

APPLICATION FOR PLANNING PERMIT: 54 TO 56 CLARKE STREET, SOUTHBANK	
Application Number:	2013/005973
Proposal:	Demolition of existing buildings on site and development of a multi-storey residential tower, variation of the Design and Development Overlay (DDO60) and clause 52.07 (loading).
Applicant:	Urban Matrix Pty Ltd & Urban Cube Pty Ltd C/- Contour Consultants Australia Pty Ltd
Zoning:	Capital City Zone – Schedule 3 (Southbank)
Overlays:	Design and Development Overlay- Schedule 60 (Southbank Area (DDO60A3)) Parking Overlay Precinct 1 (PO1) Land Subject to Inundation Overlay- Schedule 1 (LSIO1)
Application Received:	21 June 2013
Further Information Requested and Received:	N/A
Number of Objections:	N/A
Recommendation:	Permit

PROPOSAL

- To demolish the existing buildings and construct a 73-level mixed use building (239.8 metres) providing a 12-level basement for car parking, 265 apartments, 270 square metres of food and drink floor area and communal recreation areas. The proposed gross floor area is 34,718 square metres.
- Details of the application are as follows:
 - Demolition of the existing single storey warehouse style buildings occupying the site;
 - Construction of a 12-level basement providing 214 car parking spaces accessed via two-car stackers, bike storage, grey water holding tank and building services.
 - Ground floor comprising of a residential lobby, a cafe area, building services including waste disposal, and two points of vehicle access via Hancock Street. The floor to ceiling height of the ground floor is 6.5m;
 - Levels 1-6 provide 4 dwellings per floor;
 - Level 7 is a communal recreational area including pool, spa/sauna and gym;
 - Levels 8-36 provide 3 dwellings per floor;
 - Level 47 provides 4 dwellings.
 - Level 48 - 71 provides 5 dwellings per floor;

- A roof garden provides a communal recreation area for residents.
- Overall building height 239.8 metres;
- Landscaping is integrated into the building design including a vertical garden within the foyer, a hanging garden on the external framework of the podium, and on the roof garden;
- 214 car parking spaces over 6 basement levels;
- 61 bicycle parking spaces (54 resident and 7 visitor);
- 5 share *electric scooter spaces*;
- *The submission is supported by comprehensive reports including a Town Planning and Urban Context Report, Traffic Engineering Assessment Report, Acoustic Engineering Report, Waste Management Plan, Environmental Wind Speed Measurements Report and Structural Statement.*

BACKGROUND

3. On 6 February 2013 the Minister for Planning issued a Notice of Decision (NOD) to grant a permit for the development of a 73 level (239 metres) residential tower at 54-56 Clarke Street, Southbank. The NOD was issued subject to conditions, most notably:
 - a. An increase in the setback of the tower on the northern boundary to the minimum dimensions as shown on revised floor plans submitted by the applicant and dated 16 October 2012 (*BKK Architects A-SK0036 to ASK0039* inclusive) (**Shown in Figure 1**).
 - b. An increase in the setback of the tower above the podium on the eastern boundary to a minimum of 2 metres at it's nearest point.
 - c. Reduction in any projections beyond the title boundaries to a maximum of 300 mm.
 - d. Highlight windows to a minimum sill height of 1.7 metres or architectural treatment on the northern façade of the tower whether internal or external in order to obscure views directly towards the building at 269-283 City Road. Screening is not required above the height of the roof line of the building at 269 -283 City Road, Southbank (RL 134.6).
 - e. Details of screening or architectural features on pool / community area (currently level 7) to prevent overlooking to the north directly towards the building at 269-283 City Road.
 - f. Redesign of the floorplan on the upper levels to minimise in so far as possible or totally remove bedrooms with no natural light.
 - g. Redesign of apartments on the western side of levels 1-6 to ensure adequate natural light to habitable rooms that do not rely solely on windows on the boundary.



4. Melbourne City Council objected to the original application and has since sought a review of the decision at VCAT. An administrative mention has been set for 30 September 2013 to update the tribunal on the status of the current application and a full hearing is likely in October.

