

# 32-44 Flinders Street, Melbourne

Officer Assessment Report for Planning Permit  
Application No. 2014/70139



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## Summary

The purpose of this report is to provide a detailed planning assessment of Planning Permit Application No. 2014/70139 for 32-44 Flinders Street, Melbourne. 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 Scheme), the Minister for Planning is the Responsible Authority for applications with a Gross Floor Area (GFA) exceeding 25,000 square metres. The proposed development has a GFA of 66,809 square metres and accordingly the Minister for Planning is the Responsible Authority for the permit application.

Planning Permit Application No. 2014/70139 seeks approval for the demolition of the existing building and the development of the land for the construction of two multi-storey mixed-use buildings fronting Flinders Street and Flinders Lane respectively.

The Flinders Street building is proposed at a height of 54 storeys (191.5 metres AHD to the top of parapet/plant screen or can be described as 175.1 metres measured from ground level at the centre of the site on Flinders Street), consisting of a tower and podium form.

The Flinders Lane Building is proposed at a height of 15 storeys (86.19 metres AHD to the top of plant or can be described as 58.82 metres from ground level measured at the centre of the site on Flinders Lane), consisting of a tower component with a setback to Flinders Lane of 10 metres at upper levels.

Both towers share vehicle access from Flinders Street. Retail opportunities are provided at the ground floor of the Flinders Lane building, with additional commercial tenancies to the rear of the Flinders Street building, facing Spark Lane. The application includes vesting a portion of the land with Melbourne City Council to guarantee access through Spark Lane and unlock the potential of internal lanes.

The application was considered at the Future Melbourne (Planning) Committee on several occasions with an officer recommendation to object to the proposal. The final resolution of FMC was to advise the Department of Environment of Land Water and Planning that Council objects to the proposal citing concerns regarding overdevelopment.

Following Council's resolution the applicant has worked towards addressing concerns raised and submitted further plans for informal consideration. The changes included reduction in height, increases to tower setbacks, modifications to building form and internal re-programming. A key revision included provision of a basement car park for the Flinders Lane building which creates opportunities to activate the podium and allows various improvements to internal amenity.

The proposed development as amended and subject to further refinements, appropriately responds to the opportunities and constraints of the land and should be supported with conditions adopting the informal plans from 4 April 2016. The proposal is generally consistent with the strategic directions for the Hoddle Grid and positively responds to relevant planning policy.

## Application Background

On 18 December 2014, an application for the construction of two mixed-use buildings consisting of dwellings and ground floor retail was received by the former Department of Transport, Planning and Local Infrastructure (DTPLI). Further information was requested on 14 January 2015.

On 5 June 2015, the applicant responded to the Department's preliminary advice and request for further information and formally amended the application. The amended application responded to concerns regarding the overshadowing of the North Bank of the Yarra River by reducing the height of the Flinders Street Building (65 storeys to 56 storeys). As a consequence the applicant increased the height of the Flinders Lane Building (12 storeys to 18 storeys) however an overall reduction in dwellings occurred with numbers dropping from 625 to 496 and subsequent changes to car parking. These plans are formally considered to be the adopted application plans.

On 6 October 2015, the application was considered at Future Melbourne (Planning) Committee. It was resolved to defer the decision to a later Future Melbourne Committee meeting to enable the Council to further consider existing and proposed shadows.

Discussion plans were provided directly to Melbourne City Council on 21 October 2015 (and later submitted to the Department on 10 December 2015) and included the following changes:

- A reduction in height (56 storeys (181 metres) to 54 storeys (175 metres))
- Introduction of a 2.7 metre tower setback from the Council owned portion of Spark Lane
- Amended apartment layouts
- Overall reduction in gross floor area (66,386 square metres to 62,721 square metres).

The application was again considered at Future Melbourne Committee on 17 November 2015, and Melbourne City Council resolved to object to the granting of a permit citing concerns about overdevelopment, adverse impact on the public realm and non-compliance with planning policy.

These issues raised by Council are discussed in further detail within this report and provide guidance on how the scheme could be modified to address concerns.

On 5 April 2016 the applicant tabled further amended "discussion plans" (dated 4 April 2016) seeking to again address Council's position and allay concerns maintained by Department officers regarding overall scale, lack of setbacks and need for greater activation to Sargood Lane.

The discussion plans provided have not been formally adopted as the application plans and are provided to present an alternative option for information purposes only. Nonetheless the plans clearly identify a preferred position of the applicant and their desire to respond to issues raised by government agencies. To this end, this assessment report is focused on reviewing the merits of the latest discussion plans provided on 5 April 2016.

## Proposal Details

The discussion plans of 5 April 2016 represent the latest proposition of the applicant and therefore a description of the proposal is based on these plans. The following table provides detailed application and proposal information:

Key Elements	Comments
Land / Address	32-44 Flinders Street, Melbourne
Site Area:	2087 square metres
Application No.	2014/701139
Proposal	Demolition of existing buildings and construction of multi storey building comprising dwellings, ground floor retail and associated car parking.

The project includes two distinct towers with frontages to both Flinders Street and Flinders Lane. A description of the key elements for each building (as appropriate) is as follows:

Key Elements	Flinders Street Building	Flinders Lane Building
Heights	<p>54 storeys (191.5 metres AHD to the top of parapet/plant screen), consisting of a tower and podium form. The building includes a 8 storey podium to a height of 44.14 metres AHD (27.74 metres from ground).</p> <p>The tower will reach 175.1 metres measured from Flinders Street ground level at the centre of the site.</p>	<p>The Flinders Lane Building is proposed at a height of 15 storeys (86.19 metres AHD to the top of plant). The building consists of a 7 storey (26.18 metre) podium (calculated on the basis that ground level is 6.2 metres floor to floor and levels 1 to 6 are 3.33 metres floor to floor.</p> <p>The building will reach 58.82 metres measured from Flinders Lane ground level at the centre of the site.</p>
Setbacks	<p><i>Podium:</i> Built to all boundaries (580mm proposed overhang into Spark Lane).</p> <p><i>Tower:</i> Curvilinear design with varied setbacks:</p> <ul style="list-style-type: none"> <li>▪ 5 metres from the centre of Spark Lane (east)</li> <li>▪ 4 metres to 6 metres from Flinders Street (south)</li> <li>▪ 5 metres to 12.5 metres from the HWT Building (west)</li> <li>▪ 2.7 metre to 2.8 metres from the extension of Spark Lane (north).</li> </ul>	<p><i>Podium:</i> Built to all boundaries</p> <p><i>Tower:</i> Built to all boundaries with the exception of the northern (front) boundary to Flinders Lane.</p> <p>A 10 metre setback from Flinders Lane is provided at level 7 and above.</p>
Dwelling Nos	<p>171 x 1 bed, 183 x 2 bed, 45 x 3 bed</p> <p>Sub Total: 399</p>	<p>20 x 2 Bed, 14 x 3 Bed</p> <p>Sub Total: 34</p> <p>Total: 433 dwellings</p>

Key Elements	Comments
Car parking, bicycle facilities and motorcycle spaces	295 car spaces (consisting of 124 residential spaces and 171 commercial spaces) 216 bicycle spaces 4 motorcycle spaces
Retail	1327 square metres of Net Leasable Area (NLA)
Plot Ratio	31.6
Controlled Airspace	The maximum building height of the Flinders Street building of 191.5 metres AHD (to the top of plant and equipment) is below the Obstacle Limitation Surface (OLS) which is 226 metres above natural ground level and the Procedures for Air Navigational Services- Aircraft Operations Surface (PANS-OPS) layer of 300 metres above natural ground level directly above the site. The development will not penetrate controlled airspace.
Gross Floor Area	66,809 square metres

The design rationale for the project is to redevelop an otherwise underutilised commercial car park site. The project seeks to activate and improve through-block connections between Spark Lane and Sargood Lane. In doing so, a range of commercial activities and building entries are proposed to front these lanes with improvements to pedestrian view lines and upgrades to surface treatments and installation of lighting.

