, City Road and Power Street ranging in height from 29 to 37 storeys with the 35 storey 'Epic Apartments' on the adjacent site to the **south** and the 37 storey 'City Tower' on the adjacent site to the east.
- To the **west** is the former 'JH Boyd School' site which comprises a number of 2 and 3 storey buildings including a Victorian era heritage building which has recently been developed by the City of Melbourne for a community hub. The hub provides a range of community services including a library, family services, community rooms, artist studios and a cafe. The Council has

entered into an agreement for development of the balance of the site which will consist of a 22 storey tower comprising commercial and residential uses and a substantial park on the north-west corner of Kavanagh and Balston Streets.

Figure 2: Draft site layout plan for the former JH Boyd School site



3 Proposal

The application (plans dated 30 July 2014 and amended plans dated 17 October 2014) seeks to amend endorsed plans under planning permit 2007/0531A. The amended application proposes changes to the approved building height (an additional 14 storeys) as well as consequential changes to the building layout including apartment number and composition, car and bicycle parking, resident facilities, facade treatments and landscaping. Subsequent informally submitted revised plans propose further changes including a chamfered built form and an increase in non-residential tenancies.

No changes to the permit 'preamble' (what the permit allows) is sought however, it is noted that the preamble currently refers to uses which are as-of-right and therefore do not need to be included in the preamble. The proposed amendments require some changes to be made to the conditions on permit.

The proposed changes to the design and layout of the building (as per the formally lodged amended plans dated 30 July and 17 October 2014) are summarised below:

- An increase of 14 storeys (49.05 metres) to the building height. This increase in height largely accommodates additional apartments but also provides for:
 - Increased ground floor commercial ceiling level.

- A raised ground floor level of approximately 0.8 metres in response to local flood conditions.
- An additional ramped podium level to the car park.
- Consequential changes to structural loading of walls, columns and lift core.
- Upgrade to ground level substation, pump room and waste facilities in accordance with CitiPower requirements.
- Provision of additional bicycle parking spaces.
- Revisions to car parking layout and ramp configuration, resulting in an additional 16 car spaces.
- Introduction of a glass and alucobond clad steel framed canopy on the corner of City Road and Balston Street and a glazed canopy along most of the Balston Street frontage to mitigate adverse wind conditions at street level (replacing current permit wind mitigation measures consisting of pergola style louvres and sunshade at podium terrace level, and canvas awnings for the retail tenancies on corner of City Road and Balston Street).
- Removal of stairs between upper and lower podiums.
- Deletion of the upper podium tennis court and raise level to 20.80 AHD.
- Redesign of the pool and gymnasium, along with all amenities and the recreational podium area with pergola and bbq.
- Modify heritage facade to accommodate doors to substation and sill height to apartment at ground floor level. The proposal includes greater retention of heritage fabric (and restoration) than the approved permit.
- Landscape plan in relation to footpaths and the median around the site.
- Vertical planting from heritage podium level to the tower podium at level 6.
- Step back wall between 5th and 6th floor podium westward by 3.4 metres and create a landscaped zone.
- Change colour of tower glazing to blue.
- Revision to the size and configuration of apartments.

The key changes are summarised as follows:

	Approved	Proposed (amended plans dated 30 July and 17 October 2014)
Number of Floors	33	47
Height (Roof of highest apartment level)	104.65 metres	147.70 metres
Height (Roof of lift motor room)	108.15 metres	153.8 metres
Bicycle spaces	249	385
Car park spaces	256	269
Number of apartments:	382	557*

Studio	61	1
1 Bedroom	142	336
2 Bedrooms	150	169
3 Bedrooms	29	51
Borrowed light apartments	81	7
Car parks to apartment ratio	0.67	0.48
Number of apartments per typical level	13	13
Gross floor area	37,344 m ²	52,616 m ²

**Note: The amended plans dated 30 July 2014 show apartment 06 located 950 millimetres above pavement level. The provision of a dwelling fronting City Road at ground floor level raised unresolved issues between the glazing line and the privacy and outlook for the apartment. The amended plans dated 17 October 2014 show the apartment has been replaced by a non-residential tenancy.*

The latest informally submitted revised plans (dated 12 March 2015) show a chamfered built form, which results in a total number of 485 apartments.

The informally submitted revised plans (dated 12 March 2015) show a chamfered built form for two corners of the building. The Balston Street/City Road corner is chamfered from levels 17 to 47 by removing approximately 55 m² resulting in the loss of one apartment per level. The south-east corner of the building has been chamfered from levels 9 to 47 by removing approximately 45 m² resulting in the loss of one apartment per floor. Accompanying shadow diagrams indicate that there will be no additional overshadowing of the nearby proposed park between 11 am to 2 pm on 22 September as a result of the chamfered built form.

The amended application is supported by comprehensive reports including a planning report, urban context report, wind tunnel assessment, traffic report, waste management report, and ESD report.

4 Planning Policies and Controls

4.1 State Planning Policy Framework

The State Planning Policy Framework (SPPF) provides the broad policy direction within the Victoria Planning Provisions. The following key SPPF policies are relevant to this amended application:

- Clause 9 (Plan Melbourne)
- Clause 10.04 (Integrated Decision Making)
- Clause 11.01 (Activity Centre)
- Clause 13.04-1 (Noise Abatement)
- Clause 15.01-1 (Urban Design)
- Clause 15.02 (Sustainable Development)
- Clause 15.03 (Heritage)
- Clause 16.01 (Residential Development)
- Clause 18.01 (Integrated Transport)

■ Clause 18.02-2 (Cycling)

The above policies encourage appropriate land use and development which enhances the built environment, supports economic growth, delivers diversity in housing supply to meet existing and future needs, and integrates transport and infrastructure planning.

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

4.2 Local Planning Policy Framework

The Municipal Strategic Statement (MSS) and Local Planning Policy Framework (LPPF) within Planning Schemes across Victoria outline principal characteristics of a given municipality (municipal profile) and provide specific visions, goals, objectives, strategies and implementation plans. The MSS within the Melbourne Planning Scheme identifies key themes for settlement: Environment and Landscape Values, Built Environment and Heritage, Housing, Economic Development, Transport and Infrastructure. The subject site is located within an Urban Renewal Area (Southbank) as identified under Clause 21.13-1 of the Melbourne Planning Scheme.

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

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

Clause 21.04 (Settlement) sets out objectives and implementation strategies for the various areas of Melbourne, identifying Southbank as an urban renewal area. Clause 21.04-1.2 (Urban Renewal Areas) outlines a vision and strategy for developing this area (and references the Southbank Structure Plan 2010) which sets a vision and strategy for the next 30 years as "*an extension of the central city, with a high density mix of commercial and residential uses, a built form of a human scale and fine grain detail, greater permeability, activity and pedestrian priority at street level*".

