



150-162 Flinders Street and 19-25 Russell Street, Melbourne

Planning Permit Application 2013/009973

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1 Application Details

Key elements	Comments
Land:	150-162 Russell Street and 17-25 Russell Street, Melbourne.
Application No and proposal:	2013/009973 Demolition of the existing building and development of a multi-storey (32 level) building comprising a residential hotel, dwellings, office and ground level retail and dispensation from the statutory rate of bicycle parking pursuant to Clause 52.34 and variation of the loading and unloading of vehicles requirements of Clause 52.07.
Zone and Overlay controls	Capital City Zone Schedule 1 (CCZ1) Design and Development Overlay DDO1 A2, DDO2 A5 and DDO4 Heritage Overlay Schedule 505 (HO505) Heritage Overlay Schedule 653 (HO653) Parking Overlay (PO1)
Use	Residential (221 hotel rooms and 2 penthouse apartments), 1005 m2 retail, 3792 m2 office.
Height	32 levels (107m)
Floor area (GFA) [REDACTED]	GFA 26,007m2 [REDACTED]
Applicant / Developer	Forum Theatre Holdings Pty Ltd (Mariner Group)
[REDACTED]	[REDACTED]
City of Melbourne	Objects to the application.
Public Notification	51 objections.
PANS-OPS / Flight Paths	The building at 107 metres in this location is well below the OLS and it is unlikely that approval will be required for construction activities. The building is also well below the PANS-OPS level of approximately 280 metres.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

2 Background

Planning Permit

The permit application was lodged on 20 December 2013 and was largely incomplete.

Further information was requested of the applicant on 20 December 2013 and requested a full planning report, an urban context report, traffic engineering report, acoustic report, heritage report, detailed, scaled plans and perspectives, full shadow diagrams, 3D model and titles and encumbrances.

Further information was supplied in two parts on 24 December 2013 (Planning report) and then later on 19 February 2014.

On 7 January, the City of Melbourne wrote to the Department of Transport, Planning and Local Infrastructure and advised that it was their view, based on legal advice, that the Minister for Planning was not the Responsible Authority for the planning application because the gross floor area of the proposed development did not exceed 25,000 square metres.

This was because the gross floor area of the new 32 level tower development is 19,620 sq.m which is below the threshold of 25,000 sq.m specified at Clause 61.01 of the Planning Scheme which makes the Responsible Authority the Minister for Planning. The City of Melbourne asserted that the existing building of the Forum Theatre (approx 6,387 sq.m) should not be included in the floor area calculation, especially as these buildings and works to the Forum itself are exempt from planning and require a Heritage Permit.

The Applicant provided legal advice on 24 January [REDACTED] in support of their assertion that the Minister for Planning is the Responsible Authority.

[REDACTED]
[REDACTED]
[REDACTED] The Applicant argued that the Forum Theatre and the new tower together form a "development" and therefore should be considered and assessed together. Accordingly, the total floor space of the two sites can be added together to meet the threshold area of 25,000 sq.m.

This view is considered to be reasonable, given the two sites have one owner and the applicant is simultaneously applying for restoration of the Forum.

[REDACTED]
[REDACTED]

Heritage Victoria Application

Shortly after the planning application was lodged with DTPLI, a heritage permit application was lodged by the applicant with Heritage Victoria.

The application includes restoration works to the external part of the Forum Theatre, installation of lights and advertising signs and includes the cantilevered section of the tower that forms part of this planning assessment, because the 3.5m wide cantilever section of the building from level 7 up to level 32 extends over the heritage registration site.

A Heritage permit was issued for the restoration of the Forum Theatre and the overhang of the hotel over the Forum site on 23 June 2014.

In May 2014, a request for nomination to the Victorian Heritage Register was made to Heritage Victoria for the Russell Street Theatre at 17-25 Russell Street. This nomination will commence a 60 day advertising period on 23 May 2014. [REDACTED]

A request for an Interim Protection Order has also been made to Heritage Victoria [REDACTED]

3 Site and Surrounds

The development site is located at 19-25 Russell Street and 150-162 Flinders Street, and has frontages to Flinders Street, Russell Street and Hosier Lane with a total area of approximately 2040sqm.

19-25 Russell Street is the site of the proposed tower development and is located on the western side of Russell Street. It is occupied by a derelict theatre building formerly occupied by the Melbourne Theatre Company which has frontages to both Russell Street and Hosier Lane for loading. It has a total area of approximately 597sqm. This building is proposed to be demolished as part of the application. While the Russell Street Theatre is located within the precinct Heritage Overlay of HO 505, it is not listed in any heritage studies which identify it as important for heritage individually.

150-162 Flinders Street is occupied by the Forum Theatre, formerly the State Theatre, and is currently used as a live music/entertainment venue.

The Forum is A graded and is of Neo Islamic style. It is on the Victorian Heritage Register. The height of the building varies between 1 to 6 stories. Notable features of the building include the jewelled clock tower with a copper clad Saracen dome, minarets, 'barley sugar' columns and rich pressed cement decoration. Construction is steel frame and brick.

The immediate context south of Flinders Lane demonstrates a strong and cohesive built form character of between 20-40 metres. The architectural and historic quality of the buildings in the block is very high with a number of significant building and very prominent landmarks, specifically St Paul's Cathedral further to the west and the Forum Theatre.

The land surrounding the site is developed as follows:

North

Cavendish house is located at 27 Russell Street abutting the site to the north. It is a ten level neo-Georgian style building containing residential apartments. Windows have been constructed on the southern boundary which overlook the former Russell Street Theatre building and face the rear of the Forum. A covenant is registered on title, which provides for the protection of the adjoining building

and the removal of windows and balconies if necessary when the adjoining building (to Cavendish House) is built.

Further to the north of Cavendish House is the former T and G building located on the corner of Collins Street and Russell Street. It is an A graded of a Neo Baroque style and is 12 storeys in height. This building forms a significant landmark in the precinct.

South

On the opposite side of Flinders Street is Federation Square and associated forecourts which includes one the most significant areas of civic spaces within the Central City.

East

On the eastern side of the street are lower scale buildings, with the taller towers located further east of this area. The Grand Hyatt Hotel is located further up the hill opposite the Former T and G Building. It is 34 storeys in height and is setback from the corner of Collins Street and Russell Street.