The building typology and programing has been designed to respond to site constraints and opportunities. This is achieved by locating and orientating the larger tower to face the less sensitive Flinders Street edge with a lower boutique development facing Flinders Lane and Sargood Lane. Tower design and setbacks have been managed to respond to view lines and aspect to and from the development. This includes the need for the Flinders Street tower to preserve view lines to the radio masts above the Herald Weekly Times (HWT) building located to the west. The following series of images provide an analysis of existing and proposed conditions.

**Figure 1 – View of the proposed Flinders Street tower from Wellington Street (looking west)**



Figures 2 & 3 – Existing and Proposed conditions as viewed from Batman Avenue looking north (towards Flinders Street).

Existing Conditions



Proposed Conditions





**Figures 4 & 5 – Existing and Proposed conditions as viewed from the corner of Spark Lane and Flinders Street (looking north).**

**Existing Conditions**

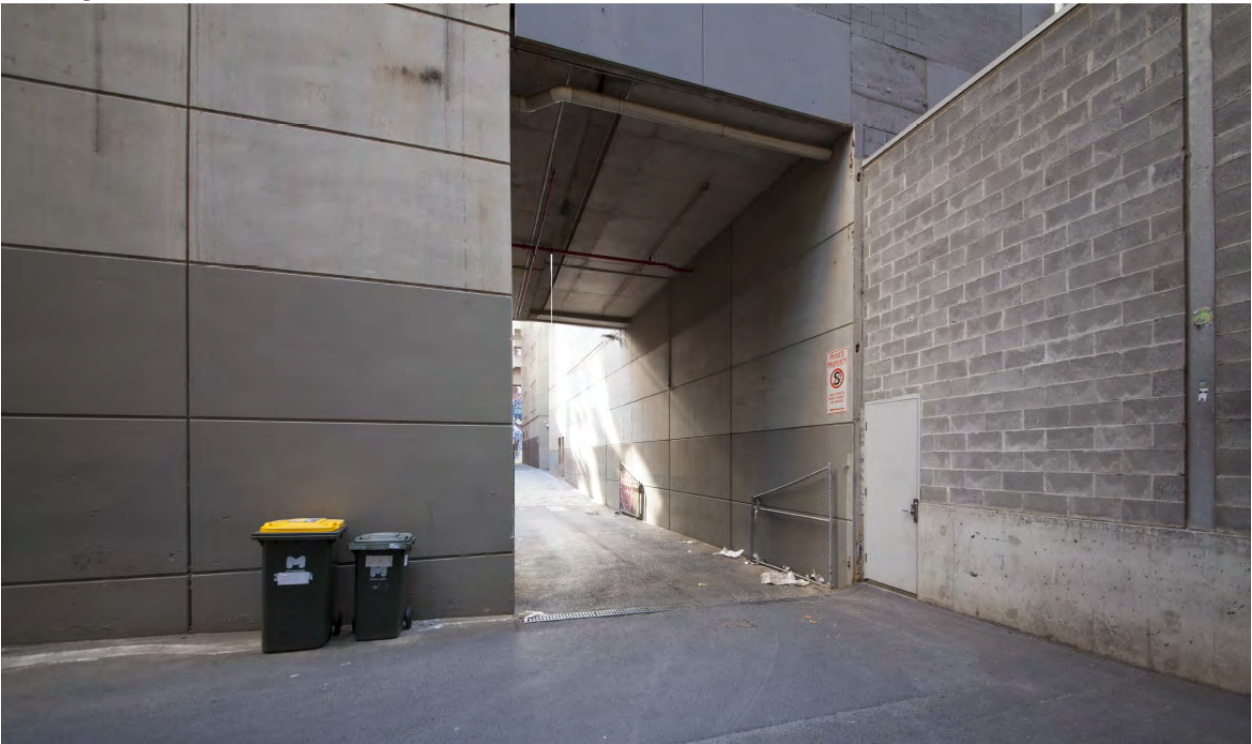


**Proposed Conditions**



Figures 6 & 7 – Existing and Proposed conditions as viewed from Sargood Lane towards Spark Lane (looking east).

Existing Conditions



Proposed Conditions

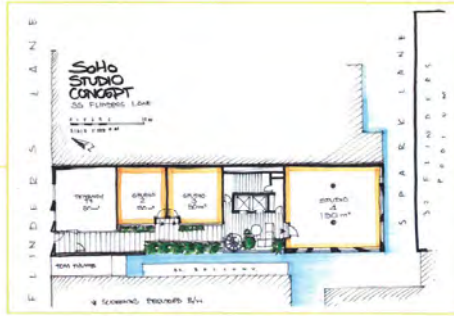


**Figure 8 – Flinders Lane Architectural and SOHO Design Response**



Approach from Flinders Lane towards Exhibition Street (west)

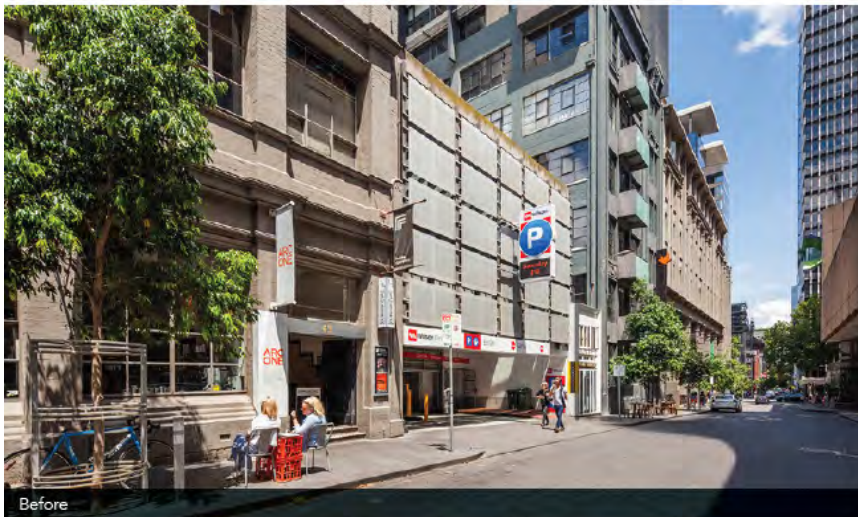
- Podium: Boutique Studio Lofts: Activated Podium
- Car parking below laneway
- Refined, tactile, and robust materiality
- Finer grain response - 'Melbourne' feel



Podium approach from Exhibition Street (east)



**DESIGN OUTCOME  
FLINDERS LANE**



Before



After

View from Flinders Lane.

## Site and Surrounds

The site is located at 32-44 Flinders Street, Melbourne, between Spring and Exhibition Streets. The site is irregular in shape, and benefits from two street frontages: 32.31 metres to Flinders Street, and 12.22 metres to Flinders Lane. It has a total area of 2,087 square metres and is currently occupied by a multi-storey commercial car park building ranging from 4-6 stories, providing 539 car parking spaces, with access from both Flinders Lane and Flinders Street. The Flinders Lane frontage has a crossover which extends the length of the site.

From Flinders Street, Spark Lane runs north-south between the site and the Hotel Lindrum, where it intersects with Sargood Lane running east from Exhibition Street. The current structure is built above Spark Lane for the east-west portion. The site has a significant slope of approximately 8 metres from north to south.