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

Clause 21.07 (Housing) seeks to encourage the most significant housing and population growth to occur in the Central City and urban renewal areas, including Southbank. It acknowledges the need to ensure residential developments in the Capital City Zone are designed to mitigate the amenity impacts from surrounding established and future uses, including insulation from noise.

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

Clause 21.11 (Local Areas) identifies the site as being located within one of the Urban Renewal Areas to which Clause 21.13-1 Southbank applies.

Clause 21.13-1 (Urban Renewal Areas - Southbank) includes policies relating to the Economic Development, Built Environment and Heritage, Transport and Infrastructure, which specifically relate to Southbank and encourage:

- *“the urban renewal of Southbank with a mix of commercial and residential uses with ground level retail/small businesses;*
- *encourage high rise tower development to the north of City Link and west of Moore Street (the subject site is located within this area); and*
- *a connected and permeable neighbourhood including the provision of public spaces, improved pedestrian facilities and upgraded streetscapes.”*

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

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

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

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

4.3 Statutory Controls (Permit Triggers)

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

Planning Control	Permit / Application Requirement(s) / Decision Guidelines
<i>Capital City Zone- Schedule 3 (Clause 37.04)</i>	A permit is required to use the land unless specifically exempted by the schedule. A permit is also required to demolish, construct a building or construct or carry out works unless the schedule specifies otherwise. Schedule 1: <ul style="list-style-type: none"> • Specifies that no permit is required for ‘accommodation’, and ‘retail premises’ (other than adult sex bookshop, department store, hotel and tavern) as the uses are permitted as of right (Section 1 use) at Clause 1.0 of the Schedule. • Specifies that a permit is required to construct a building and to demolish or remove a building. • Specifies application requirements which include specified wind criteria that must be met. • Exempts the application from notice and appeal requirements. • Decision guidelines are contained in Schedule 3.
<i>Design and Development Overlay- Schedule 1 (Area 3) Active Street Frontages-Capital City Zone (Clause 43.02)</i>	Under Clause 43.02-2 a permit is required to construct a building or construct or carry out works unless the schedule specifies otherwise. DDO1 - Area 3 (applies to the City Road frontage of the site): <ul style="list-style-type: none"> • Specifies a permit is not required for buildings and works other than at ground level. • Buildings with ground-level street frontages to major pedestrian areas must present an attractive pedestrian

	<p>oriented frontage to the satisfaction of the responsible authority.</p> <ul style="list-style-type: none"> Exempts buildings and works from notice and appeal requirements. <p>Decision guidelines are contained at Clause 43.02-5 and at Clause 65.</p>
<p><i>Design and Development Overlay-Schedule 3 Traffic Conflict Frontage-Capital City Zone (Clause 43.02)</i></p>	<p>DDO3 (applies to the City Road frontage of the site):</p> <ul style="list-style-type: none"> Vehicle ingress or egress points, excluding loading and unloading bays, should not be constructed on a traffic conflict frontage or in a lane leading off a traffic conflict frontage. Exempts buildings and works from notice and appeal requirements. <p>It is noted that the proposal does not include any vehicle access from City road.</p> <p>Decision guidelines are contained at Clause 43.02-5 and Schedule 3.</p>
<p><i>Design and Development Overlay-Schedule 60 (Area 3) Southbank (Clause 43.02)</i></p>	<p>Under Clause 43.02-1 a permit is required to construct a building or construct or carry out works unless the schedule specifies otherwise.</p> <p>Schedule 60:</p> <ul style="list-style-type: none"> Specifies that a permit is required to construct a building or construct or carry out works. Specifies a preferred maximum height of 100 metres, podium height of a maximum of 30 metres, tower separation of 20 metres (10 metres at a minimum), and setbacks above a podium of 10 metres to front, side and rear boundaries. It also seeks a minimum floor to ceiling height of 4 metres at ground floor. Exempts the application from notice and review. <p>Decision guidelines are contained at Clause 43.02-5 and at Clause 65.</p> <p>Clause 2.0 states that buildings and works should not exceed the building heights specified in the table and should meet the built form outcomes. The table indicates a building height of 100 metres as being applicable to the subject site with the built form outcomes being:</p> <ul style="list-style-type: none"> <i>"Buildings that provide an appropriate transition to development in adjoining Areas to the south, west and east.</i> <i>Buildings that do not dominate urban form in adjoining Areas.</i> <i>The maintenance of the dominant streetscape scale."</i>
<p><i>Heritage Overlay Schedule (HO 368) (Clause 43.01)</i></p>	<p>The site and the surrounding land are located within Heritage Overlay (HO368). The purpose of the overlay is to conserve and enhance heritage places and to ensure that development does not adversely affect the significance of heritage places.</p> <p>A permit is required to demolish a building and to construct a building or carry out works in a Heritage Overlay.</p>
<p><i>Parking Overlay – Schedule 1 Outside the Retail Core (Clause 45.09) and</i></p>	<p>The provisions of the parking overlay work in conjunction with Clause 52.06 of the Melbourne Planning Scheme.</p> <p>Under Clause 45.09-3 a schedule to this overlay may specify that a permit must not be granted to provide more than the maximum parking provision specified in a schedule to this overlay.</p>

<p><i>Car Parking (Clause 52.06)</i></p>	<p>Schedule 1 of the Parking Overlay specifies a maximum number of car parking spaces (calculated at 1 space/dwelling and a ratio for commercial uses using two equations) and the provision of 1 motorbike space per 100 car parking spaces.</p> <p>The amended plans have a parking supply of 269 spaces for 556 apartments, equivalent to a rate of 0.48 spaces per apartment, with no parking provided for the ground floor retail uses. Therefore, provision of 269 car spaces is below the maximum allowed under the clause, therefore no permit is required.</p> <p>Decision guidelines are contained at Clause 45.09-5 and at Clause 65.</p>
<p><i>Loading and Unloading of Vehicles (Clause 52.07)</i></p>	<p>Under Clause 52.07 no buildings or works may be constructed for the manufacture, servicing, storage or sale of goods or materials unless space is provided on the land for loading and unloading vehicles as specified within the table.</p> <p>The loading bay provided complies with the detailed requirements set out in Clause 52.07. Therefore, no permit is required under this clause.</p>
<p><i>Bicycle Facilities (Clause 52.34)</i></p>	<p>Under Clause 52.34-1 a new use must not commence until the required bicycle facilities and associated signage has been provided on the land. The standard requires the provision of 167 spaces (111 resident spaces and 56 visitor spaces). The application provides for 385 spaces, therefore a no permit is required under this provision.</p>
<p><i>Urban Context Report and Design Response for Residential Development of Four or More Storeys (Clause 52.35)</i></p>	<p>Under Clause 52.35-1 an application for a residential development of four or more storeys must be accompanied by an urban context report and design response.</p> <p>This has been provided satisfactorily.</p>
<p><i>Integrated Public Transport Planning (Clause 52.36)</i></p>	<p>Under Clause 52.36-1 an application must be referred in accordance with Section 55 of the <i>Planning and Environment Act 1987</i> (the Act) to the Director of Public Transport for a residential development comprising 60 or more dwellings or lots. On 18 August 2014 the application was referred to the Director of Public Transport.</p>
<p><i>General Provisions (Clause 61.01)</i></p>	<p>The schedule to Clause 61.01 indicates that the Minister for Planning is the responsible authority for considering and determining applications in accordance with Divisions 1, 1A, 2 and 3 of Part 4 of the Act for approving matters required by the scheme in relation to developments with a gross floor area exceeding 25,000 square metres.</p>
<p><i>Decision Guidelines (Clause 65.01)</i></p>	<p>Under Clause 65.01 before deciding on an application the responsible authority must consider, as appropriate, a number of matters, including Section 60 of the Act.</p>
<p><i>Referral and Notice Provisions (Clause 66.03)</i></p>	<p>Clause 66.03 works in conjunction with Clause 52.36 (amongst other requirements) and requires an application to be referred to the person or body specified as the referral authority. As previously mentioned, the Director of Public Transport is a specified referral body under Clause 52.36.</p>