5. Since the approval the planning controls on the site have changed affecting the assessment of this application Melbourne Planning Scheme Amendment C171, gazetted on 20 June 2013, amended the planning scheme controls by:
 - Removing Mixed Use Zone, Design and Development Overlay 18 (Southbank Area) and Design and Development Overlay (Southbank Central Interface); and
 - Introducing Capital City Zone – Schedule 3 (Southbank) and Design and Development Overlay 60 (Southbank).
6. It is noted that the original application was subject to notification requirements and review rights, however since the approval of Amendment C171 the Capital City Zone exempts the current application from the notice requirements and review rights under the *Planning and Environment Act 1987*.
7. The main differences between the previously considered plans (October 2012) and the current application consist of:
 - An increase in the setback of the tower (excluding the 'spine' structural columns) on the northern boundary (boundary shared with the Bank Apartments) to meet the setback requirements of Condition 1 (a) of the Notice of Decision as detailed above.
 - An increase in the setback of the tower above the podium on the eastern boundary (Clarke Street) to a minimum of 2 metres at its nearest point;
 - Screening of windows on the northern facade of the tower in order to obscure views directly towards the Bank Apartments;
 - Internal redesign of some apartments to on the upper levels to minimise bedrooms with no natural light; and
 - Redesign of apartments on the western side of levels 1-6 to ensure that habitable rooms do not solely rely on windows on the boundary for natural light.

SITE AND SURROUNDS

8. The subject site comprises of two lots, known as 54 and 56 Clarke Street (Lot 1 and 2 on Title Plan 568116X) and is located on the north-west corner of Clarke Street and Hancock Street, in Southbank. The site is rectangular in shape with a frontage to Clarke Street of 19.5 metres, and a frontage to Hancock Street of 30.6 metres. The total area of the subject site is 596 square metres.
9. The site is currently occupied by two single-storey, brick warehouse buildings which are currently used as an office and a licensed premise. Vehicle access is via a crossover on Clarke Street.
10. Development surrounding the site is described as follows:

North:

- (Bank Apartments) 269-283 City Road which is a 129 metre building. The building has 7-levels of podium car parking that are built up to the site's north boundary.

South:

- On the opposite side of Hancock Street, to the south, is a recently constructed apartment building of approximately 35 levels. This development has just been completed and provides a 3 metre setback to Hancock Street with 0 metre setbacks to the other three boundaries including Clarke Street to a height of 107 metres.
- Further south is the City Link overpass with under-croft public car parking.
- On the south-east corner of Clarke Street and Hancock Streets is a substation, which is approximately 2.5 storeys in height.

East:

- Opposite the subject site to the east on Clarke Street is an existing 3-storey office building.

West:

- Abutting the subject site to the west is a shared laneway and a brick industrial warehouse with car parking at the rear. This has been the subject of pre-application discussions for a development of two towers in excess of 100 metres on a 30 – 40 metre podium.

STATUTORY CONTROLS

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

Planning Control	Permit/ Application Requirement(s)/ Decision Guidelines
Capital City Zone – Schedule 3 (Southbank)	<p>Under Clause 1 of the CCZ3 the use of the land for a dwelling is “as-of-right”.</p> <p>Under Clause 1 of the CCZ3 a permit is not required for the use of the site for a food and drink premises, as ‘retail premises’ is a Section 1 Use.</p> <p>Under Clause 37.04-4 a permit is required to construct a building or construct or carry out works.</p> <p>Under Clause 4 of the CCZ3 a permit is required to demolish or remove a building.</p> <p>Decision guidelines and application requirements outlined at Clause 3 are also relevant.</p>
Design and Development Overlay	<p>Under Clause 43.02 a permit is not required to construct a building or construct or carry out works if the requirements in the table to the Schedule are met.</p> <p>Under Clause 43.02-2 an application must be accompanied by a site analysis and urban context report which demonstrates how the proposed building or works achieve each of the Design Objectives and Built Form Outcomes of the schedule, and any local planning policy requirements.</p>
Design and Development Overlay- Schedule 60 (Southbank)	<p>Schedule 60: Buildings or works should not exceed the Building Height or exceed the requirements specified. An application to Building Height or exceed the requirements specified must demonstrate how the development will continue to achieve the majority of the Design Objectives and Built Form Outcomes of the schedule and any local planning policy requirements.</p> <p>The applicable requirements are: Tower height of 100 metres; Podium height not to exceed 30 metres; Development above the podium should be a minimum of 10 metres from the front, side and rear boundaries; Towers should be a minimum of 20 metres from an adjoining tower. This should not be varied unless:</p> <ul style="list-style-type: none"> • The majority of the built form outcomes are met; and • There is an inequitable tower setback on a neighbouring site. The minimum setback between towers should be 10 metres.
Land Subject to Inundation Overlay (LSIO1)	<p>Under Clause 44.04 a permit is required to construct a building or to construct or carry out works.</p> <p>Under Clause 44.04-3 an application requires a local floodplain development plan if a local floodplain development plan has been developed for the area and has been incorporated into the scheme. If this is the case, an application must be</p>