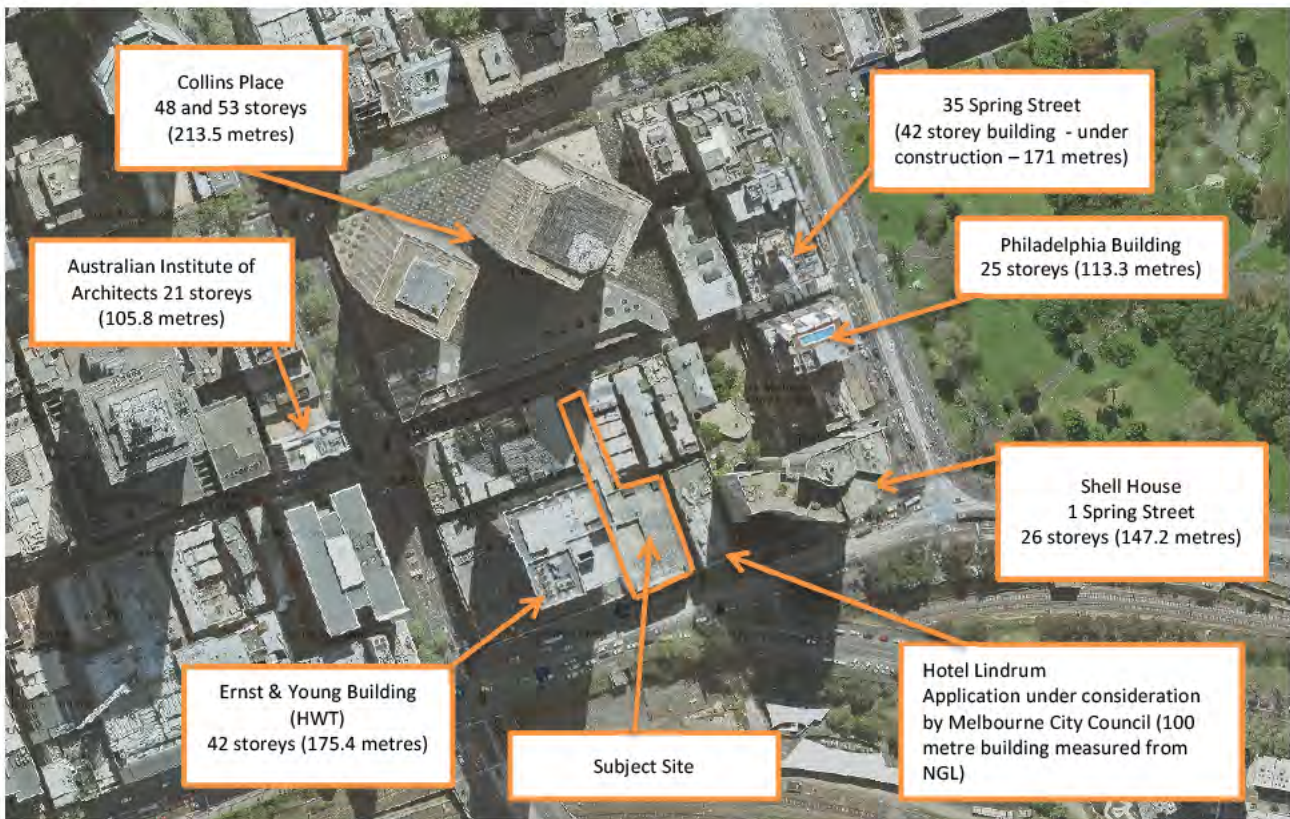
The site has excellent access to open space and public transport infrastructure. Parliament Station is approximately 230 metres to the north east, and Flinders Street Station is approximately 590 metres to the west. Treasury Gardens is located 150 metres to the east, and Birraung Marr Park is approximately 380 metres to the south.

The site, with its generous size, double street frontages, and connections to public transport and public open space, represents a strategically underutilised site capable of redevelopment. The proposal will transform a commercial car park use which is not supported by current policy.

The immediate surrounds are as follows:

- **North** – Flinders Lane is a narrow laneway, typically with smaller tenancies at ground floor. On the northern side of Flinders Lane is Collins Place, a large development with an atrium retail and food court, and two offices towers including the Hotel Sofitel with heights of 48 and 53 storeys. The rear podium of Collins Place presents to Flinders Lane predominately as a blank wall.
- **South** – To the south of the subject site is Flinders Street, a wide major transport corridor which forms part of Victoria's Principal Public Transport network. Flinders Street contains multiple lanes of traffic and tram lines. To the south of Flinders Street and the rail corridor is the expansive Birrarung Marr Reserve adjacent to the Yarra River.
- **East** – To the east of the subject site is Hotel Lindrum, a multi storey (5 storey) residential hotel, with site specific heritage controls. There is a current planning permit application under consideration with the Melbourne City Council for a mixed-use 53 storey development (200.65 metres to AHD). There are a variety of mixed use buildings fronting Flinders Lane, generally low in scale. Further to the east is 1 Spring Street, a mixed use building, irregular in shape, and 26 storeys in height.
- **West** – To the west of the subject site, on the corner of Flinders and Exhibition Streets is a mixed use tower of 42 storeys, known as the Ernst & Young Building. To the west, fronting Flinders Lane are three mixed use multi storey buildings, including the Sargood House (8 storeys), which has an individually recognised heritage significance.

## Site Locality Plan



## Policy Context

### State Planning Policy Framework

The State Planning Policy Framework (SPPF) provides the broad policy direction within the Victoria Planning Provisions. The planning principles set out under the SPPF are to guide decision making on planning proposals across the State. The following policies are considered relevant to this application:

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

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

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

## Local Planning Policy Framework

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

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

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

Clause 21.12 encourages:

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

With respect to specific local planning policies the following key local planning policies (Clause 22) are relevant to the proposal:

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

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

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

## Plan Melbourne (May 2014)

The government has released the Metropolitan Planning Strategy which is the vision for the city to 2050 ('Plan Melbourne') and is undertaking community engagement and considering submissions as part of 'Plan Melbourne Refresh' review. In broad terms Plan Melbourne recognises Melbourne's population will increase to more than 6.5 million people by 2050. This additional population will require housing, employment, ancillary services and facilities. An aspect of the strategy is to ensure this increased population can be catered for without unreasonably impacting on the highly valued existing qualities of Melbourne's suburbs and unique precincts.

The proposed development is located on a large car park site at the edge of the city, proximate to Treasury Gardens, and is well serviced by transport, open space and community infrastructure. The site's Capital City Zoning, coupled with its large size and proximity to services, makes it ideal to accommodate mixed use development of a higher density. Regeneration of public car park sites are also consistent with objectives to discourage car movements to and from central city locations.

# Statutory Controls

## Permit Triggers

Planning Control	Application Requirement	Permit Triggered Yes/No
<b>Capital City Zone – Schedule 1 (CCZ1)</b>	Demolition of buildings	Yes
	To construct buildings and carry out works	Yes
	To construct a building and carry out works which would cast a shadow between 11:00 am and 2:00 pm and 22 March and 22 September over public space, public parks and gardens.	Yes
	To construct any part of a building exceeding a height of 40 metres within 20 metres of a road frontage	Yes
	<i>Note: The use of the land for ‘Dwellings’, and ‘Retail’ are ‘as of right’ under the zone and <u>do not trigger a planning permit</u>.</i>	
	<b>Interim Controls</b>	
	Clause 7.0 of the schedule ( <i>Amendment C262 - introduced 4/9/15</i> ) prohibits the construction of buildings and works which would cast an additional shadow across the north bank of the Yarra, 15 metres north from its edge, (north bank as defined within Clause 22.02) and any open space at Federation Square, City Square, and the State Library Forecourt between 11.00 am and 2.00 pm from 22 March to 22 September is prohibited.	No
	Clause 8 specifies the requirements of clause 7.0 do not apply to an application made before the commencement of Amendment C262 to this planning Scheme. For applications made before the commencement of Amendment C262 the requirements of this scheme, as they were in force immediately before the commencement of Amendment C262, continue to apply.	
	As the application was lodged prior to the introduction of Amendment C262, the transitional arrangements apply, and the interim controls are not applicable to the application.	
<b>Design and Development Overlay – Schedule 10 (DDO10)</b>	Amendment C262 (4 September 2015) introduced Schedule 10 to the Design and Development Overlay (Built Form Controls). Table 1 of the schedule includes requirements regarding podium height, street setbacks, tower setbacks and plot ratio.	No
	Clause 4.0 of the schedule specifies that the requirements of this clause do not apply to an application made before the commencement of Amendment C262.	
	As the application was lodged prior to the introduction of Amendment C262, the transitional arrangements apply, and the interim controls are not applicable to the application.	