4.3.1 Former Planning Scheme Provisions

The provisions of the Melbourne Planning Scheme have changed since the approval of the current permit (Planning Permit No.2007/0531) in 2008. The subject site was formerly zoned Mixed Use Zone and a number of overlays also applied to the site. Amendment C171 to the Melbourne Planning

Scheme rezoned the Southbank area to Capital City Zone, Schedule 3, Southbank. The amendment also replaced the Design and Development Overlays (DDOs) that previously applied to the site. However, the discretionary 100 metre height limit was maintained in the current Schedule 60 of the DDO (Southbank) from the previous Schedule 39 of the DDO (Southbank Central Interface).

A summary of the existing and former statutory planning controls is provided below:

	Existing Controls	Previous Controls
Zone	Capital City Zone, Schedule 3 'Southbank'	Mixed Use Zone
Overlays	Design and Development Overlay Schedule 1, Area 2 'Active Street Frontages' Schedule 3 'Traffic Conflict Frontage' Schedule 60, Area 3 (100 metre discretionary height control)	Design and Development Overlay Schedule 18 'Southbank Plot Ratio' Schedule 27 'City Link Exhaust Stack Environs' Schedule 39 'Southbank Central Interface' (100 metre discretionary height control)
	Heritage Overlay 368	Heritage Overlay 368
	Parking Overlay Schedule 1 'Outside the Retail Core'	No parking overlay

5 Other Strategic Matters

5.1 Design Guidelines for Higher Density Residential Development

Design Guidelines for Higher Density Residential Development (Department of Sustainability and Environment, 2004), are referenced at Clause 15.01-2.

5.2 Metropolitan Planning Strategy

The metropolitan planning strategy was gazetted on 30 May 2014 (referenced at Clause 11.04). The strategy outlines the long term plan to accommodate Melbourne's future growth in population and employment. Two key directions of relevance are:

- Key Direction 1.4 outlines the plan for the expanded central city to become Australia's largest commercial and residential centre by 2040.
- Key Direction 2.2 outlines the requirement to reduce the cost of living by increasing housing supply near services and public transport.

The strategy identifies the CBD, Southbank and Docklands as the central sub-region within the expanded central region. The central sub region has a target to grow from a population of 464,000 in 2012 up to 914,000 in 2050 and from 700,000 jobs in 2014 to 960,000 jobs by 2031 and over 1 million jobs by 2050 (Initiatives 1.4.1 to 1.4.2).

5.3 Southbank Structure Plan 2010

Since the issue of the current permit in 2008, the 'Southbank Structure Plan 2010' has become a reference document at Clause 22.17 (Reference Documents) and at Clause 6.0 of DDO60 of the Melbourne Planning Scheme.

The Structure Plan provides a vision and strategy for the future development of Southbank as an integral part of the central city. It identifies the former JH Boyd School site as a neighbourhood hub and as a site for new public open space.

6.4 Future Living: City of Melbourne Draft Housing Strategy

Future Living is a discussion paper identifying issues and options for housing the City of Melbourne community. Council has indicated that by 2031, it is estimated that an additional 42,000 homes will be built within the municipality for an additional 80,000 people. This growth will mostly occur within the city's urban renewal areas, including Southbank.

6 Notification

Under Schedule 3 of the Capital City Zone and under Schedules 1, 3 and 60 of the Design and Development Overlay, an application to construct a building or carry out works for a use in Section 1 of Clause 37.04-1 is exempt from the notice requirements of Section 52 (1) (a), (b) and (d), the decision requirements of Section 64 (1), (2) and (3), and the review rights of Section 82 (1) of the *Planning and Environment Act 1987*.

However, the site is partly located within a Heritage Overlay. The extent of buildings and works associated with the heritage building are not exempt from notice and review rights. As the proposed buildings and works to the heritage building are considered minor - and there is an existing Section 173 Agreement that requires any changes or alterations to the heritage building to be consented to by the City of Melbourne - no notification (other than to the City of Melbourne) was considered warranted on the basis that the grant of a permit would not cause material detriment to any person.

7 Referrals/Comments

The application was provided to the DELWP Urban Design Unit and the City of Melbourne and referred under Section 55 of the *Planning and Environment Act 1987* to the Director of Public Transport. The following comments were provided:

DELWP Urban Design: comments on amended plans dated 30 July 2014:

Do not support the amended proposal without resolution of the following issues:

BUILDING HEIGHTS AND SETBACKS

- The increased tower height in the absence of increased setbacks results in an unacceptable design outcome.
- Despite the increase in residential accommodation above ground, the revised proposal results in a less active ground level frontage than the current permit. The amended plans indicate a substation located at ground level on the City Road frontage in place of the previous residential use.
- A lighting strategy for the substation should be provided to enhance the frontage at nighttime.
- The ground floor plan should be revised to include a dedicated access passage for bicycles from Balston Street to the designated bicycle parking area.

- The applicant should consider the potential to relocate the substation into the Balston Street frontage.

APARTMENT PLANNING AND INTERNAL AMENITY

- The floor plans to units 12 and 13 on Levels 6 and 7 should be revised to demonstrate increased access to natural ventilation to the bedrooms via a minimum fifty percent opening in the longest wall surface situated closest to the source of natural light.