West

Hosier Lane provides access between Flinders Street and Flinders Lane. It is also provides the only access to Rutledge Lane. Hosier Lane is a vibrant and active lane and has become a tourist destination in recent years due to its ever changing graffiti art. Hosier Lane also contains a mix of uses including food and drink premises, residential apartments and the Living Room which is a community health care provider.

Figure 1 – Site Locality Plan



4 Proposal

The proposal seeks to:

- Demolish the existing building at 19-25 Russell Street.
- Construct a 32 level tower which is generally built to all boundaries but above podium level is setback 1 metres from the north.
- Construct a single basement level is proposed comprising laundry facilities, a bike store, and storage and general hotel 'back of house' facilities.
- The tower will contain 221 residential hotel rooms over 17 levels and 2 penthouse dwellings;
- The ground level of the tower will include retail, a small lobby area and a restaurant for the hotel which abuts Hosier Lane;
- The ground level will provide a publicly accessible through-building link from Russell Street to Hosier Lane.
- A level of retail will be provided at first floor.
- Five levels of commercial office floor will be provided with a total of 3,792 sq.ms of floor space.
- The building will have a total height of 107 metres.
- No car parking is proposed to be provided for the development.
- A bike store in the basement is proposed with space for 18 bikes.
- A small loading bay is proposed however this does not meet the dimensional requirements of Clause 52.07 and as such a dispensation from this requirement forms part of this application.
- The footpaths along Russell Street and Flinders Street are proposed to be widened with bicycle parking added to the Russell Street footpath. These buildings and works are exempt from needing a permit under the scheme and will be subject to a separate application to the City of Melbourne.
- The application includes construction and display of new signs to the Forum Theatre and to the new tower. Only two signs are proposed on the new building. One sign of 1m in height and 10m in width is proposed to be integrated into the glazed retail facade immediately beneath the soffit of level 03. A second sign is proposed for the hotel of 0.6m in height by 4.6m in width proposed immediately above the entrance to the podium.
- No permit is required under the Melbourne Planning Scheme for the signs to the Forum Theatre as these will be dealt with by the application to Heritage Victoria.

The application also proposes heritage restoration and refurbishment buildings and works which form part of the application to Heritage Victoria. They are exempt for the need for a planning permit under the Melbourne Planning Scheme. These buildings and works include:

- Repair and restore the facade of the Forum building
- Repair and restore the awnings
- Repair and restore some of the copper domes
- Repair the tower clock
- Reinstate Forum theatre signage to the top of the parapet
- Reinstatement of the external floodlights and highlights.

4.1 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.

The following key SPPF policies are relevant:

- Clause 11 Settlement
- Clause 15 (Built Environment and Heritage)
- Clause 17 (Economic Development)
- Clause 16 (Housing)
- Clause 18 (Transport)
- Clause 19 (Infrastructure)

The thrust of the above policies is to 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 integrate transport and infrastructure planning.

4.2 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 seven key themes for settlement, Environment and Landscape Values, Built Environment and Heritage, Housing, Economic Development, Transport and Infrastructure. The site is located within the Hoddle Grid as identified under Clause 21.12 of the Melbourne Planning Scheme.

The future directive for this area is to support the Hoddle Grids' role as offering a diverse range of retail, cultural and entertainment opportunities and to protect the grid layout, laneways, significant public open space and important heritage precincts.

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

Municipal Strategic Statement

- 21.03 Vision and Approach
- 21.04 Settlement
- 21.06 Built Environment and Heritage
- 21.07 Housing
- 21.08 Economic Development
- 21.11 Local Areas
- 21.12 Hoddle Grid
- 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
- 22.20 CBD Lanes
- 22.23 Stormwater Management

The thrust of the above policies is to encourage high quality urban design outcomes and to ensure that development is environmentally sustainable and recognises its impact on 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)
<p>Capital City Zone-Schedule 1 (Clause 37.04)</p>	<p>Pursuant to this Clause a permit is not required to use the land for the proposed land uses.</p> <p>A permit is required to construct a building and carry out works.</p> <p>A permit is required for development that would cast a shadow across any part of Federation Square between 11.00am and 2.00pm at the Winter Solstice.</p> <p>A permit is required to erect an advertising sign in excess of the dimensions specified in Clause 5.0 to Schedule 1 of the Capital City Zone.</p> <p>A permit is required to demolish or remove a building or works.</p> <p>A permit is required to construct a building or construct or carry out works which would cast a shadow across any part of Federation Square, City Square, Queens bridge Square and the State Library Forecourt 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 squares.</p> <p>A permit is required to construct any part of a building exceeding a height of 40 metres within 10 metres of a road frontage.</p> <p>Pursuant to Clause 62.02-2 a planning permit is not required for road works and street furniture.</p> <p>A permit is not required for the restoration works to the Forum Theatre as works to buildings included on the Victorian Heritage Register are exempt.</p>
<p>Design and Development Overlay-Schedule 1-A2 Active street frontages</p>	<p>Pursuant to Schedule 1 of this Clause a permit is required for building and works at ground level. Active frontage requirements must be met. Only the Flinders Street frontage is affected by this overlay, and the application includes minor works to the façade of the Forum Theatre which trigger a planning permit under this Clause.</p>
<p>Design and Development Overlay Schedule 2 A5</p>	<p>Pursuant to Schedule 2 of this Clause, a permit is required for buildings and works.</p> <p>With the exception of architectural features and building services, buildings and works within Area 5 should not exceed the discretionary maximum height of 40 metres.</p>
<p>Design and Development Overlay 4 – Weather Protection</p>	<p>A permit is not required to construct a building or construct or carry out works if adequate weather protection to the street frontage is provided to the satisfaction of the responsible authority.</p> <p>The application does not propose any weather protection to Russell Street.</p>
<p>Heritage Overlay Schedule 505</p>	<p>A permit is required to carry out buildings and works, including demolition; however a planning permit is not required to develop a heritage place on the Victorian Heritage Register.</p> <p>The Forum Theatre is on the Victorian Heritage Register (H438),</p>