Planning Control	Application Requirement	Permit Triggered Yes/No
<b>Schedule 1 to the Parking Overlay (PO1)</b>	The policy allows for a maximum of 440 car parking spaces (calculated on the number of proposed dwellings and net leasable retail floor area) and a minimum of 4 motorcycle spaces. The provision of 295 on site car parking spaces is below the maximum allowed and the allocation of 4 motorcycle spaces stated in the traffic assessment report meets the requirements, however motor cycle spaces are required to be shown on the plans.	No
<b>Loading and Unloading of Vehicles (Clause 52.07)</b>	The application is required to provide 27.4 square metres of loading area (based on the 1327 square metres of retail). The proposal provides an onsite loading bay of 79 square metres, and therefore is in excess of the minimum loading bay dimensions specified in the Planning Scheme. The dimensions of the loading bay are not shown on the plans and therefore will be required as condition of permit.	No
<b>Bicycle Facilities (Clause 52.34)</b>	The application is required to provide the following: - 87 resident spaces, 43 resident visitor spaces, 4 employee spaces and 3 commercial visitor spaces. The application provides for 216 bicycle parking spaces, exceeding the requirements. 1 change room facility is triggered under Clause 52.34-3. The change room may be a combined change and shower facility. The application seeks to vary this requirement.	Yes
<b>Urban Context Report (Clause 52.35)</b>	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. The Department confirmed receipt of this information with the applicant.	No
<b>Integrated Public Transport Planning (Clause 52.36)</b>	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). On 6 November 2014 the amended application was referred to Public Transport Victoria for comment.	No
<b>Live Music and Entertainment (Clause 52.43)</b>	This clause applies to an application for a live music entertainment venue or a noise sensitive residential use that is within 50 metres of a live music venue. The proposal is not within 50 metres of a live music venue and therefore this clause does not apply. A condition of permit can be applied to manage the potential for live music venues being located within 50 metres of the site and the amenity within the development.	No
<b>General Provisions (Clause 61.01)</b>	As the proposal is greater than 25,000 square metres in GFA the Minister for Planning is the Responsible Authority under the Melbourne Planning Scheme for determining the permit application.	No
<b>Decision Guidelines (Clause 65.01)</b>	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.	No



Planning Control	Application Requirement	Permit Triggered Yes/No
<b>Referral Provisions (Clause 66.03)</b>	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 stated, a referral must be made to Public Transport Victoria, the determining referral authority.	<b>No</b>

#### Reference Documents / Guidelines

Document Name	Purpose
<b>Guidelines for High Density Residential Development</b>	<p>The Guidelines for Higher Density Residential Development (“the Guidelines”) provide ‘better practice’ design advice for higher density residential development that promotes high quality public and private amenity and good design. The Guidelines are structure around six elements including:</p> <ul style="list-style-type: none"> <li>▪ Urban Context,</li> <li>▪ Building Envelope,</li> <li>▪ Street Pattern and Street-edge quality,</li> <li>▪ Circulation and services,</li> <li>▪ Building layout and design,</li> <li>▪ Open space and landscape design</li> </ul>

## Notification

Under Schedule 1 of the Capital City Zone, an application to demolish a building and construct or carry out works associated with a Section 1 land use 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. Accordingly, notice was not required to be given.

### Referrals

The application was referred to the Department’s Urban Design Unit, Melbourne City Council, VicRoads and Public Transport Victoria (PTV). The following comments were provided:

**Melbourne City Council:** The amended permit application was considered at Council’s Future Melbourne Committee Meeting of 6 October 2015, when it was resolved to defer the decision pending discussion plans. The discussion plans were tabled on 21 October 2015, and constitute the basis for the plans later submitted to the Department for consideration on 10 December 2015. The application was again considered at Future Melbourne Committee on 17 November 2015. It was resolved that Melbourne City Council objects to the proposal on the following grounds:

- *The proposal by virtue of its height and inadequate tower setbacks and plot ratio represents an overdevelopment of the site.*
- *The proposal by virtue of its height and inadequate tower setbacks will have an overbearing and adverse impact upon amenity of the public realm and is contrary to relevant provisions of the Melbourne Planning Scheme, including Clause 22.01, 22.20 and 34.07.*

- *The proposal does not adequately respond to the development potential of adjoining sites.*

**Public Transport Victoria (PTV):** The application was referred to PTV on two occasions, when the application was initially lodged and after the formal amendment in June 2015. The latest response received on 19 June 2015. The letter expressed that their original comments, dated 20 January 2015 remain appropriate, and accordingly, PTV does not object to the issue of a planning permit subject to conditions. The conditions are as follows:

1. *The permit holder must take all reasonable steps to ensure that disruption to tram operation along Flinders Street is kept to a minimum during the construction of the development. Foreseen disruptions to tram operations during construction and mitigation measures must be communicated to Yarra Trams and Public Transport Victoria fourteen (14) days prior.*
2. *The permit holder must ensure that all track, tram and overhead infrastructure is not damaged. Any damage to public transport infrastructure must be rectified to the satisfaction of Public Transport Victoria at the full cost of the permit member.*

These conditions will be placed on the permit.

**Urban Design (DELWP):** DELWP urban design has raised a number of concerns regarding the proposal, largely based on the previous plans submitted with the application namely being:

- Minimal setback from Flinders Street;
- Inequitable development opportunities for lots adjacent to Flinders Lane building;
- Projections into Spark Lane;
- Inactive frontage to Flinders Street and Spark Lane;
- Poor sense of address for both buildings;
- Lack of legibility in navigating lanes;
- Safety concerns in lanes;

These issues are discussed within the assessment section of the report. A majority of concerns have been responded to as part of the latest discussions plans submitted on 5 April 2016.

**VicRoads:** VicRoads is not a statutory referral authority for the application. However due to the scale of the project coupled with its location on a major transport corridor and close to the City Link Project Overlay informal advice was sought on 31 December 2014 and then on 10 June 2015 following the submission of further plans.

VicRoads raised concerns regarding the potential impact of vehicle queuing on traffic flow within Flinders Street. The proposal provides a loading turntable which will occupy a portion of the access way and will when in operation. In response to these concerns the applicant identified the following solutions (as detailed by GTA consultants in their letter of 20 July 2015):

- *“It is proposed to restrict the site access to left in / left out only;*
- *Entry will be restricted by a gate, which will be opened by a car reader;*
- *Based on an average entry time of 15 seconds per vehicle, and a maximum entry rate of 56 vehicles per hour, analysis using the formulae in the Austroads Guide to Traffic Management Part 2: Traffic Theory indicates that the 95<sup>th</sup> percentile entry queue will be 1.1 vehicles. There is sufficient space for one vehicle to prop within the site prior to the entry gate and a second vehicle to prop off the carriageway of Flinders Street.”*

On 28 July 2015 VicRoads (in consultation with City Link) noted the applicants response and withdrew its objection. Permit conditions will be applied to ensure that access and traffic management strategies are updated to align with the latest plans and adhered to as part of the development.

## Other Submissions

Although the application was exempt from the notice and review requirements of the Melbourne Planning Scheme, two submissions were received regarding the proposed development. The letters were received from [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

The concern raised is that should a planning permit be issued, it could not be legally acted upon without consent from [REDACTED] and [REDACTED], which they are not prepared to give, and as such to issue a planning permit would be a futile exercise.

[REDACTED] and [REDACTED] also express concerns regarding the quality of the proposal, noting the relationship to surrounding heritage buildings, and the provisions of Clause 22.01 (Urban Design within the Capital City Zone) with regards to setbacks and Clause 22.02 (Sunlight to Public Spaces) with regards to overshadowing of the north bank of the Yarra River. The objections were received on 23 February 2015, prior to the consideration of the application at FMC and the subsequent submission of discussion plans on 5 April 2016.

Detail of [REDACTED] are not relevant to the planning merits of the application and have no bearing of the assessment of the application. It is a matter for the permit holder to ensure that all necessary consents are obtained prior to the commencement of works and the granting of a planning permit does not negate the need for subsequent approvals where required.

## Planning Assessment

### Consistency with Planning Policy

#### State Planning Policy Framework (SPPF)

The proposal is consistent with, and positively responds to, the State Planning Policy Framework by:

- Contributing to the intensification of residential, commercial and retail developments in a central city location which provides a variety of land uses and is highly accessible to the community (Clause 11.01-2 – Activity Centre Planning);
- Contributing to the vision for Melbourne as a global city of opportunity and choice by providing a diversity of housing in locations that cater for different households and are close to jobs and services (Clause 11.04 – Metropolitan Melbourne);

- Assisting to create an urban environment, that is safe, functional and provides a good quality environment with a sense of place and cultural identity by responding to its context in terms of urban character and appropriate scale (15.01-1 – Urban Design);
- Providing architectural and urban design outcomes that positively contribute to the local character and public realm by giving consideration to main pedestrian spaces and walkways and enhancing personal and property security (Clause 15.01-2 – Urban Design)
- Identifying a strategic redevelopment for a large residential development within the Central Business District, served by public transport (Clause 16.01-3 – Strategic Redevelopment Sites);
- Contributing to a safe and sustainable transport system by integrating land use and transport, including concentrating key trip generators such as higher density residential and residential hotel development in close proximity to the Central Business Districts and pre-existing public transport modes (Clause 18.01-1).