	<p>consistent with the plan.</p> <p>Under the Clause an application must be referred to the relevant floodplain management authority under Section 55 of the Act unless in the opinion of the responsible authority, the proposal satisfies requirements or conditions previously agreed in writing between the responsible authority and the floodplain management authority. The application was referred to Melbourne Water on 8 July 2013.</p>
Schedule 1 To The Parking Overlay (PO1)	<p>Under Clause 2 to PO1 a permit is required to provide car parking in excess of the car parking rates specified in the schedule.</p> <p>The limitation policy allows for 265 spaces. The provision of 208 car spaces on site is below the maximum allowed; therefore no permit is required.</p>
Loading and Unloading of Vehicles (Clause 52.07)	<p>Under Clause 52.07 no buildings or works may be constructed for the manufacture, servicing, storage or sale of goods or materials unless space is provided on the land for loading and unloading vehicles as specified within the table.</p> <p>The site provides a loading facility that does not meet the exact requirements of the Clause; therefore a permit is required.</p>
Bicycle Facilities (Clause 52.34)	<p>Under Clause 52.34-1 a new use must not commence until the required bicycle facilities and associated signage has been provided on the land. The standard requires the provision of 81 spaces. The application provides for 79 spaces, therefore a condition will be placed on any permit issued requiring an addition of 2 bike spaces, in accordance with the Schemes requirements.</p>
Urban Context Report and Design Response for Residential Development of Four or More Storeys (Clause 52.35)	<p>Under Clause 52.35-1 an application for a residential development of four or more storeys must be accompanied by an urban context report and design response.</p>
Integrated Public Transport Planning (Clause 52.36)	<p>Under Clause 52.36-1 an application must be referred in accordance with Section 55 of the Act to the Director of Public Transport for a residential development comprising 60 or more dwellings or lots. On 8 July 2013 the application was referred to the Director of Public Transport.</p>

General Provisions

11. **Responsible authority for administering and enforcing the Scheme:** The schedule to Clause 61.01 indicates that the Minister for Planning is the responsible authority for considering and determining applications in accordance with Divisions 1, 1A, 2 and 3 of Part 4 of the *Planning and Environment Act 1987* for approving matters required by the scheme in relation to developments with a gross floor area exceeding 25,000 square metres.
12. **Decision Guidelines:** Under Clause 65.01 before deciding on an application the responsible authority must consider as appropriate a number of matters, including Section 60 of the Act.

13. **Referral and Notice Provisions:** Under Clause 66.03 an application must be referred to the person or body specified as the referral authority; Clause 52.34 (Director of Public Transport), Clause 44.04-4 (Relevant floodplain management authority- Melbourne Water).

POLICY FRAMEWORK

State Planning Policy Framework (SPPF)

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

Municipal Strategic Statement (MSS)

15. Clause 21.02 (Municipal Profile) recognises that the City of Melbourne is the premiere location for many of the State's economic, infrastructure and cultural facilities, and attracts a substantial daily population with people travelling to the city for work, leisure and shopping. In addition, the most significant gains in resident population are expected in the Central City, Docklands and Southbank.
16. Clause 21.03-1 (Vision) recognises the diverse roles of the city and local areas, with a vision being *'a thriving and sustainable City that simultaneously pursues economic prosperity, social equity and environmental quality'*.
17. Clause 21.04 (Land Use) sets out objectives and strategies to *'ensure residential development takes into account the amenity impacts of established and future uses, including noise impacts, and provides acoustic insulation in dwellings to protect future occupants'*.
18. Clause 21.05-2 (Structure and Character) identifies the need to reinforce valued characteristics of some areas and establish a new built form character for others in areas that have the capacity to absorb future development.
19. Clause 21.05-3 (Public Environment) notes the challenge in ensuring that new developments add positively to the overall character of Melbourne and *'create an accessible, safe, inclusive and engaging public environment'*. Associated strategies seek to encourage excellence in urban design, public realm and improve pedestrian permeability and amenity.
20. Clause 21.05-5 (Sustainable Built Form) seeks to create a built environment that adopts environmentally sustainable design practices.
21. Clause 21.06-1 (Public transport) seeks to increase the patronage of public transport by (amongst other things) encouraging development in locations which can maximise the potential use of public transport.
22. Clause 21.07-1 (Environmentally Sustainable Development) encourages a reduction in the generation of greenhouse gas emissions and promotes energy efficiency in regards to resource use and waste reduction.
23. Clause 21.08-3 (Southbank) sets out the local area policies for Southbank and includes a vision for the area which is one of the major residential growth areas within the City of Melbourne providing significant residential development opportunities for high density, medium to high rise dwellings. Important principles for Southbank relevant to the application include:
- Ensure that new tall buildings add architectural interest to the city's sky line.