	<p>therefore for any parts of the development located within the extent of registration for the Forum Theatre will not require planning permission.</p> <p>The former MTC building is within the precinct heritage overlay but is not included on the Heritage Victoria Register.</p> <p>A permit is required for the demolition of this building and the construction of new building.</p>
Heritage Overlay Schedule 653	<p>A planning permit is not required to develop a heritage place which is included on the Victorian Heritage Register. The Forum Theatre is on the Victorian Heritage Register (H438), therefore for any parts of the development located within the extent of registration for the Forum Theatre will not require planning permission.</p>
Parking Overlay – Schedule 1 (Clause 45.09)	<p>The site is located within the Capital City Zone (outside the Retail Core) and as such maximum parking provision requirements apply under Schedule 1 to the Parking Overlay (PO1).</p> <p>The development proposes no parking provision and therefore a permit is not required under the Parking Overlay.</p>
Advertising Signs (Clause 52.05)	<p>A permit is required under the Capital City Zone Schedule 1 and the Heritage Overlay for the signs to the new building on the former Russell Street Theatre site and to the Forum Theatre.</p> <p>However no permit is required to develop a heritage place which is included on the Victorian Heritage Register. The Forum is included on the Victorian Heritage Register and therefore a permit is not required for signs under the Melbourne Planning Scheme.</p>
Loading and Unloading of Vehicles (Clause 52.07)	<p>Under Clause 52.07 no buildings or works may be constructed for the manufacture, servicing, storage or sale of goods or materials unless space is provided on the land for loading and unloading vehicles as specified within the table.</p> <p>The retail use triggers the requirement for a loading bay. A loading bay is provided but the dimensions of the loading bay do not meet the requirements of the Clause and accordingly a permit is required to vary this requirement.</p>
Bicycle Facilities (Clause 52.34)	<p>A permit is required to vary, reduce or waive any requirement of Clause 52.34-3 and Clause 52.34-4.</p> <p>Office use – 1 to each 330 sq.m of net floor area if this exceeds 1000 sq.m, same requirement for visitor spaces.</p> <p>Retail land use – 1 to each 300sq.ms of leasable floor area 1 to each 500 sq.ms of leasable floor area for visitors</p> <p>Although no rate for Residential hotel is directly specified, Residential hotel is nested under Residential building and is considered to give the best approximation of the correct rate for this use.</p> <p>Table 1 to Clause 52.34-3 specifies a rate of 1 space to each 10 lodging rooms and 1 space to each 10 lodging rooms for visitors. Residential building.</p> <p>The development generates a requirement for provision of 22 bike spaces for employees/residents, 22 for visitors and 13 bikes spaces</p>

	for office use, including both staff and visitors, which equals a total requirement of 57 bike spaces. 18 spaces are proposed to be provided in the basement.
Urban Context Report and Design Response for Residential Development of Four or More Storeys (Clause 52.35)	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. The application was accompanied by an urban context and design report and the applicant was advised that it was satisfactory on 17 February 2014.
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. On 20 February 2014 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)	Clause 66.03 works in conjunction with Clause 52.326 (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.

5 Other Strategic Matters

5.1 Amendment C209

Amendment C209 seeks to introduce the Open Space Strategy which requires a 8% (Area A) or 5% (Area B) contribution of the site value, a land contribution or a combination of both. The site is located in the area designated as Area A.

This amendment has undergone exhibition but has not been through an independent panel process. The contribution can be made as a percentage of the site value, a land contribution or a combination of both. Council has not made a request for public open space contribution as part of their response to the application.

This amendment applies to the subject proposal but is not yet seriously entertained and accordingly is not required to be considered in planning permit conditions.

5.2 Plan Melbourne

Plan Melbourne is the Government's long term plan to accommodate Melbourne future growth in population and employment.

Plan Melbourne includes 8 key directions under the heading of Liveable Communities and Neighbourhoods. The following key chapters of Liveable Communities and Neighbourhoods are relevant to the application:

Protecting Melbourne's Heritage

We need to manage future growth and change so Melbourne's distinctive characteristics and heritage are maintained and its liveability enhanced.

The proposal supports this direction by retaining and enhancing the Forum theatre, providing a striking new piece of architecture to the city and enhancing the cultural richness of Melbourne by providing cultural synergies between the theatre, the hotel and Hosier Lane.

Strengthening Melbourne's identity

Melbourne's cultural and sporting venues are integral to the city's identity. These things help define the city and make Melbourne attractive to residents, visitors and investors.

The proposed development will further support and enhance the ongoing operation of the Forum Theatre; it will enhance the cultural identity of Melbourne and will provide new high quality hotel accommodation.

The following directions and initiatives are relevant to the application:

Direction 4.2 Protect Melbourne and its suburbs from inappropriate development

Initiative 4.2.3 Protect unique city precincts.

This initiative acknowledges the pressure of higher density development and supports intensive development of the central city area to reduce pressure on the suburbs. It also advocates that with intensive development, areas that are sensitive to development should be protected. In this respect, assessment has carefully considered the impact of the development on Federation Square to ensure the amenity of this key public place is not diminished. While Federation Square will experience some new overshadowing, this is considered to be minimal and will not prejudice the amenity of the square.

Direction 4.6 Create more great public places throughout Melbourne

Initiative 4.6.4 Support Cultural events, precincts and programs

This initiative provides support for Melbourne's dynamic arts culture and creative identity by supporting and enhancing cultural precincts. The proposed development will build on the strength of the theatre district and foster a sub-precinct based around the Forum theatre and Hosier Lane.

Direction 4.7 Respect our heritage as we build for the Future

Initiative 4.7.1 Value heritage when managing growth and change

This initiative encourages enhancing heritage assessment and modernising the Heritage Act.

The assessment of the proposal has involved coordination with Heritage Victoria's assessment process and has included careful analysis of the proposed development's impact on the heritage Forum theatre.

6 Notification

An application to construct a building or construct or carry out works for a use in Section 1 of Clause 37.04-1 is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

The application is also exempt from notice under all of the applicable overlays except the Heritage Overlay.

The Heritage Overlay is only triggered by the proposed development on the Russell Street Theatre portion of the site.

Clause 43.01-2 states that "no permit is required under this overlay (the Heritage Overlay):

To develop a heritage place which is included on the Victorian Heritage Register."

Therefore, no permit is required under the Heritage Overlay for the restoration and cantilevered section of the building over the Forum Theatre site pursuant to Clause 43.01-2. These matters form the basis of the heritage permit application to Heritage Victoria.

Notice was given of the application under the Heritage Overlay by three signs displayed on site to Flinders Street, Russell Street and to Hosier Lane, as well notices to adjoining owners and occupiers and notices in the Age and the local Melbourne Leader paper. The Statutory Declaration dated 13 March 2014 has been submitted, attesting to the satisfactory completion of all notification requirements.