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

The Municipal Strategic Statement (MSS) within the Melbourne Planning Scheme identifies several key themes for housing, economic development, built environment, heritage and infrastructure as per Clause 21. These themes are given further policy effect within Clause 22 of the Melbourne Planning Scheme, and in some instances directly implemented by bespoke overlay controls spatially applied to a precinct.

In this instance the key policy matters for consideration relate to built form outcomes as set out under Clause 22, including overshadowing of public spaces, building setbacks, outcomes for sunlight to public spaces, laneways, and internal amenity.

#### ***Built Form & Height***

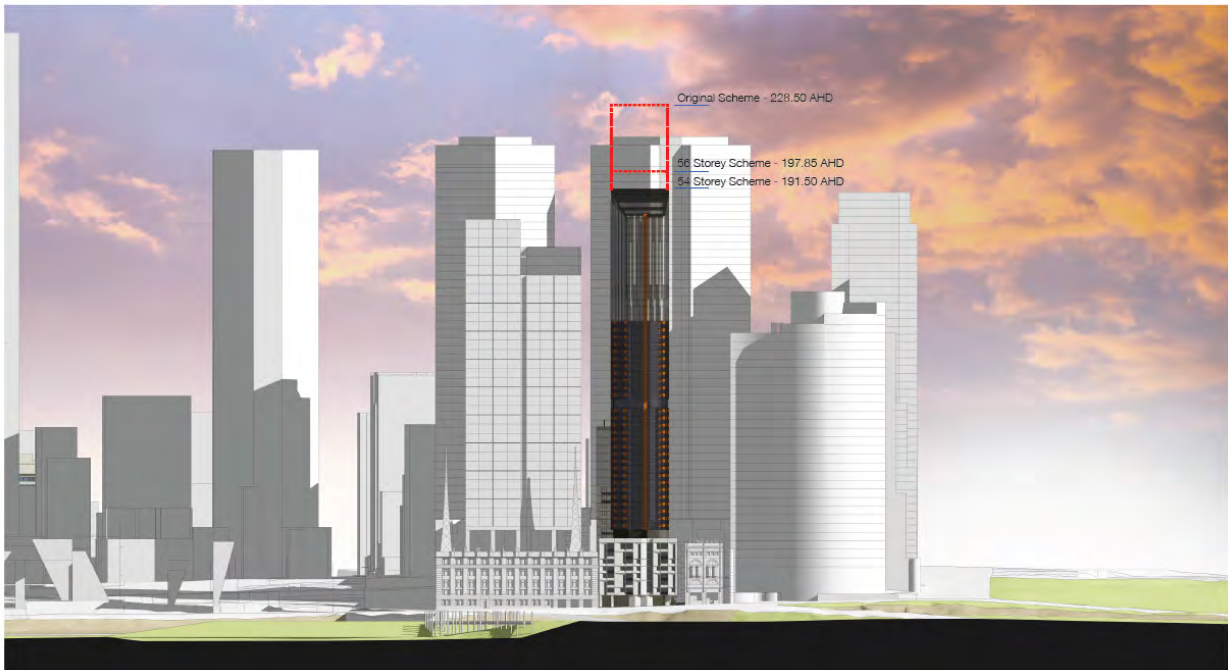
The site represents a unique opportunity for significant redevelopment due to its size, dual frontages, location, accessibility to public transport and proximity to a range of community services. The removal of public car park is consistent with the policy aspirations to reduce and limit reliance on private motor vehicles and therefore will have positive impacts on reducing traffic movements to and from the CBD.

In its current form the proposal represents a significant improvement from the original scheme lodged December 2014. The original scheme proposed the Flinders Street Building at a height of 65 storeys and resulted in significant overshadowing of the north bank of the Yarra River. The original scheme also proposed a lower 12 storey Flinders Lane building which was subsequently increased in height to 18 storeys to offset yield lost in the Flinders Street tower as a result of the height reduction to decrease shadow cast by the development.

A lower tower height of 54 storeys assists in minimising overshadowing and better responds to the city skyline in this location therefore appropriately responds to Clause 22.01 (Urban Design within the Capital City Zone). The primary impetus behind the lower height was the requirement to avoid any overshadowing within 15 metres of the north bank of the Yarra.

Visually the tower height and form of the Flinders Street building appropriately responds to site context. The tower while taller than the adjacent buildings along Flinders Street, sits below the towers further north within Collins Place and strikes a height which is distinct from other surrounding buildings seen within the foreground and background thereby creating visual interest. This is demonstrated in the building height analysis shown below.

The perception of height will vary depending on where the building is viewed from, however the analysis below demonstrates that a 54 storey building sits comfortably within the Central City context



The podium response along Flinders Street is considerate of adjacent buildings, both in terms of materiality, height and architectural proposition. The Lindrum Hotel measures 43.10 metres AHD to top of parapet and the HWT podium measures 39.6 metres to top of parapet. The proposal with a podium height of 44.14 metres to top of parapet provides a reasonable transition between adjacent sites. Views to the radio towers above HWT is still maintained and the podium will continue to define the street edge consistent with adjoining buildings.



View at Flinders Street demonstrates no impact on radio tower visibility

The Flinders Lane Building, at 15 storeys provides for a lower built form outcome (compared to previous 18 storey iteration), albeit slightly higher than the original 12 storey proposal. The 15 storey height continues to appropriately respond to the desired outcome of lower scale along Flinders Lane which range between 2 and 8 storeys. The Flinders Lane Building proposes a 7 storey podium with a height commensurate to the rear of Collins Place (located to the north side of Flinders Lane). The tower (above 7 storeys) is setback 10 metres from Flinders Lane establishing a distinction between low and mid-rise.

Taller buildings exist further along Flinders Lane within close proximity to the site. These include the 25 storey development at the corner of Spring Street and Flinders Lane ('The Philadelphia Building') and the 42 storey building at 35 Spring Street (currently under construction). The proposed height of 15 storeys provides a transition in building height mid-block along Flinders Lane between the taller and more dominate Spring Street end and the lower scale Exhibition Street end which contains a 8 storey ('Sargood House') and 6 storey ('The Alley Building') building holding the corner.

The proposal responds to the underlying framework and fundamental characteristics of the Capital City Zone through delivery of a typical podium and tower building typology, maintaining the vertical rhythm of the streetscape. The proposal will build upon the existing strengths of the site, and 'give back' to the public realm by formalising the surrounding laneway network (further discussion on the detailing of the laneways is explored below). The architecture and materiality of the building is of high quality and the large amount of glazing will assist with animating the building when internally illuminated and reduce the perception of visual bulk.

### ***Setbacks & Internal Amenity***

The use of appropriate and varied setbacks work 'hand in glove' with building height and are critical to achieving good design and essential to mitigate adverse effects of wind. Setbacks and their relationship with internal planning of buildings are also important to ensuring good amenity outcomes for existing and future residents.

It is considered that the proposal generally establishes appropriate setbacks which respond to specific site constraints and opportunities and will deliver a functional design. However minor changes are recommended to further improve the proposals response. These matters are discussed further below.

#### Flinders Street Building

The podium of this building contains car parking and is built to all boundaries which is an acceptable outcome for this site and consistent with the existing building typology which it replaces. The tower component of the proposal contains dwellings and has varied setbacks due to its curved shape. These are as follows:

- From 4-6 metres to the south (Flinders Street)
- From 5 – 12.5 metres to the west (minimum 10 metres from adjoining building)
- 2.7 metre setback from the Spark Lane portion of the northern boundary
- 5 – 6 metres from tower to centreline of Spark Lane

These setbacks are offered by the applicant following extensive discussions with Department and Council Officers. Clause 22.01 requires towers to be well spaced to equitably distribute access to outlook and sunlight between towers and ensure adequate sun penetration at street level.