WIND AND SHADOWING

- The applicant should rework the built form envelope to ensure any additional height does not result in increased overshadowing of the proposed publicly accessible open space on the former JH Boyd School site.
- The recommended canopy design for wind amelioration will result in an awning distinctly out of character with both its context and more importantly, the heritage building.
- Further investigation of relevant wind mitigation techniques is to be undertaken to achieve short term stationary conditions at both test location 6 and the City Road entry to podium apartments.
- The Windtech report also identifies the requirements for wind baffle screens of nominally 3 metres in height located behind the Level 3 parapet at the City Road/Balston Street corner. Additional detail is required indicating the materials and profile of the proposed wind baffles at Level 3 in reference to the heritage façade.

Additional comments on amended plans dated 17 October 2014:

- The increased tower height is proposed as a direct vertical extension of the approved form, without any additional formal modulation or setbacks. The revised tower height and form are not supported and the applicant should pursue additional amendments to ensure any increase in tower height will not result in overshadowing of the proposed open space to the west of the subject site.
- The proposed podium results in a substantial modification to the previous boundary relationship to the east, with a revised minimum setback from the eastern boundary at Level 4, 5 and 6 of 3.4 metres. The revised setbacks generate a minimum dimension between L4, 5, and 6 podium walls and the adjacent tower to the east of 6.0 metres. The revised podium configuration is not supported and should be amended to include a minimum setback dimension of 10.0 metres from title boundary.
- The additional podium volume east of the approved tower footprint at Levels 5 should be setback an additional 5.0 metres from the northern boundary to reduce the presence of visual bulk from the heritage wall.

Additional comments (that have been summarised) in informally submitted revised plans (dated 19 December 2014):

- The upper level tower form has been reduced at the north-west corner above level 21. This has resulted in a reduction in overshadowing of the proposed open space with an aggregate differential of 7 m² between 11 am to 2pm on 22 September. However, the revised proposal continues to introduce significant additional shadow of the proposed open space between 11.30 am and 12.30 pm - which peaks around noon - with an extra 188 m² overshadowed. Beyond 12.45 pm the revised proposal generates a reduced area of overshadowing of 126 m².
- The importance of protecting sunlight access to open spaces is addressed by Clause 22.02 of the Melbourne Planning Scheme and the Southbank Structure Plan. The applicant should be encouraged to examine the potential to further reduce the additional shadow cast on the proposed open space between 11.45 am and 12.45 pm to produce a result as close to neutral for the entire assessment period. This may include additional modifications to the north and north-west tower form above the currently approved height; ie for the proposed additional 14 storeys.

Public Transport Victoria (PTV): advised the proposal does not impact upon any planned transport projects, nor will it compromise the operation of existing public transport routes and offered no objection (letter to DELWP dated 12 September 2014).

City of Melbourne: The application was presented to Council's Future Melbourne (Planning) Committee on 11 November 2014. The Committee was unable to consider the application as the quorum was lost due to a number of Councillors declaring a conflict of interest. The application was therefore determined under delegation.

The City of Melbourne (letter to DELWP dated 14 November 2014) objected to the application for the following reasons:

- The proposed increase in building height is inconsistent with the 100 metre height limit for the area, would increase overshadowing of the proposed urban park, and would exacerbate wind conditions (resulting in inappropriate awnings).
- The increased number of apartments would generate increased demand in ground floor service areas, resulting in decreased active frontages on City Road, loss of a street tree, and unacceptable intrusion into the retained heritage fabric.

More specifically, the Council officer's report summarised the internal officer comments as follows:

Council's Heritage Consultant:

- The infill of the window openings for the substation and the alteration of the sill height will disrupt the constancy of expression across the length of the frontage and will disrupt the appreciation of heritage value of the building.
- The proposed glazed canopies are features that make a substantial statement and would compete with the early building form and distract from the appreciation of that early form.

Urban Design:

- Since the issue of the original permit, Southbank Structure Plan 2010 has become a reference document, designating the subject site as part of a local activity node and calling for City Road to become more pedestrian friendly. The Boyd site on the west side of Balston Street will be the focus of the activity node, but not all of the communities' needs can be accommodated within the Boyd site. It is important that surrounding sites contribute to the activity node. The subject site should therefore provide a substantial number of tenancies at ground and first floor levels to house local retail and services.
- Not supportive of increase in height as it would have an overbearing impact on pedestrians in both streets, is inconsistent with the 100m height limit (reaffirmed in Amendment C171), would increase overshadowing of the proposed park and appears to exacerbate wind conditions (resulting in a new requirement for awnings).
- The increased accommodation generates increased demand in ground floor services. It reduces the extent of active frontages at ground floor level which is not supported. The substation should return to its previously approved location; if this means the number of storeys should be reduced to limit the electrical load, then the number of storeys should be reduced. If the pump room needs to be enlarged, this should be at the expense of parking space, not retail space. More tenancy space should be provided at the ground floor level of an activity node. It is too valuable to be allocated to car parking.
- Recommend that a commercial tenancy be provided in lieu of the ground level apartment, and that this space be deeper. The mail room could be moved to free up additional street frontage.
- At 3rd floor, habitable space should be provided adjoining the communal open space, supporting usage which would contribute to activity and passive surveillance to City Road and Balston Street.

- The design of the new canopy is not supported. If the amended built form generates wind problems, we recommend that the built form be modified to avoid creating the problem.
- The awnings would impact on street trees.

Urban Landscapes:

- Confirm that the design of the public urban park at the former JH Boyd School site is due to occur in this financial year (2014/2015) with construction expected to commence in early 2016.
- The original proposed awning was not supported as it would have resulted in the loss of street trees. Amended plans reducing the awning will no longer necessitate removal of street trees on City Road. However, removal or pruning of any tree on City Road will not be supported. The canopies will need to be designed and installed accordingly
- The location of a substation on City Road will result in a street tree on City Road being removed and not replaced.
- Seek a change to the locations of the proposed trees on Balston Street to achieve a more consistent streetscape along Balston Street and a more consistent spacing of street trees. The tree species for Balston Street is *Quercus cerris* (Turkey Oak) which are large deciduous trees expected to reach a height of approx. 12m with a canopy spread of 10-12m in this location. With this in mind, the tree spacing should be rethought.

Engineering (Traffic):

- Recommend that some visitor parking be provided on-site for the requirements of visitors to the development.
- Raised a number of concerns about some aspects of the amended car park design.

Engineering (Waste):

- The waste storage and collection arrangements are satisfactory.