Objections

51 objections to the application have been received including an objection from the National Trust and the City of Melbourne.

The objection from the National Trust includes a detailed submission of 8 pages. The primary grounds of objection are the height of the new development in relation to the heritage context and the Design and Development Overlay height controls and the loss of street art to Hosier Lane.

A number of other objections have been received including ones on a standard form titled "Keep Hosier Real" as follows:

The proposed building does not conserve and enhance the appearance of the precinct as required by Clause 22.04, Heritage Places, within the Capital City Zone, as it fails to adequately respect the scale and form of nearby heritage buildings as well as disregards the heritage height restriction for this area of 40ms.

The proposal has no regard culturally for the precinct and provides no aligned amenity for the zone or community within it. The noted triangulated form of glazing is not unique to the project and it has been previously approved as a special feature for the building next to Nauru House. Loading in laneway for hotel will impact safe pedestrian and vehicle access, including waste pickup.

The proposal seeks to introduce a new active frontage on the lane that will benefit from the existing art and character of the lane. This will remove a huge proportion of the organic art and not provide any real opportunity to contribute to the art in the laneway except for some proposed commercial aspects involved with private commissioned works.

Response to grounds:

Heritage

Heritage places within the Central City area are commonly juxtaposed against a surrounding built form of taller and often contemporary buildings. The Forum Theatre is itself a substantial building which strongly commands the Flinders Street and Russell Street corner. It is therefore considered, subject to other design factors, able to withstand built form to its rear without a significant adverse impact on its heritage values.

Further key characteristics of the new building which support an assessment that it will respect and not dominate the Forum is the fine and slender character of the tower, its glazed form which offers a clear contemporary distinction from the heritage fabric and the development site's distance from the corner which enable the Forum to continue to command the Flinders Street and Russell Street corner.

This perspective view will also mean that the overhang of the new development over the Forum will not be strongly perceived from the public viewing perspectives and will not appear dominant, especially given the substantial depth of the Forum site.

Character of the area/ Urban Art

The assessment of the proposal disputes the view that the development is not responsive to the character of the area. As much as the character of Hosier Lane is most obviously and superficially defined by street art, it also has a character as a central Melbourne commercial precinct and a new hotel is entirely consistent with this character.

The proposal has responded to the Hosier Lane/Street art character of the area by provision of a new cafe that addresses Hosier Lane with provision of a new art wall panel in order for the development to make its own urban art contribution to the laneway. This will allow visitors to Hosier Lane to linger longer and enjoy its character. With no heritage or urban character controls related to the urban art affecting the site, there are no planning arguments to support that temporary street art supersedes individual's property rights to develop their land.

Assessment concludes that the detailing of the Hosier Lane facade and ground level retail space is very important to respond to the urban character and conditions will be applied to the permit to address this issue in detail.

Loading and Amenity

Laneways in central Melbourne have a primary function of providing access and loading functions to commercial premises. For Hosier Lane and other lanes to receive loading vehicles is considered a necessary and important function of the lanes. The application recognises the tourism and pedestrian qualities of the lane by proposing to restrict its loading to certain hours to avoid the majority of pedestrian movements and this is recommended to be addressed as a condition of permit. Although it is noted that this is a voluntary arrangement on behalf of the Applicant as a "good neighbour" as the use is as-of-right under the zone.

The proposal includes a new retail space to Hosier Lane, a through block link and controlled loading times which will contribute to the amenity and safety of the lane.

7 Referrals

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

City of Melbourne

The permit application was considered at Council's Future Melbourne Committee on 6 May 2014. Council resolved to object to the application on the following grounds:

- The development fails to comply with the relevant policy directions, objectives and decision guidelines of Clause 22.04 Heritage Places within the Capital City Zone and the Heritage Overlay of the Melbourne Planning Scheme.
- The development fails to conserve and enhance the character and appearance of the heritage place and does not adequately respect the existing character, scale, form and appearance of the heritage place.
- The development by virtue of its location, bulk, form and appearance will adversely affect the significance of the Forum Theatre and other adjoining buildings.
- The proposed height, combined with the lack of adequate setbacks fails to comply with the provisions of Design and Development Overlay Schedule 2 A5 and Clause 22.01 Urban Design within the Capital City Zone of the Melbourne Planning Scheme and is considered an overdevelopment of the site.
- The development will have an adverse impact on the amenity of Russell Street, Flinders Street, Hosier Lane and Federation Square through building height, inadequate setbacks, overshadowing and visual bulk.
- The development fails to complement, respect or relate to the low scale surrounding area, particularly to the established street wall pattern along Russell Street and the low scale and pedestrian friendly nature of Hosier Lane.

Internal referral comments from the City of Melbourne

The Officer's report accompanying the resolution to object to the application contains detailed comments from internal Departments of the City of Melbourne. These comments have been reviewed and have assisted in forming conditions to address matters of noise, loading and unloading, bicycle parking, waste management, signs, land survey and impact on adjoining buildings.

In particular the following comments of the City of Melbourne are noted because they have assisted in forming the basis of planning permit conditions:

Land Survey

The title to the Forum Theatre site is encumbered with a covenant restricting the height limit of development to 45 metres RL. The benefiting land is 25 Russell Street which is the Russell Street Theatre site which is the proposed development site. Given all levels of the building above approximately level 13-14 are above 45 metres in height and overhang the rear of the Forum Theatre site, the development contravenes this covenant. The City of Melbourne has suggested that this should be addressed via conditions included on the permit which:

- Realigns the southern title boundary of the land to include additional airspace above RL 45 metres to ensure all the structure for the proposed development is contained within one title.
- Provides for a light and air easement with a width of 5 metres created along the southern boundary above a reduced level of 45 metres AHD adjacent to the realignment boundary.

Impact to adjoining buildings

The Council has indicated that the setback to the south boundary of 1 metre is inadequate and would compromise the development potential of adjoining buildings including Cavendish House and the Forum Theatre site although it has noted that it is unlikely that they would be developed. The Council has noted that the south facing windows will lose access to light and ventilation which will have to be removed in conformity to the Section 173 Agreement on the title to Cavendish House which is inclusive of each apartment. The Section 173 agreement was entered into with the Council when Cavendish House was converted to residential apartments.