To Flinders Street, the proposal includes a varied setback of 4-6 metres. Subject to the proposal maintaining axial views to the HWT radio masts it is considered that Flinders Street is capable of accommodating a reduced setback (less than the recommended 10 metres) due to the width of the street and varied setbacks that exist in this edge of city location. Across Flinders Street are the existing and expansive rail lines and as such, in this particular site context, the setback to Flinders Street is considered appropriate.

To Spark Lane, the scheme is proposed to be 5 metres from the centre of the lane at the midpoint of the tower. The tower then peels away as it extends north and south reaching 6 metres at its corners. A 5 metre setback from the centreline of the lane is appropriate and would ensure a minimum of 10 metre tower separation in the event that the Hotel Lindrum site is developed with a tower as currently proposed and before the Melbourne City Council.

The number of dwellings and their internal planning (particularly along the eastern side) should be designed to maximise daylight opportunities and direct views away from the Hotel Lindrum site. This approach if adopted will protect amenity of future residents, both within the development and for those

that may one day occupy the neighbouring site. To achieve this, modifications are required to consolidate apartments resulting in a reduction of dwellings and redesign of habitable rooms. The centrally located east facing dwellings are the most problematic, particularly those dwellings located in the low rise part of the building which will be impacted by future multi-storey development above the Lindrum Hotel. To this end, Permit conditions will be applied to seek a redesign of dwellings along the eastern edge.

West facing dwellings benefit from the well setback location of the Ernst and Young Tower (setback some 10 metres from Flinders Street) which is offset from the proposal. The proposal also peels away from the western boundary to 12.5 metres in the south west corner which opens up aspect and allows light penetration between buildings.

From a review of the Lindrum Hotel plans prepared by Bates Smart Architects dated 15 April 2016 it appears that the outcome is not expected to yield similar intensity as previously lodged. The height has been reduced to 117.3 metres and the building will provide a 5 metre setback from the centre line of Spark Lane (western boundary) above level 10, resulting in adequate tower separation of 10 metres between sites. The proposal includes hotel rooms up to level 10 and dwellings from level 11 and above. The amended application has not yet been determined by Council.

The setback from the boundary with HWT is at its closet point no less than 5 metres. Given that the adjoining HWT building also provides for a 5 metre setback, a 10 metre separation is achieved and provides enough space between the towers to give dwellings an outlook and to receive enough sunlight.

Previous iterations of the 32 Flinders Street scheme proposed the tower to be built up to the northern boundary with Spark Lane. This has since been amended on the latest plans and is considered integral to ensuring the lane is successful. Application of this setback will be addressed by way of condition on the permit to adopt the latest plans. Also apartments with saddle-back bedrooms must either be deleted from the scheme or achieve a minimum depth to width ratio of 2:1 to ensure appropriate daylight access. Permit conditions will address this aspect of the proposal.

#### Flinders Lane Building

The Flinders Lane Building is built to its side boundaries, excluding a variety of light wells on the eastern and western sides. Above Level 7, the tower is setback 10 metres from Flinders Lane (northern boundary). Given the relative low scale of the development this approach is considered acceptable.

The Flinders Lane Building offers diversity with a 'SoHo' product providing dwellings and commercial spaces within an integrated format. The development will active Sargood and Spark Lane through the provision of a studio and entry lobby from ground level, above which dwellings will be orientated towards the internal laneway.

The dwellings will have aspect towards Flinders Lane, Spark Lane or Sargood Lane and range in size between 86 sqm to 148 sqm. Adjacent buildings to the east and west are generally low scale (in the order of 2 and 8 storeys respectively) and internal light wells are provided for south facing bedrooms to optimise daylight.

It is noted that while not possible to directly join Sargood Lane to Flinders Lane is a safe and efficient configuration due to significant level difference, it will be possible to achieve access through the new building and its lifts and stairs.

#### ***Public Realm, Lane Network and Safety***

Spark Lane is classified as a Class 3 lane under Clause 22.20 (CBD Lanes) of the Melbourne Planning Scheme. Sargood Lane is unclassified and serves as a service and access lane. Within the CBD Lanes policy, four core value characteristics are identified as contributing to the success of a lane:

- Connectivity
- Active Frontages
- Elevational articulation
- Views

A Class 3 laneway is considered to show two or less of these four core value characteristics and is considered to require upgrading and enhancement. It is considered that the proposal will enhance the current environment, elevating the status of the lane and meeting the general objectives of the provision. The proposal provides for retail tenancies to the lane from both buildings. This will provide incentives for people to utilise the lane, and will provide retail opportunities similar to Hosier Lane, a Class 1 lane.

The lane will still be used as vehicle access for surrounding buildings albeit now with an active western edge. The occupation of space by pedestrians in a low speed laneway environment is a common occurrence within the CBD and improvements to lanes should be encouraged where possible.

Both buildings provide some articulation to the laneway above podium level and a portion of the site is being vested to the Melbourne City Council to ensure public access from Spark Lane to Sargood Lane remains in perpetuity and will be open to the sky.

The proposal includes a spiral stairwell to improve connectivity by providing a link to Spark Lane from Flinders Lane. This connection results in additional foot traffic through the building and laneway. In principle, it is considered to respond to broader policy objectives for increased urban block permeability. Previously a direct staircase was proposed along the western boundary of the site from Flinders Street to Spark Lane, however the staircase was removed due to safety concerns and lack of sight lines (Council preference).

Overall, the proposal is considered to improve upon the existing conditions and is otherwise consistent with Clause 22.20.

### ***Sunlight to Public Spaces***

There are several points of policy at Clause 22.02 (Sunlight to Public Spaces) of the Melbourne Planning Scheme which are relevant to the application and provide specific standards for shadowing:

#### *General*

*'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 (including all streets within the retail core of the Capital City Zone), and privately owned plazas accessible to the public between 11.00 am and 2.00 pm on 22 September.'*

#### *Yarra River Corridor*

*Development in the Capital City Zone and Docklands Zone must not cast:*

- *a shadow across the south bank of the Yarra River between 11:00 am and 2:00 pm on 22 June.*
- *any additional shadow across the north bank of the Yarra River (15 metres north from its edge) between 11:00 am and 2:00 pm from 22 March to 22 September*

The application, as originally submitted, involved a built form which overshadowed the north bank of the Yarra River. Both the Melbourne City Council and the Department recommended the application be amended. This was a key point in revisiting the proposal and submitting an amended design.

The proposal at reduced height of 54 storeys now avoids overshadowing of the north bank of the river (within 15 metres of the river bank) when measured between 11:00am until 2:00pm on 22 June (shadow diagrams provided below). However the location of the site means that additional shadowing of Birrarung Marr will occur during the winter and autumn seasons when the sun's position is at its lowest angle. However when measured during the equinox (as the relevant controls indicate) and through the Spring and Summer months the proposal does not overshadow Birrarung Marr. More specifically the proposal will not impact Birrarung Mar when measured on 22 September between 11am and 2pm.