- Ensure tower buildings are well spaced and sited to provide equitable access to an outlook and sunlight for all towers.

Local Planning Policy Framework (LPPF)

24. The following policies within the LPPF are relevant:
- 22.02 (Sunlight to Public Spaces)
 - 22.01 (Urban Design Within the Capital City Zone)

Other relevant policy/ matters

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

NOTIFICATION

26. The application is exempt from the notification and review rights under the Act.

REFERRALS

27. The application was referred to the Department's Urban Design Unit, the City of Melbourne, Essendon Airport and pursuant to Section 55 of the Act to the Director of Public Transport and Melbourne Water. The following comments were provided:
28. **Urban Design (DPCD):** Urban design is not supportive of the application. Concerns have been raised regarding:
- The subject site has an area of 596m². The proposed building has a gross floor area of 34,718m² which is considered far beyond the capacity of a land parcel of this size to accommodate and still meet residents' needs in terms of reasonable access and amenity.
 - The building's height at 238m is more than double the DDO60 recommended building height of 100m. It will be significantly taller than all of its immediate neighbours, most of which are constructed on larger sites.
 - The DDO60 recommended separation from an adjacent tower is 20m, with a minimum separation of 10m. The maximum distance to 269-283 City Road is, in fact, only 10m with balconies as close as 6.6m and habitable rooms 8.5m. This proximity will adversely impact on the amenity of neighbouring residents.
 - The DDO60 recommended setbacks above a podium are for a minimum of 10m from all boundaries. The setbacks vary with the warped building form, but in all cases are well less than the recommended 10m.
 - The inclusion of an, as yet unspecified, architectural treatment for those apartments on the north side below level 42 is expected to restrict reasonable access to views and sunlight for this proposed development and that existing at 269-283 City Road. This will compromise the internal amenity for residents of both buildings
 - The level of on site amenity for occupants is inadequate. Only one of the 265 apartments has access to a balcony, and this is likely to be in full shade at all times. No other apartment has access to private or shared outdoor open space. The limited roof-top facilities are considered insufficient for the number of building occupants. If these facilities are outdoors, the likely microclimate will render them usable on only the most still of days.
29. **City of Melbourne:** The application was formally referred on 8 July 2013. The City of Melbourne indicated in an officer report received 20 August 2013 that Council officer's **object** to the proposal. The application was considered at the Future Melbourne Committee meeting on 10 September 2013.
30. In their correspondence the City of Melbourne raised a number of issues regarding building height, limited setbacks and lack of appropriate tower separation. It was noted that the height of the proposed building at 239m exceeds the recommended height for the site. It was also noted that the podium form is not sufficiently distinguished from the tower form given the minimal boundary setbacks. The lack of appropriate spacing between the towers would also result in a wall of towers along Clarke Street with little visual separation and relief between them. The lower tower section of the development confronts and imposes upon the amenity of the adjoining dwellings to the north, while the higher sections of the development are only attained and achieved at the

expense of the amenity of the neighbouring development. The upper level of the building would loom over the dwellings on the lower portion of the site which will create a sense of containment would be substantial and oppressive particularly for dwellings at the lower levels.

31. **Director of Public Transport:** offered no objection to the proposal and did not include any conditions as per their letter dated 30 July 2013.
32. **Melbourne Water:** offered no objection to the proposal subject to a number of conditions and footnotes to be included in the permit as per their letter dated 16 July 2013.
33. **Essendon Airport:** has confirmed that the information provided is sufficient to allow an assessment to be undertaken in accordance with the *Airports Regulations 1996* (protection of airspace). This assessment is currently underway. A condition will be included on any permit issues requiring approval from CASA prior to the commencement of development.