Engineering (Infrastructure):

- Objection to two outward opening doors projecting onto the footpath on City Road.
- All projections over the street alignment must conform to the relevant Building Regulations and the City of Melbourne Road Encroachment Guidelines with respect to projections impacting on street trees and clearances from face/back of kerb.
- Maximum permissible width of vehicle crossover without a pedestrian refuge is 7.6 metres. Crossings wider than 7.6 metres should include pedestrian refuges a minimum of 2.0 metres in length at 7.6 metre maximum clear spacings.
- Recommend standard conditions be included on any amended permit issued.

8 Assessment

8.1 Consistency with Planning Policy

The proposal is consistent with policies relating to urban consolidation, housing diversity, accessibility and land use and transport integration. However, the proposal does not fully address other equally important policies relating to building scale and transition, public realm amenity and urban design matters.

State Planning Policy Framework

The proposal is consistent with the following SPPF objectives and strategies:

- Supports the concentration of major residential, commercial, retail, entertainment and cultural developments in the central city which provides a variety of land uses and are highly accessible to the community (Clause 11.01-2).
- Includes low car parking numbers and encourages alternative modes of transport (Clause 11.01-2 and (Clause 18.01-1).
- Provides higher density housing development on sites that area well located in relation to activity centres, employments corridors and public transport (Clause 15).

Local Planning Policy Framework:

The proposal is consistent with the following Municipal Strategic Statement objectives and strategies:

- Clause 21.02 recognises that the City of Melbourne is the premiere location for many of the State's economic, infrastructure and cultural facilities, with the most significant gains in resident population expected in the Central City.
- Clause 21.13 -1 Southbank identifies appropriate areas for a variety of forms of development. The proposal is consistent with the direction to "*encourage high rise tower development to the north of City Link and west of Moore Street*".

Some local planning policy matters were raised with the applicant as key concerns, including overshadowing impacts, wind impacts, extent of active frontages, and alterations and changes to the heritage building. The applicant has responded satisfactorily to all outstanding issues as addressed in the final revised plans that were informally submitted on 12 March 2015 and in section 8.3 of this report.

Southbank Structure Plan 2010

In the Southbank Structure Plan, Strategy 8 for the Open Space Network is to:

"maintain solar access to existing key public open spaces and provide solar access to new key public open spaces".

The Structure Plan recommends that:

"... the new key public park within the Boyd School Redevelopment should have continuous solar access for a suggested minimum of two hours during the winter solstice" and to "investigate appropriate solar access conditions to deliver a high level of public amenity within the ... open space within the Boyd School site - eg. across a minimum of 50% of the site." Also, that Clause 22.02 is amended to reflect the importance of this proposed public open space (noting that this has not yet happened).

Council's Urban Design Unit notes that since the issue of the current permit in 2008, the Southbank Structure Plan has become a reference document to the Melbourne Planning Scheme and designates the subject site as part of a local activity node (mapped on p 30) and City Road to become more pedestrian friendly, including active frontages. The former JH Boyd School site on the west side of Balston Street will be the focus of the activity node and already houses a community hub. Several retail tenancies will also be provided, along with a new park, but not all of the community's local needs can be accommodated within the Boyd site and so it is important that surrounding sites contribute to the activity node.

The applicant has responded to the relevant planning objectives of the Southbank Structure Plan (and other local planning policy) in subsequent plans and documents that show:

- a ground floor apartment incorporated into an adjoining retail tenancy (City Road frontage);
- first floor apartments 4, 5, 6 and 7 replaced with non-residential tenancies;

- a change (reduction) to the building form to ensure that there is no additional overshadowing of the proposed park between 11 am and 2 pm on 22 September; and
- technical requirements for the substation that support its size and location on the City Road frontage (noting that a substation had not been included in the current permit and the endorsed plans would have had to be amended to accommodate utilities).

8.2 Land Use

The proposal redevelops a currently underutilised site which is occupied by a remnant heritage façade. The existing heritage façade is partially covered with advertising hoarding and in its current condition makes little contribution towards the streetscape.

The land uses in the proposal are consistent with:

- the strategic intent of the relevant planning policies in the State Planning Policy Framework and Local Planning Policy Framework in that it will provide high density housing and some retail and commercial tenancies in an identified urban renewal area that is currently undergoing redevelopment in close proximity to an emerging community hub and a range of established infrastructure and services; and
- the purpose of the Capital City Zone, Schedule 3; *"to develop Southbank as an extension of the Central City, providing for a mix of commercial and residential land uses that complement the capital city function of the locality."*

8.3 Design and Built Form

The standard model for developing taller buildings in the central city is based on a 35-40 metre high podium with the tower element setback from the podium by at least 10 metres, as described in Clause 22.01 - Urban Design within the Capital City Zone.

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

The provisions contained in Clause 22.01 - Urban Design within the Capital City Zone, Guidelines for Higher Density Residential Development, Schedule 3 to the Capital City Zone (CCZ3) and the relevant overlays, set performance benchmarks for good development. Key themes of street-pattern, edge-quality, building envelope, internal amenity, architectural design and activation are common threads through each of these policy documents and controls.

Under Schedule 60 of the Design and Development Overlay, the site is affected by a discretionary height control of 100 metres and, under DDO 1 (Area 3), City Road is identified as an Active Frontage.

8.3.1 Urban Context Response, Setbacks, Tower Separation and Architectural Design

The key planning issues in relation to the proposed additional building height are:

- setbacks to neighbouring properties;
- additional overshadowing impact on the proposed park at the former JH Boyd School site;
- wind impacts and visual bulk in relation to the public realm; and
- the strategic justification for additional height.

8.3.2 Assessment against DDO60 controls

An assessment of the proposal against the design and built form controls of DDO60 is included in the table below.

Clause 43.02, DDO60 controls Melbourne Planning Scheme	Assessment
Clause 1.0 Design objectives for whole of Southbank:	
To ensure that the suitability of each development to its context takes precedence over the individual merit of the building.	Satisfied. The proposal has been assessed in its context noting its location within a high rise precinct but abutting a sensitive interface with the former JH Boyd School community hub and proposed park.
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.	Satisfied. Adjoining sites (to the east and south) are already developed and the proposal has adequate setbacks so that equitable development is achieved.
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.	Satisfied. The proposal respects the privacy, sunlight, daylight and outlook from existing development on adjoining sites.
To ensure the height of new buildings does not overwhelm the public domain.	Generally satisfied. While including a tall tower, the proposal has a podium which meets the relevant planning controls for podium height and built form and therefore respects the public domain and provides a human scale of development at street interfaces. The tower podium typology and the tower's setback of approximately 25 metres from the community hub's boundary to Balston Street will result in a building that will dominate rather than overwhelm the public domain.
To allow daylight and sunlight to penetrate to the street and lower building levels.	Satisfied. The proposal does not result in any additional shadow or solar access impact on City Road, Balston Street and lower building levels than the current permit for the site.
To ensure development supports high levels of pedestrian amenity in relation to daylight, sky views, wind and sunlight.	Satisfied. Wind mitigation will be addressed by conditions on permit.
To ensure that development provides a high level of amenity for building occupants.	Generally satisfied. The internal layout of apartments has been improved; eg reducing the number of apartments with in-board bedrooms from 81 (current permit) to 7 (proposal). This should be further improved by eliminating all in-board bedrooms via a condition on permit.
Clause 1.0	