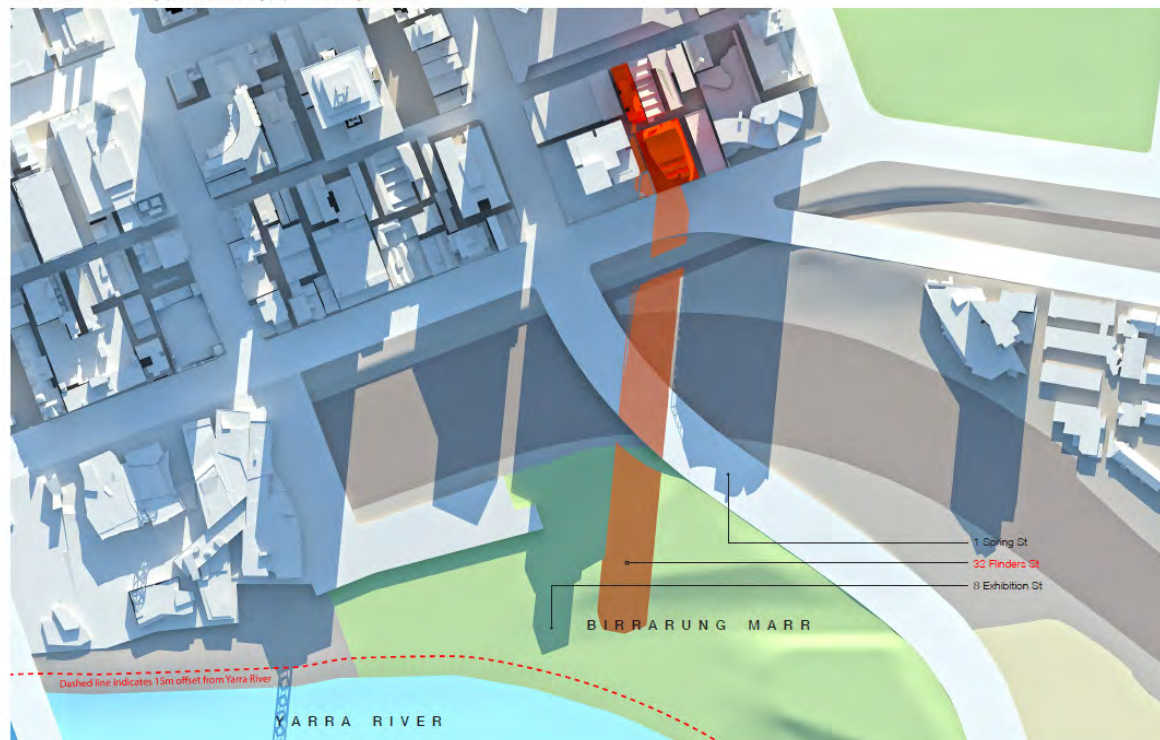
While the general policy directive of Clause 22.02 seeks to discourage any additional overshadowing on public space, reasonable application of discretion can and should be used so that appropriate development within the Central City can continue to occur. Any mid to high rise tower development on the site will cast a shadow over Birrarung Marr during winter therefore the determining factor is whether there is an unreasonable reduction in amenity as a result of the overshadowing. It is considered that the overshadowing during winter coupled with its clustering amongst other building shadow profiles is reasonable and will not detrimentally impact Birrarung Marr

Yarra River - Solar Study (Luminova Analysis) 54 Storey Scheme



June 22, 11am

Yarra River - Solar Study (Luminova Analysis) 54 Storey Scheme



June 22, 12pm



June 22, 1pm



June 22, 2pm

### ***Energy, Water, Waste Efficiency and Water Sensitive Urban Design***

Clause 22.19 of the Melbourne Planning Scheme seeks to ensure buildings achieve high environmental performance standards at the design, construction and operation phases. Buildings containing accommodation over 5,000 square metres gross floor area are required to achieve a 5 star rating under a current version of Green Star - Multi Unit Residential rating tool or equivalent.

The ESD report dated 3 June 2015 submitted with the proposal indicates that a number of ESD principles will be incorporated into the design of the building which will assist in improving the energy efficiency of the building as well as help to achieve a 5 star Green Star Multi-Residential rating. The application is considered to meet all the requirements of Clause 22.19.

In relation to Water efficiency, the development is likely to achieve the 1 point for the relevant Green Star Wat-1 credit which is in accordance with the requirements of Clause 22.19.

### **Land Use and Activation**

The proposals mix of office, retail and dwellings supports activation of the laneways and encourages public traversing through the site, from east to west.

The proposed development seeks to provide retail uses on the ground level of the development where it interfaces with lanes and streets. Additional tenancies facing into Spark Lane from the rear of both buildings have now been provided. As section of the site will be vested with Council to ensure a continues laneway network. The lanes are open to sky and will invigorate an inactive and uninviting public space.

Passive surveillance opportunities from the rear of the buildings to Spark Lane have been increased and address concerns raised by DELWP Urban Design and Melbourne City Council. It is considered that the ground floor tenancies combined with the green laneway initiatives in the informal submission will be sufficient in addressing these concerns. It is noted that the proposed land uses do not trigger a planning permit under the Capital City Zone and are all 'as of right'.

### **Microclimate**

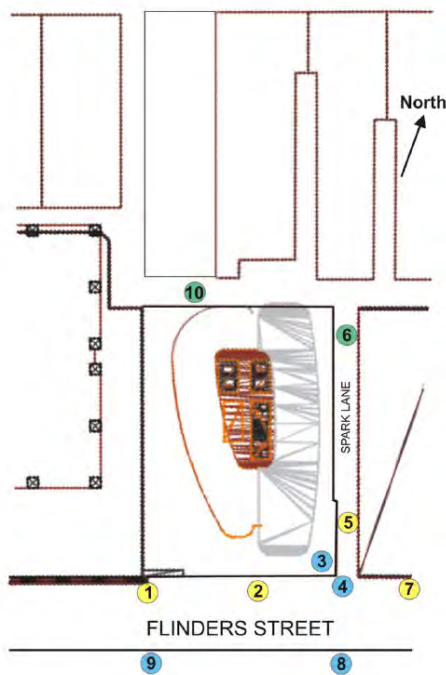
The application is supported by a wind assessment report prepared by Mel Consultants. The wind tunnel tests for the proposal identified that the proposal is generally consistent with the policy requirements.

For the wind tunnel test basic configuration, for which there were no street trees, the pedestrian level wind conditions in the streetscapes surrounding the proposed development have been generally shown to be either within or on the criterion for walking comfort for all wind directions.

The wind conditions for Spark Lane (Test Locations 5, 6 and 10) have been shown to be within the criterion for long term stationary activities for all wind directions with one exception. The exception is at Test Location 5 for which the wind conditions for the south, south-south-west and south-west wind directions have been shown to be above the criterion for long term stationary activities but within the short term stationary criterion; wind conditions for the remaining wind directions were shown to be within the long term stationary criterion. Figure 9 below provides a summary of the achieve criteria for all test location.

Wind condition for the podium level have generally been found to be within the criterion for walking comfort with the exception of test location P3 and P5 which are shown to be above this criterion. Given that this is privately controlled podium space which in part is use to mitigate wind downdraft onto public space, this outcome is considered to be an acceptable response. Figure 10 below provides a test map location for the podium level.

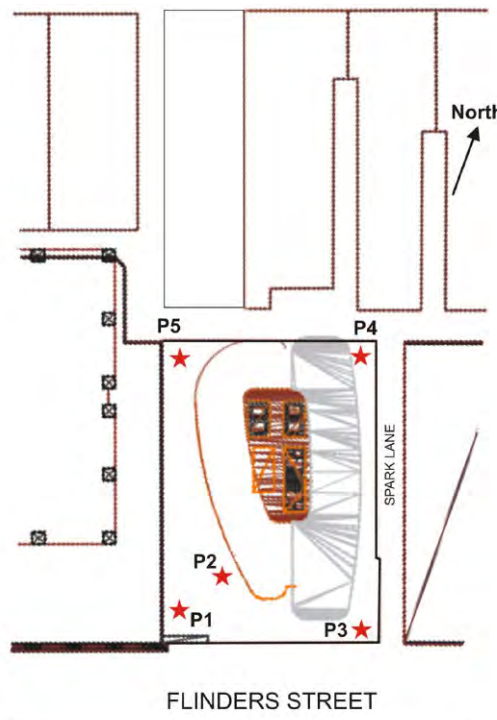
Figure 9 – Ground Level Test Locations



Legend - Achieved Criteria

- Walking criteria
- Short term stationary criteria
- Long term stationary criteria

Figure 10 – Podium Test Locations



Legend

- ★ Podium Level Test Locations

Given that the changes to the scheme tabled on 5 April 2016 have improved setbacks and generally reduced height it is not expected to result in adverse wind effects. To confirm this it is recommended that an updated wind report be required as condition of permit to ensure ongoing compliance with relevant criteria.

## Land Survey

The Melbourne City Council has stated that it supports the vesting of land within Spark Lane for public purposes to ensure access through to Sargood Lane. However, the Melbourne City Council has requested that it be vested as a Road on the Plan of Subdivision, limited in depth, prior to occupation of the development. It was also raised that the proposed development encroaches over Spark Lane by 580mm, and should be fully contained within the boundaries of the site and all projections/canopies must comply with the Council’s Road Encroachment Guidelines. The Council’s requests should be conditioned on the permit.