Urban Design (DTPLI)

DTPLI Urban Design have indicated that they consider that the proposal will make a positive contribution to the urban context for the following reasons:

- The commitment to external refurbishment of the Forum is long overdue and the planning permission should lock in complete and permanent air rights over the theatre to ensure no future interventions.
- The proposed development will bring economic and social activity to a relatively under utilised corner of the CBD.
- The scheme includes a through block link which should enhance surveillance and safety.
- Although the height of the development is well above the DDO height control the impact of the proposal is not adverse because it will be viewed within a backdrop of similar height or taller buildings.
- The separation from the Forum Theatre building itself is sufficient to act as an appropriate foil to the heritage structure.
- When viewed from Hosier Lane that height would not be evident due to the narrow view cone.
- When viewed from Russell Street, the development would appear slim and well articulated.
- When viewed from the north it would be seen amongst many similar buildings and would not be particularly evident.
- The lack of a tower setback is acceptable due to the slim profile of the building and the different visual/architectural treatment to the lower levels of the building which appears as a podium.
- Access to Hosier Lane and an active ground level use such as a cafe is positive but needs to be handled carefully to complement the "grungy" character of Hosier Lane.
- Wind impacts are acceptable however a canopy over the doorway to Russell Street should be a condition of permit to provide weather protection and herald the hotel entry.
- Overshadowing studies by the Applicant are very detailed and have been checked using the UD City Model. The diagrams indicate some overshadowing of Fed Square (near the SBS Offices) however the amount is limited and it is short-lived with subsequent shadowing over roofs including the Atrium (which has a mostly opaque) enclosure.
- Servicing the new building from Hosier Lane could be disruptive and should be time restricted by condition of the permit.

DTPLI UD has provided a list of suggested permit conditions to address the above issues.

Public Transport Victoria

Public Transport Victoria responded on the 14 May 2014 and advised they had no objection to the proposal subject to three conditions being placed on the permit.

8 Assessment

8.1 Consistency with Planning Policy

The proposal is a well resolved scheme consistent with the characteristics of the area and its strategic vision identified under the Southbank Structure Plan 2010. The proposal achieves State and Local policy objectives by:

SPPF

- By providing a new four star hotel within the Hoddle Grid, the proposal 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).
- As a car free development the proposal will reduce the number of private motorised trips and encourage alternative modes of transport. (Clause 11.01-2 and Clause 18.01-1 Land use planning and transport)

- The proposal will help provide a focus for leisure activities enabling synergies with the Forum Theatre and Hosier Lane. (Clause 11.01-2).
- By activating Hosier Lane and Russell Street and providing a much needed new hotel in the CBD in close proximity to popular cultural attractions, the proposal will improve the social, economic and environmental performance and amenity of the centre. (Clause 11.01-2)
- Through high quality and site responsive architecture and urban design the proposal will contribute to the character of the area, will reflect and contribute to the activities in Hosier Lane and the Forum Theatre, will promote safety and the attractiveness of Melbourne and will have minimal detrimental impact on neighbouring properties. (Clause 15)
- Through a slim but articulated tower form, the development will make a positive contribution to the public realm and to vistas to the city. (Clause 15)
- The development is activated at both the north and south residential street interfaces and includes a through block link which will enhance adjacent pedestrian spaces, create a pleasant new pedestrian experience and provide greater safety for pedestrians. (Clause 15)
- The development will provide a much needed new 4 star hotel in the city which will support and enhance tourism, in particular complementing nearby cultural attractions like the Forum Theatre, Federation Square and the Regent Theatre. (Clause 17.03).
- The development will help support a strong cultural environment in Melbourne by increasing access to the arts, recreation and cultural facilities (Clause 19.02-3).

MSS

- Responding to Clause 21.12 (Hoddle Grid – Built Environment and Heritage) through:
 - Protecting and enhancing the scale and character of import heritage precincts including Flinders Lane.
 - Providing a design which acknowledges human scale and activation at ground level and provides a context for surrounding heritage buildings.
 - Making a striking contribution to Melbourne’s skyline through a slim, faceted tower.

LPPF

- The development is fully designed to all visible sides and highly responsive to its context. It will enhance the physical quality and character of Melbourne’s streets and lanes through a new safe and high amenity pedestrian link and a new cafe use facing Hosier Lane that will provide an opportunity to experience one of Melbourne’s unique and special lanes. (Clause 22.01).
- Responding to the heritage context of the site by conserving and enhancing the Forum Theatre and proposing new development which is respectful of the Flinders Gate precinct (Clause 22.04 Heritage places within the Capital City zone).
- The proposal responds to Clause 22.02 (Sunlight to Public spaces) by ensuring that the building will not result in significant overshadowing, given Federation Square and the Atrium is affected for less than half an hour and the remaining time shadowing falls over roof.
- Responding to Clause 22.19 (Energy, Waster and Water) and Clause 22.23 (Stormwater Management) by including environmentally sustainable building initiatives to achieve 5 star NABERS Hotels Energy and Water given there is no equivalent Green Star tool for hotels.
- The development achieves an appropriate balance, as supported by Clause 22.20 (CBD Lanes), of utilising Hosier Lane for necessary access and service requirements and also enhancing the laneway environment by providing activation through a cafe to Hosier Lane, a through block link from Russell Street to Hosier Lane and providing new opportunities for street art on the building.
- The proposed development adjacent to Hosier Lane responds to Clause 22.20 (CBD Lanes) by respecting the fine grain subdivision pattern, providing an appropriately articulated and detailed facade with surveillance over the lane through a glass curtain wall with frit to the west elevation, enabling small scale tenancies at ground level (cafe).

All planning policies whether they be included within the planning scheme, or not, provide guidance for development and are not intended to be interpreted as prescriptive mandatory controls. A

guidance based approach encourages innovative development solutions to respond to specific constraints and opportunities having regard to the requirements of the relevant zone and overlay.

8.2 Land Use

The primary land use proposed on the site is "Residential Hotel" which is nested under "Accommodation" which is an as-of-right use in the zone. 'Dwellings', 'Office' and 'Retail' which are also proposed as part of the application and are also as-of-right under the zone. No permission for land use is therefore required.

8.3 Design and Built Form

The application includes the demolition of a low scale ungraded building in the Heritage Overlay and development of a new building adjacent a heritage place that is listed on the Victorian Register and requires planning permission under the Heritage Act. The proposal includes a high density and activated development consistent with the decision guidelines of the Capital City Zone.

The performance measures contained within Clause 15 of State Policy, Local Policy 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 and Schedules 1, 2 and 4 of the Design and Development Overlay (DDO1-A2, DDO2 A5 and DDO4) and the Capital City Zone Schedule 1 set objectives, policies and performance benchmarks for good development.