<p>Area design objectives (Area 3) applying to the subject site:</p>	
<p>To avoid detriment to the public domain from the impacts of buildings.</p>	<p>Satisfied. The applicant has informally submitted revised plans dated 12 March 2015 that show that the additional building height/envelope will not result in any additional overshadowing on the proposed park on the former JH Boyd School site to the west; it will result in 544 m2 less shadowing of this space than the current permit which is an improvement of the overshadowing outcome for the proposed park. Also, there will be no additional overshadowing of City Road and Balston Street compared to the current permit. Some additional overshadowing of Kingsway and Kavanagh Street will occur but is not considered a significant amenity impact.</p> <p>Concern has been raised regarding the proposed scale of the development and its overbearing impact on the public realm. The informally submitted revised plans (dated 12 March 2015) indicate a chamfered form and more slender building profile which will assist in moderating the visual bulk of the development when viewed from the public realm.</p>
<p>To ensure that development has a pedestrian scale at street level.</p>	<p>Satisfied. While including a tall tower, the proposal has a podium which meets the relevant planning controls for podium height and built form and therefore respects the public domain and provides a human scale of development at street interfaces.</p>
<p>To provide for appropriate spacing between buildings so as to maximise light, air and outlook for occupants.</p>	<p>Satisfied. See comments for Clause 1.0 objective.</p>
<p>Clause 2.0 and Table 1 Buildings and works should not exceed the building height specified in the table and should meet the built form outcomes.</p>	
<p>Building height of 100 metres</p>	<p>Not satisfied however, all key planning objectives and built form outcomes are satisfied. The proposal exceeds the discretionary 100 metre height limit by 47.70 metres (and is 43.05 metres higher than the current permit). The building setbacks are generally similar to or greater than the current permit, however, the form of the building is chamfered and more slender in profile and exceeds the 100 metre height control by an additional 45.65 metres compared to the current permit, which exceeds</p>

	<p>the height control by 8.15 metres.</p> <p>There are other nearby developments within the same 100 metre height control area that exceed the height control, but by a lesser degree, including 'City Tower' and 'Melbourne Tower' (to the east), both at 122 metres (ie exceed by 22 metres), and 'Epic Apartments' (to the south) at 119 metres (ie exceed by 19 metres).</p> <p>The additional height is supported given that other built form, overshadowing, wind and visual bulk impacts have been adequately addressed.</p>
Buildings that provide an appropriate transition to development in adjoining Areas to the south, west and east.	<p>Not satisfied.</p> <p>The proposal is located on the edge of a high rise precinct that transitions to a low scale community hub. As such, there will be a marked transition in scale to the adjoining area to the west.</p>
Buildings that do not dominate urban form in adjoining areas.	<p>Not satisfied.</p> <p>The proposal will be visually dominant as it is higher than existing nearby high rise development and this is highlighted by its interface with a low scale community hub. However, the proposed chamfering of the tower (revised plans dated 12 March 2015) - which will have a more slender profile - is considered to be an improved built form outcome, which will also assist in moderating the visual bulk of the development when viewed from the public realm.</p>
Table 2 to DDO60 Building design feature requirements and built form outcomes:	
<p>Podium heights should not exceed 30 metres.</p> <p>Building podiums:</p> <ul style="list-style-type: none"> • are oriented to complement the Southbank street system • have a human scale • provide an appropriate level of street enclosure • having regard to the width of the street are consistent with the heights and setbacks of adjoining building podiums • have a height and setback that does not undermine the heritage character of an adjoining heritage building. 	<p>Satisfied.</p> <p>The proposal's podium height is up to 6 storeys and achieves all of the identified built form outcomes.</p>
<p>Towers should be a minimum of 20 metres from an adjoining tower. This should not be varied unless: The majority of the built form outcomes are met; and There is an inequitable tower setback on a</p>	<p>Satisfied.</p> <p>The informally revised plans dated 12 March 2015 show that the proposed chamfered tower has a minimum tower separation to adjoining towers of 21.75 metres (City Tower) and 23.03 metres (Epic Tower) and achieves all of the</p>

<p>neighbouring site.</p> <p>The minimum setback between towers should be 10 metres.</p> <p>Towers are designed and spaced to:</p> <ul style="list-style-type: none"> • equitably distribute access to an outlook, sunlight between towers and to ensure adequate sun penetration at street level. • ensure habitable room windows do not directly face one another and that consideration has been given to the development potential of adjoining lots. • Ensure the sunlight, good daylight and privacy and an outlook from habitable rooms for both existing and proposed development can be provided. • Encourage the reasonable sharing of access to daylight and an outlook, and the mitigation of wind effects. • Ensure buildings do not appear as a continuous wall at street level. 	<p>identified built form outcomes.</p>
<p>Development above a podium should be a minimum of 10 metres from the front, side and rear boundaries:</p> <p>Towers are setback to ensure:</p> <ul style="list-style-type: none"> • large buildings do not dominate the urban form at ground level. • the dominant podium or streetscape scale is maintained. • consideration is given to the equitable development potential of adjoining lots. 	<p>Not satisfied.</p> <p>The informally revised plans dated 12 March 2015 show that the proposed chamfered tower has minimum boundary setbacks of:</p> <p>18.5 metres to City Tower site; 3 to 12.2 metres to Epic Tower site (due to the chamfer); 3.3 metres to Balston Street; 4.8 metres to City Road; and 15.02 metres to the City Rad/Balston Street corner (due to the chamfer).</p> <p>These setbacks are similar to or an increase when compared to the current permit - with a proposed chamfered form for the upper levels. While some of the setbacks are less than 10 metres, the proposal is considered to satisfy the built form outcomes that are identified.</p>
<p>The ground floor of a building should have a floor to ceiling height of at least 4 metres:</p> <p>Provide potential for active commercial or retail uses.</p>	<p>Satisfied.</p> <p>The ground floor level has a floor to ceiling height of approximately 3.6 metres which relates to incorporating the existing remnant heritage facade. Given this heritage context, the proposed floor to ceiling height is considered acceptable.</p>

8.4 Street trees

The Council objected to the potential loss of street trees on both street frontages. The applicant has consulted with the Council and the amended plans (dated 17 October 2014) show that the wind

mitigation canopy has been redesigned to accommodate all existing street trees and will allow for three new trees to be added to the Balston Street frontage, without compromising the wind mitigation outcome.