## Building Function

### Car parking, Bicycle Facilities, Traffic, Loading and Waste

Significant changes have occurred over the course of the application. Initially car parking, bicycle spaces and motorcycle parking was proposed in two basement levels under the Flinders Street building, and within the podium accessed through a two-way entry to Flinders Street. Basement level 1 extended to the Flinders Lane Building, which extended up to the ground floor of the building, utilising a car stacker system. This resulted in the façade expression of a car stacker volume at the lower levels of the Flinders Lane Building onto Sargood Lane where it connects with Spark Lane.

The latest plans now propose a basement only beneath the Flinders Lane Building thereby unlocking the potential activation onto Sargood Lane. The single vehicle access from Flinders Street is still maintained.

Schedule 1 to the Parking Overlay allows for a maximum of 440 car parking spaces (calculated on the number of proposed dwellings and retail area) and requires a minimum of 4 motorcycle parking spaces. The provision of 295 car parking spaces is below the allowable maximum and the allocated motorcycle spaces meet the requirements. However, no motorcycle car parking spaces appear on the plans. This should be conditioned on the permit.

Melbourne City Council has requested that a note be placed on the planning permit, stating: *“Council will not change the on-street parking restrictions to accommodate the access, servicing, delivery and parking needs of this development. As per Council’s policy, the developments in this area are not entitled to resident parking permits. Therefore, the residents/occupants/staff of this development will not be eligible to receive parking permits and will not be exempt from any on-street parking restrictions”*. This is an acceptable advisory note and should be applied to the permit.

In terms of bicycle requirements the proposal is required to provide 87 resident spaces, 43 resident visitor spaces and 4 commercial spaces. One change room is also required under Clause 52.34-3 of the Planning Scheme. The application provides for a total of 216 bicycle parking spaces, exceeding the requirements. However, allocation of these spaces is not clear. A condition of permit can address this matter. No change facilities are provided and will be required as part of permit conditions.

The application generates the requirement to provide 27.4 square metres of loading area (based on the 275 square metres of retail). The proposal provides an onsite loading bay of 79 square metres, and therefore is in excess of the minimum loading bay dimensions specified in the Planning Scheme. Permit conditions will be implemented to require a car park and access management plan to minimise conflicts between loading and vehicle access when the loading turntable is occupied.

The proposal is expected to generate less traffic movements when compared with the existing use of the site as public car park notwithstanding the intention to retain 135 commercial car parks which will continue to be leased to the adjoining occupiers of the HWT building. Permit conditions will seek clarity on plans in relation to those spaces that will continue to provide off-site parking for neighboring properties.

Overall the redevelopment of a public car park will have positive effects on the surrounding road network. The removal of vehicle access from Flinders Lane also improves street activation, pedestrian safety and directly reduces traffic onto Flinders Lane.

All of Melbourne City Council’s Engineering Department concerns regarding egress to Flinders Street, queuing of vehicles during deliveries, the need for a loading and car park management plan, allocation of bicycle and car parking spaces will be addressed via conditions and are not fatal to the project.

No comments were provided from Melbourne City Council regarding the waste management plan, and as such the proposal will be required to comply with Council’s *“Guidelines for Preparing a Waste Management Plan 2015”* document and be to their satisfaction.

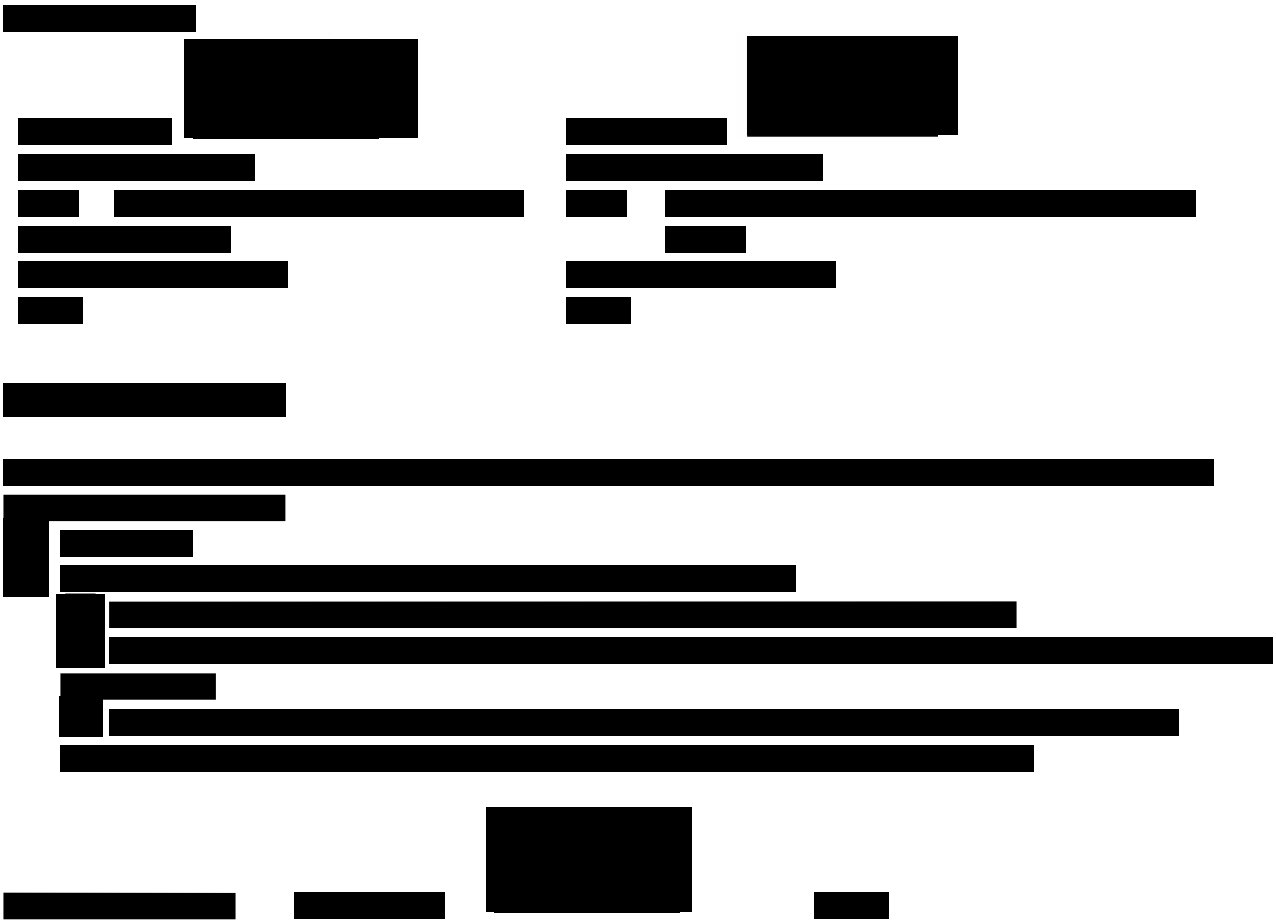
# Recommendation

The proposal in its modified form, and subject to further improvements, represents an opportunity to redevelop a public car park and unlock the potential to create safe and vibrant civic spaces. Issues to be addressed via conditions primarily relate to internal amenity, interface amenity and car park / access matters.

The proposal is well designed and will add to the city skyline and improves the public realm. The architectural response and curvilinear design of the Flinders Street Building is visually interesting and mitigates the perception of mass as distinct from the rectilinear forms of other surrounding buildings. The overall height of the Flinders Street Building avoids overshadowing of the north bank of the river and the podium design and volume is respectful of the streetscape.

The Flinders Lane Building has been designed to maximise street activation and provides transition in height between taller buildings on Spring Street to lower buildings on Exhibition Street. The Flinders Lane Building also offers a 10 metre tower setback (above 7 storeys) which is an acceptable street wall response.

On balance it is recommended that the permit be granted for the demolition of the existing building and construction of multi-storey buildings and associated car parking subject to conditions and for the reasons outlined in this report.



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