Key themes of these provisions are site responsive design, edge-quality and activation, building envelope and setbacks, impact on the quality of pedestrian spaces and architectural design are common threads through each of these policy documents and controls.

Height / Setbacks / Tower Separation / Architectural Design

The proposed development responds appropriately to key planning policy objectives, recommendations and the requirements of the zone and overlay as follows:

- Key characteristics of the site include its interface the Forum Theatre and Hosier Lane, its location on the south face of the Russell Street hill, a strong vertical character to existing built form and the narrow and small size of the site. The built form and massing of the design is considered to be highly responsive to these characteristics through the following key features:
 - A tall, slim, rectangular tower which responds to the vertical rhythm of Russell Street
 - A sheer facade to Russell Street which echoes the presentation of the zero setback of the Forum, Cavendish house, the T and G building to Russell Street.
 - Zero setbacks to all boundaries (except 1 metres setback from the north boundary), are similar to adjoining properties.
 - A highly contemporary, curtain wall presentation which distinguishes the building from nearby heritage buildings, whilst being respectful in terms of its built form and massing.
 - Activation at both street interfaces and opportunities for urban art, responsive to the Hosier Lane environment.

Through these key characteristics, the proposed building responds to policy at Clause 15 which seeks to encourage high quality, site responsive design which contributes positively to local urban character and sense of place.

- The strong geometric form and zero setbacks are considered responsive to neighbouring buildings and achieve the policy objectives under 'Building Design' of Clause 22.01 which encourage towers to align with the street pattern and respond to the continuity of street facades, maintain the rhythm of the streetscape and include appropriate regard to the height, scale, rhythm and proportions of adjoining heritage buildings.
- No podium is proposed to the tower in terms of a structural setback however the first 8 levels of the building will have a different architectural treatment with irregularly spaced masonry fins to

visually define a podium which directly responds to the height datum of the neighbouring buildings and their vertically orientated detailing. This approach is considered to be a successful contextual approach which is therefore an appropriate variation to local policy found at Clause 22.01.

- The proposal, given the location part way down the Russell Street hill, on the edge of the city and adjoining a prominent landmark heritage place, will be highly visible. The proposal responds well to 'Facade' policy at Clause 22.01 because all sides of the building are well designed and utilise high quality materials are suitable to be viewed 'in the round'. The faceted south facade is considered to be an appropriate contemporary counterpoint to the highly patterned facades of the Forum which avoids replication. The design will engage the eye and offer a distinctive, high quality addition to the south vista to the city skyline. The north side of the tower facade offers a plainer striped glass frit which DTPLI Urban Design endorse as a more "sleek and serious side" with the north and south facades providing "positive compositional interest without being strident or intrusive". The lower level offices which face south also provides a unique "activated" facade with projecting 'pods' that will activate the internal atrium and also offer unique visual interest as viewed from the south.
- Clause 22.01 encourages assessment of a development's impact on neighbouring site's development potential. Cavendish House is an existing heritage place which already establishes a close interface and this building is unlikely to be developed further. The Applicant owns the Forum site and is proposing to realign the site boundaries to ensure that a light, air and views easement is maintained for the residential hotel and penthouse rooms in the development. The development to the laneway will not adversely impact on development potential of sites across the lane.
- The service areas of the building are contained within the building and well resolved in accordance with Clause 22.01.

Design and Development Overlay

DDO2 A5 specifies a discretionary height limit of 40 metres and includes the design objectives of protecting sunlight to public places, ensuring the height of new buildings reinforces the character of unique areas and maintains the visual prominence of prominent landmarks. The specific outcomes for the subject site which is in Area 5 are as follows:

- The scale of development complements and is compatible with the nearby retail core.
- St Paul's Cathedral remains the dominant building on the Flinders Street skyline between Swanston and Russell Streets.
- The Parliamentary buildings remain dominant in vistas along Bourke Street.

The proposed building, at 110.85 metres in height will be 70.85 metres in excess of the discretionary height control. However, given the site is in the 'valley' of Russell Street, at a lower height datum than Collins and Bourke Street, the height of the building is not considered to have any adverse impact on the retail core and will complement it. It is noted that the building will be approximately the same height as the Hyatt Hotel which is an existing building which is compatible with the retail core.

The urban context report submitted with the application supports this through sections of Russell Street which highlights that:

- the architectural treatment to define the podium is consistent with the pattern of existing development including Cavendish House and the T and G building along Russell Street;
- the tower is lower and suitably proportional to the higher scale development along the portion of Collins Street between Russell and Swanston Street.

The Urban Context report documentation shows the proposed insertion of the development within the city skyline and supports the conclusion that amongst many taller buildings within the city skyline, the proposal will be appropriately proportioned to St Pauls Cathedral and will also have no impact on the Parliamentary buildings.

Heritage

The subject site is covered by two Heritage Overlays, one specific to the Forum Theatre (HO653) and another that covers the southern gateway precinct (HO505) called Flinders Gate. The key attributes of the precinct as detailed in Clause 22.04 are as follows:

- The traditional gateway to the central city from the south and an area associated with retailing.
- Major 19th and early 20th century buildings including Flinders Street Station, St Paul's Cathedral and Princes Bridge.

The proposal offers no conflict or potential adverse impact on the above key attributes of the heritage precinct. The proposed building given its distinctive appearance and strategic location at the southern entrances of the city will be a new landmark that will make a positive contribution to the southern gateway.

Heritage places within the Central City area are commonly juxtaposed against a surrounding built form of taller, contemporary buildings. The Forum Theatre is itself a substantial building which strongly commands the Flinders Street and Russell Street corner. It is considered to be of a scale that will not be dominated or adversely affected by the new tower.

Further key characteristics of the new building which support an assessment that it will respect and not dominate the Forum are:

- the fine and slender character of the tower;
- the architectural quality of the tower which further supports the heritage interface;
- its glazed form which offers clear contemporary distinction from the heritage fabric;
- the site's distance from the corner which enable the Forum to continue to command the Flinders Street and Russell Street corner;
- The perspective view and the depth of the Forum site ensure that the overhang of the new development over the Forum will not be strongly perceived from the public viewing perspectives and will not appear dominant.

The proposed building is considered to be an appropriate contemporary insertion into the heritage precinct which is respectful of neighbouring heritage buildings because it adopts the key characteristics of the precinct in terms of the subdivision pattern and street setbacks.