8.5 Impact upon the Heritage Building

The remnant façade of the existing heritage building is identified in the City of Melbourne Heritage Places Inventory 2008 as a C grade building in a level 2 streetscape. The building is recognised for its "*plain surfaces and simple fenestration which identify it as a representative example of an early modern Melbourne factory.*"

In response to the original amended plans (dated 30 July 2014), Council's heritage consultant advised in September 2014:

- The infill of two window openings for the substation and the alteration of the sill height will disrupt the constancy of the expression across the length of the frontage and will disrupt the appreciation of heritage values of the building.
- The proposed glazed [wind amelioration] canopies are features that make a substantial statement and would compete with the early building form and distract from the appreciation of that early form.

The amended plans (dated 17 October 2014) show that more of the remnant heritage fabric will be retained and restored when compared to the current permit including:

- Retention (and repair) of three out of four ground floor window lower sills and reconstruction of the southern most window bay and ground and first floor levels to Balston Street;
- Retention (and repair) of four out of six ground floor window lower sills along City Road, including changing an apartment to a retail tenancy; and
- Lowering of two sills and a colour backed glazed infill to the openings to accommodate a sub station on City Road. The applicant provided information (letter dated 17 October 2014) to support the location and size of the sub station in the City Road frontage location stating that "*the substation location, size proximity to existing electrical infrastructure and access requirements are generally unable to be varied.*" and that it would be preferable to locate the substation in City Road as Balston Street has the opportunity to become a more pleasant pedestrian environment.
- The applicant submitted a letter (dated 17 October 2014) from ALA Consulting Engineers who identify that Citi Power requires a substation of 12 x 10 metres on the perimeter of the site for both the current permit and the amended plans and that Citi Power's available high voltage power for the development is within City Road and not in Balston Street. The engineers further advise that a reduced size of sub station - of 8.5 x 7.5 metres and on the perimeter of the site - would be required only if the yield was in the order of 250 – 260 apartments (ie less than the current permit). The applicant submitted a further letter (dated 12 March 2015) from ALA Consulting Engineers confirming that two sets of double doors to the substation are required. The applicant has also advised that they would accept a condition on permit to provide a suitable treatment to the doors.

The key heritage issues are the proposed location of the substation on the City Road frontage and the heritage impacts of this, noting that this also impacts on the activation of the City Road frontage, and the proposed wind amelioration awnings along the heritage building façade.

The current permit has apartments and retail along the whole of its City Road frontage with a smaller substation located within the car park and not visible from a street. It is now evident that the current permit does not accord with Citi Powers current substation requirements and would have required a similar outcome; ie a large substation accessed from City Road.

It is noted that all matters in relation to the heritage façade are subject to the consent of the City of Melbourne by virtue of the existing Section 173 Agreement. The Council has indicated that the wind amelioration awnings need to be designed to be more sympathetic to the heritage building and the substation is an unacceptable intrusion to the heritage fabric and City Road frontage. As all heritage matters require the approval of the City of Melbourne, a condition should be included on permit to this effect which will enable the detailed resolution of heritage matters to be concluded between the applicant and Council. In terms of the substation, the applicant has provided sufficient technical information to confirm that the current size and location of the substation cannot be varied. Importantly, the active frontage is maximised to the City Road/Balston Street corner with services located at each end of the respective frontages which is considered the most appropriate outcome given the constraints.

8.6 Street Level Activation and Pedestrian Safety

The proposed development incorporates one retail tenancy at the City Road/Balston Street corner and one adjacent retail tenancy to City Road at ground floor level which narrows to a depth of 4.6 metres. The remainder of the ground level frontages are occupied by:

- a large sub-station and two stairways to City Road; and
- a mail room and lobby to the apartments, car park entry and utilities cupboards to Balston Street (as per the current permit).

DDO1 (Area 2) applies to the City Road frontage of the subject site, which requires an attractive pedestrian oriented frontage. Clause 21.06 identifies City Road as a Principal Street. The Southbank Structure Plan also requires sites surrounding the community hub to provide tenancies at ground and first floor levels to accommodate local retail and commercial services.

The proposal provides an increase in retail tenancies when compared to the current permit, and maximises the active frontage outcome given the constraints of services/utilities and car park access.

Several of the above ground levels of the podium include apartments 'skinning' the podium car parking. The applicant was asked to consider non-residential tenancies for the first floor level and responded by letter dated 11 December 2014 that they would change the level 1 apartments 4, 5, 6 and 7 to non-residential tenancies. This can be included as a condition.

DDO 3 applies to the City Road frontage of the subject site, which requires that no vehicle access points are provided. The proposal satisfies this DDO with vehicle access being provided on Balston Street.

8.7 Microclimate (Wind, Weather Protection, Light and Shade and Overshadowing) and Internal Amenity

Wind

A wind tunnel model of the proposal has been undertaken by Windtech Consultants Pty Ltd. Further information was submitted in response to a request for further information in respect to how the proposal complies with the requirements of Schedule 3 to the Capital City Zone, namely, *Developments affected by Schedule 1 to the Design and Development Overlay (Active Street Frontages – Capital City Zone) should be designed to be generally acceptable for stationary long term wind exposure (where the peak gust speed during the hourly average with a probability of exceedence of 0.1% in any 22.5o wind direction sector must not exceed 10 ms⁻¹)*.

The consultants advised that the results of the wind tunnel study indicate that the ground level wind conditions will exceed the 10m/s for the annual maximum gust wind speeds. However, the wind conditions on the street level are not due to the proposed development but the exposure of the site to the south. To mitigate the existing wind conditions affecting the corner of Balston Street and City

Road would require development of the area to the south of the site (area and building behind the Boyd Community Hub) and /or inclusion of strategic landscaping along Balston Street.

The consultants have subsequently provided further advice in respect to the design of a continuous, upwardly inclined awning to the existing heritage façade and stated that the proposed increase in height of the development will have a negligible effect on ground level wind conditions.

Both the Council and the Department's Urban Design Unit advised that the proposed canopies were an inappropriate design and adversely affected the integrity of the heritage façade.

The Windtech report indicates wind test location 6, tower entry, will satisfy 'walking criteria'. As the principal building address, the criterion to be satisfied is short term stationary. Hence, further investigation of relevant mitigation techniques is to be undertaken to achieve short term stationary conditions at both test location 6 and the City Road entry to podium apartments is required.

The Windtech report also identifies the requirements for a wind baffle screen of nominally 3.0 metres in height located behind the Level 3 parapet at the City Road/Balston Street corner. Additional detail is required indicating the materials and profile of the proposed wind baffles at Level 3 in reference to the heritage façade.

These further requirements – and the appropriate design resolution wind awnings - can be addressed as permit conditions, noting that no reliance on street trees will be accepted.