Forum interface and Building Projection

From level 8 to level 26, the building is proposed to project over the rear of the Forum site by 3.5 metres. The projecting portion of the building will contain two levels of the business centre and hotel administration then level 10 to level 26 is occupied by the residential hotel rooms. The vertical clearance from the rear of the Forum is approximately 17.2m.

Approval for this portion of the building is required by Heritage Victoria.

The key issue for assessment is the impact of the projection on the heritage values of the Forum Theatre and the potential for the projection to dominate the heritage place.

The depth of the Forum site, the scale of the Forum Theatre building, the sloping topography and the 3.5m width of the projection are considered to be the key factors that will affect how the projection will be viewed. From most public viewing points around the building, particularly the corner of Flinders Street and Russell Street, it is considered unlikely that projection will be viewed as a projection but just an articulated part of the building. The perspective images provide with the application support this assessment that the Forum Theatre will remain the dominant feature of the Russell Street and Flinders Street corner.

DTPLI have assessed the proposal and found that the glazed junction to the Forum Theatre provides a suitable visual break to the Forum as viewed from Russell Street.

Accordingly it is considered that there is minimal risk that the projection will dominate the Forum or adversely impact on its heritage values.

8.4 Street Level Activation and Pedestrian Safety

Russell Street

The site is covered by DDO1-A2 Active Street frontages. Although the DDO only applies to the Flinders Street frontage, both the Russell Street and Hosier Lanes frontages to the building offer a good level of activation. The Russell Street frontage will be fully activated with an entirely glazed facade at ground level and includes the pedestrian entry/link and a retail space. Subject to the future application to the City of Melbourne for the widening of the footpath to Russell Street which will offer street dining opportunities, the proposal will positively transform the character, street level amenity and level of activation of the site to Russell Street in accordance with this provision.

It is recommended that conditions of the permit support the street level quality and activation enabled by the road widening with the footpath and kerb and channel to be remade with high quality materials consistent with the central city (inclusive of sawn bluestone).

Hosier Lane

Two thirds of the width of the Hosier Lane frontage will be glazed and activated with a cafe/restaurant which will offer a unique opportunity to offer a different kind of activation to Hosier Lane which will enable Melbournians to inhabit and enjoy the street, with its rich street art activities. It is recommended that conditions of the permit require a high level of detail to the Hosier Lane lower levels of the building to ensure the architectural and interior design detail recognise and respond to the different, grittier urban character of Hosier Lane.

8.5 Microclimate (Wind, Weather Protection, Overshadowing) & Internal Amenity

Wind

The application was accompanied by a wind tunnel test report prepared by MEL consultants which found that the wind impact on the Russell Street and Hosier Lane ground level entrances and the internal atrium would be on or within the criterion for walking comfort and also meet the standard for short term stationary. Testing assumed an appropriate seal to the Atrium which should be a condition of the permit.

Weather Protection

No weather protection is provided to the main street frontage as encouraged by policy at Clause 22.01 and DDO4. A canopy is therefore recommended to be added to the Russell Street entry to provide weather protection and define the entry.

Overshadowing

The proposal, given its height and proximity to Federation Square, will overshadow Federation Square. The general standard in Clause 22.02 Sunlight to Public Spaces uses the test of the Spring Equinox between 11am and 2pm.

The proposal will not result in any additional overshadowing at this time. However, the policy at Clause 22.02 includes a specific clause for Federation Square, the City Square; Queensbridge Square and the State Library Forecourt. This specific clause for significant public spaces in the city requires that the Winter Solstice standard of 11.00am to 2.00pm on the 22 June is used and the proposal will result in overshadowing of the plaza and forecourt at this time.

The Applicant has provided detailed shadow diagrams which show that the peak day for overshadowing will be the 22 June and 6.03% of the plaza will be overshadowed at 11am and passes onto roof area by 11.28 am. At 12.15 on 22nd June a small area of the eastern end of the plaza will be overshadowed between 12.15 and 1.10pm. With the exception of the month of June, overshadowing of the plaza does not exceed 2.09% of the plaza.

The shadow impacts of the development have also been examined in DTPLI's 3D model which has assisted in understanding the passage of the shadows. A small area of the plaza would be overshadowed for 28 minutes at the Winter Solstice with that shadow moving quickly and then affecting a smaller portion of the eastern end of the plaza for 50 minutes. In this context, the impact of overshadowing is not considered to be significant and will have a negligible impact on the amenity of the Federation Square plaza, especially in consideration of the distance from which the shadow will cast, which will diffuse the intensity of the shadow.

In balancing the overshadowing policy with other aspects of the proposal, the proposed residential hotel on the site is considered to be of a very high standard of architectural quality and the proposal will have strong economic and social benefit to the city which will support synergies with the Forum Theatre. These considerations along with the limited impact on Federation Square are considered to support a variation to policy.

Internal and Interface Amenity

Given the glazed curtain wall design of the proposed tower, all residential hotel rooms will have excellent access to light and outlook and overlooking issues will be addressed through a frit integrated into the glass to provide privacy to areas like the bathroom. It is recommended that a condition of the permit address the details of the frit to ensure it adequately balances protection of privacy and reasonable access to light and outlook. The residential hotel rooms will not have balconies, which is considered acceptable and the penthouses will be provided with large terraces.

Cavendish House

Cavendish House is located at the northern boundary of the site. It is a former commercial building that was converted in the 1990s to residential apartments. The basement up to level 7 of the proposed development will be built to the north boundary adjoining Cavendish House to the north. A minimal setback of 1 metre is proposed above level 7 in the levels where the tower cantilevers out to the south.

In the Capital City Zone, policy at Clause 22.01 encourages towers to have podiums of between 35-40 metres and it is common practice for podiums to be built to some or all of the site boundaries. The proposal adopts this approach for the first 35 metres of height of the development with the building built to all boundaries.

Cavendish House has south facing windows of apartments that enjoy light and outlook from the south, which would be lost if the development's podium were to be built to the boundary as proposed. Normally, this situation would prompt an amenity assessment that light and outlook to these windows must be protected and a setback would be required from these windows. However, this implies a kind of imposed amenity easement on the neighbouring land, which was an issue anticipated by the City of Melbourne when considering the planning application to convert Cavendish House from a commercial office to residential apartments. Accordingly the planning approval was conditional upon the developer entering into a S173 Agreement to go on all the titles to the apartments which covenants:

- (i) to provide for the protection of the adjoining building;
- (ii) to provide for the removal of the windows and/or balconies if necessary when the adjoining property is further developed.