Overshadowing

Clause 22.02 - Sunlight to Public Spaces, objectives state: '*...overshadowing from new buildings or works does not result in significant loss of sunlight and diminish the enjoyment of public spaces for pedestrians*'. Also that '*...protect and where possible increase the level of sunlight to public spaces during the times of year when intensity of use is at its highest*'. The policy states that "*Development should not reduce the amenity of public spaces by casting any additional shadows on public parks and gardens, public squares, major pedestrian routes including streets and lanes between 11 am and 2 pm on 22 September.*"

In addition, the reference document Southbank Structure Plan 2010, specifically addresses the importance of protecting the amenity of the proposed park on the former JH Boyd Park School site.

The current permit was approved at a time when the redevelopment of the former Boyd School site had not been confirmed. The City of Melbourne has subsequently confirmed its intention to provide a park - located in the south-east quadrant of the site - and that construction of the park is scheduled to occur in the 2015/16 financial year.

The Southbank Structure Plan recommends that "*the new key public park within the Boyd School Redevelopment should have continuous solar access for a suggested minimum of two hours during the winter solstice*". DELWP's 3D modelling indicates that this measure can no longer be met given existing approvals in the area.

The applicant has satisfactorily responded to overshadowing concerns with revised plans (dated 12 March 2015) which show:

- a chamfered built form for two corners of the building. The Balston Street/City Road corner is chamfered from levels 17 to 47 by removing approximately 55 m². The south-east corner of the building has been chamfered from levels 9 to 47 by removing approximately 45 m²; and
- a corresponding shadow impact chart that shows that the revised proposal, when compared to the current permit, will result in 544 m² less additional shadow between 11 am to 2 pm on 22 September on the proposed park.

Clause 22.02 is a discretionary control that requires that the overshadowing from new buildings will not result in a significant loss of sunlight and diminish the enjoyment of existing public spaces for pedestrians. The current permit was approved under a different planning regime where the proposed urban park was not a consideration. Given that the urban park is now 'seriously entertained', it is considered appropriate to require the proposal to have a neutral or improved overshadowing impact

in relation to the proposed park in the context of the proposal requesting additional building height above the preferred building height of 100 metres.

Internal Amenity

SLR Consulting Australia Pty Ltd has conducted detailed noise measurements and noise predictions for the building. The main and constant source of noise in the area is traffic noise from the nearby roads. The results of the testing have shown that moderate to high quality double glazing is required to most of the building. The report can be endorsed as part of the permit to ensure the recommended acoustic mitigation works are undertaken.

The amended plans demonstrate a significant reduction in the number of apartments with habitable rooms with borrowed light (from 81 to 7 apartments). This is an improvement on the current permit but consistent with current practice, there should be no borrowed light apartments. This standard is currently applied in the assessment of all planning permits for developments over 25,000 m² in the central city in order to achieve a suitable level of internal light and ventilation and can be addressed by a condition on permit.

8.8 Environmental Sustainable Development (ESD)

Clause 22.19 Energy Water and Waste Efficiency and Clause 22.23 Stormwater Management (Water Sensitive Urban Design) were introduced subsequent to the original permit and are now a relevant consideration.

The applicant has submitted information that the ESD performance of the whole building will be improved through various measures including provision of a water tank for rainwater collection and reuse. Standard ESD initiatives relating to operational energy and water and waste savings for the life of the building should be required as a permit condition.

Clause 22.23 Stormwater Management (Water Sensitive Urban Design) seeks to achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999 (or as amended). This matter can also be addressed through a permit condition.

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

The application provides:

- 269 car parking spaces, well under the maximum limitation (Clause 45.09, 52.06) and commensurate with the site's level of access to public transport, employment and facilities;
- bicycle parking spaces in excess of the requirements (Clause 52.34); and
- appropriate loading and unloading facilities on site (Clause 52.07).

The Council has raised some detailed matters for further resolution regarding parking, traffic and waste. These matters can be addressed in conditions and worded such that the changes have to be to the satisfaction of the Council, as is the usual practice.

8.10 Development Contribution

The applicant has committed to providing a development contribution (by way of a Section 173 Agreement) [REDACTED] to Council's City Road Enhancement Fund. It is noted that there is no planning requirement for a development contribution for the subject site, however, it should be accepted (as a contribution has for 70 Sothbank Boulevard) in order to progress public realm improvements.

[REDACTED]

The development contribution should be included as a condition and be paid prior to the commencement of the development, as is standard practice.

9 Recommendation

The planning controls for the subject site establish a preferred maximum building height of 100 metres and built form outcomes (eg building setbacks and tower separation distances), overshadowing criteria, wind impact criteria, encourage active frontages, retention and refurbishment of the heritage façade, reduced car parking and bicycle parking provision and various other matters. It is noted that all other towers within the Southbank block bounded by City Road, Balston Street, Kavanagh Street and Power Street are under or slightly over (by about 20%) the 100 metre height control. This proposal would be a more significant departure from the height control and is located on a sensitive interface with the former JH Boyd School site – now a community hub and future park.

The strategic justification for the proposed increase in building height of 14 storeys is that the proposal will provide more housing in a strategic location. [REDACTED] However, this needs to be balanced against all of the relevant planning controls and the planning policy intent applicable to the subject site in its Southbank context.

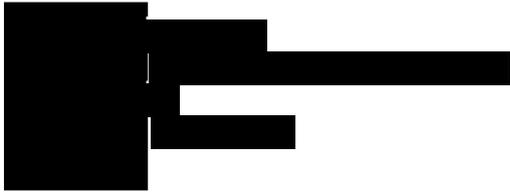
On balance, it is considered that some additional building height is reasonable subject to the following key changes to the proposal:

- The chamfered built form outcome – as shown on the revised plans dated 12 March 2015 – that result in no additional overshadowing of the proposed park on the former JH Boyd School site between 11 am and 2 pm on 22 September – be referenced in a condition on permit.
- Change the level 1 apartments facing City Road (apartments 4, 5, 6 and 7) to commercial tenancies.
- Wind mitigation criteria being achieved.
- There being no adverse impact on the remnant heritage fabric in terms of the location and design of wind amelioration awnings (and any other wind mitigation measures) and the sub-station.
- Redesign the seven apartments with habitable rooms (bedrooms) with borrowed light so that there are no apartments with borrowed light.

Accordingly, the recommendation is that a Notice of Decision to amend planning permit 2007/0531C for construction of a multi-storey mixed use tower be issued subject to conditions and that this include a condition for a Section 173 Agreement for the voluntary development contribution related to the number of additional apartments to be paid to the City of Melbourne prior to the commencement of development.

[REDACTED]

[REDACTED]



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