This covenant remains in effect and addresses the amenity interface with the windows. It is noted that there is a small setback from the Cavendish House roof parapet which will provide adequate clearance for this feature which overhangs the subject site.

There is a covenant applied by the land owner to the Forum site which limits height to less than 45 metres. The covenant was placed on the land to protect light, air and views for any development of the Forum. As highlighted by the City of Melbourne's comments, the boundary of the Forum and the associated covenant to which it applies, will need to be realigned given the proposed tower cantilever impinges on and contravenes the covenant. This will be addressed as a condition of permit.

Acoustic

The proposal involves introduction of accommodation directly adjacent a long standing entertainment and live music venue, also within a context that has significant existing noise levels due to the adjacent Flinders Street train and tram corridor. The Forum Theatre is itself a noise source (when in operation) that may adversely impact on neighbouring accommodation uses, such as the proposed residential hotel and penthouse dwellings. The new development, as the "agent of change" on the site, is therefore required to protect itself against noise impacts of the Forum Theatre. The Forum is one of three "iconic" live music venues in Melbourne which make a major contribution to Melbourne's cultural significance. Therefore, provision of appropriate acoustic attenuation to the residential hotel rooms and dwellings proposed is of vital importance, as amenity pressure about noise can lead to the closure of venues. This issue is addressed in conditions of the permit.

8.6 Environmental Sustainable Development (ESD)

An ESD Management Plan prepared by Waterman Consultants was submitted with the application and details that the proposal will meet the NABERS Energy and Water rating for Hotels which is a reasonable equivalent to 5 Star Green Star, given there is no Green Star rating for Hotels. This is considered to be satisfactory and meets the objectives of policy at Clause 22.19 Energy, Waste and Water Efficiency. The proposal also is designed to meet a minimum 100% STORM rating for on-site storm water management which meets the objectives of Clause 22.23 Stormwater Management (Water Sensitive Urban Design).

8.7 Car Parking

The proposal includes 221 residential hotel rooms and 2 penthouse apartments with an additional 3,200 sq.ms of commercial floor space. No car parking for the development is proposed to be provided on site. A loading area is proposed off Hosier Lane which varies the dimensional requirement of Clause 52.07.

The absence of parking provision for the development is in accordance with the requirements of Schedule 1 of the Parking Overlay under the Melbourne Planning.

Bicycle Parking

The Applicant has submitted that the development generates a requirement for 18 staff bicycle spaces based on the office floor area and "Motel" rates. 18 bike spaces are proposed to be provided on site in the basement and the remaining 5 visitor spaces are proposed to be provided on the street in the form of bike rings on the footpath to be provided by the Applicant.

The City of Melbourne has objected to the use of "Motel" rates for bike parking and this is considered appropriate given the table to Clause 52.34-3 Bicycle Spaces lists "Residential building other than specified in this table" and designates a rate of (in developments of four or more storeys) 1 space to each 10 lodging room for employees and residents and the same rate for visitor as opposed to a rate of 1 space per 40 lodging room designated for "Motel".

Given the land use of "Residential hotel" is nested under the Planning Scheme under 'Residential building', the 1 per 10 rate is the correct rate. Accordingly the development generates a requirement

for provision of 22 bike spaces for employees/residents, 22 for visitors and 13 bikes spaces for office use, including both staff and visitors, which equals a total requirement of 57 bike spaces.

The proposal therefore has a under provision of bicycle spaces.

The main generator of the bicycle requirement is the residential hotel component of development. This use will generally involve visitors to Melbourne who are unlikely to bring their own bike and will therefore not require private bicycle parking. It is considered more likely that such visitors would take advantage of the Melbourne Bike Share scheme or the "blue bikes". There nearest docking station is located at Federation Square. This scheme is significantly under-utilised with VicRoads reporting that usage averages at 0.7-0.8 rides per bike per day, which is just under 10% of the overall capacity of the 600 bike scheme. There is accordingly ample capacity in this scheme to be utilised by occupants of the building without absorbing its full capacity.

It is noted that it is highly unusual to grant dispensations of bike parking given the sustainability benefits and because even if a car park cannot be physically provided on site, bikes can usually be accommodated on a normal office floor. In this instance, the height of the building is constrained by the shadowing impacts on Federation Square and accordingly provision of an additional building level is not an option. A further basement level is likewise considered too onerous a requirement.

The dispensation is therefore recommended to be granted noting the significant constraints of the site and the specific nature of the proposed land use which is unlikely to generate the need for private bicycle parking. The 18 spaces are therefore considered sufficient to accommodate the office land use and the penthouses.

Loading and Unloading

The loading and unloading for the proposed hotel is likely to be a significant challenge given the small size of the loading bay and the access arrangement via a narrow, bluestone laneway with little vehicle manoeuvring area around the loading bay. The Applicant has provided an analysis prepared by Cardno consultants of the expected loading requirements and how this will be managed. This information is considered credible and forms the basis of the loading bay conditions. Key to the management of loading will be a loading dock supervisor whose responsibilities will be to ensure truck deliveries are efficiently schedule, load and unload promptly and that disruption to the laneway is minimise – particularly during the key visitation times of the afternoon and evening.

8.8 Signs

The application involves two new signs to be erected and displayed on the new building as follows:

- 1m by 10m sign to be integrated into the glazed retail facade immediately beneath the soffit of level 03.
- Hotel signage 0.6m by 4.6m in width proposed immediately above the entrance to the atrium.

The proposed signs are considered to be of an appropriate size for commercial premises which are well proportioned in relation to the building and sympathetically integrated with the architecture of the building. It is recommended that a permit condition require further details of these signs.

8.9 Public Realm Improvements

It is proposed to include requirements in the planning permit for a number of public realm improvements including new opportunities for street art, footpath upgrades and widening.

8.10 Title Restrictions

It is proposed to include requirements in the planning permit to link the restoration of the Forum Theatre facades to the hotel development and to restrict the ability of splitting of the properties without the obligation to undertake the works being required

9 Recommendation

That a Notice of Decision to grant planning permit application no. 2013/009973 for demolition of the existing building and construction of a multi-storey mixed use tower, signage, variation to bicycle parking requirements and loading and unloading requirements is issued subject to conditions.

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