ASSESSMENT

Land Use

34. The proposed use for residential apartments replaces a mostly underutilised and inactive site which makes a limited contribution to the area in terms of form or function. The use of land for a food and drink premises requires a permit and are generally acceptable in this location. The proposal is consistent with many policy directions, will increase the residential population and contribute a 24-hour Central Activities District.
35. The development provides higher density housing and responds appropriately with the broad strategic intent for housing as outlined in the State Planning Policy Framework, Local Planning Policy Framework, including the Municipal Strategic Statement (MSS). The proposal is consistent with State policy to encourage a diversity of housing types at higher densities in and around activity centres. Southbank is projected to experience significant population increase and the proposal will provide residential dwellings to respond to this projected population increase within the area.

Design and Built Form

36. Southbank is one of the major residential growth areas within the City of Melbourne providing significant residential development opportunities for high density, medium to high rise dwellings. It is for this reason that the general built form in the greater Southbank area and specific site surrounds is high density, with tall building heights. The immediate site surrounds include tower heights ranging from 90m to 300m. The overall height of the proposed tower is 239m (73 storeys). Under the DDO60 an application to exceed the Building Height or reduce the Minimum Building Setback must demonstrate how the development will continue to achieve the Design Objectives and Built Form Outcomes of the schedule and any local planning policy requirements.

DDO60 - Design Objectives and Built Form Outcomes

37. The proposal exceeds the suggested building heights of DDO60 (100 metres), indeed the guideline is more than doubled, therefore the application must demonstrate how the development will continue to achieve the Design Objectives and Built Form Outcomes of the schedule and any local planning policy requirements. Schedule 60 to the Design and Development Overlay, sets out the following design objectives:
 - To ensure that the suitability of each development to its context takes precedence over the individual merit of the building.
 - To ensure that new buildings respect the future development potential of adjacent sites and allow for an equitable spread of development potential on these sites.
 - To ensure that new buildings respect the potential of future development on adjacent sites to access privacy, sunlight, daylight and an outlook from habitable interiors.
 - To ensure the height of new buildings does not overwhelm the public domain.
 - To allow daylight and sunlight to penetrate to the street and lower building levels.

- To ensure development supports high levels of pedestrian amenity in relation to daylight, sky views, Wind and sunlight. To maintain the visual dominance and views to the Arts Centre Spire as a civic skyline landmark. To ensure that development provides a high level of amenity for building occupants.

Area specific design objectives for the Southbank Central Core and Southbank Interface are:

- To avoid detriment to the public domain from the impacts of buildings.
- To ensure that development has a pedestrian scale at the street level.
- To provide for appropriate spacing between buildings so as to maximise light, air and outlook for occupants.'

38. The application is within Area 3 – Southbank Central Interface that sets out a discretionary 100m height control area with a discretionary maximum podium height of 30 metres, tower setbacks from all sides of 10 metres, and a preferred 20 metre separation between towers, with a discretionary minimum 10 metre separation. The applicable built for outcomes include:

Height

- Buildings that provide an appropriate transition to development in adjoining Areas to the south, west and east.
- Buildings that do not dominate urban form in adjoining Areas.
- The maintenance of the dominant streetscape scale.

Podium height (Building podiums)

- are oriented to complement the Southbank street system
- have a human scale
- provide an appropriate level of street enclosure having regard to the width of the street
- are consistent with the heights and setbacks of adjoining building podiums
- have a height and setback that does not undermine the heritage character of an adjoining heritage building.

Tower separation (Towers are designed and spaced to)

- equitably distribute access to an outlook, sunlight between towers and to ensure adequate sun penetration at street level.
- ensure habitable room windows do not directly face one another and that consideration has been given to the development potential of adjoining lots.
- Ensure the sunlight, good daylight and privacy and an outlook from habitable rooms for both existing and proposed development can be provided.
- Encourage the reasonable sharing of access to daylight and an outlook, and the mitigation of wind effects.
- Ensure buildings do not appear as a continuous wall at street level.

Setbacks (Towers are setback to ensure)

- large buildings do not dominate the urban form at ground level.
- the dominant podium or streetscape scale is maintained.
- consideration is given to the equitable development potential of adjoining lots.

Height

39. Given the large scale developments either constructed, under construction, or approved in the precinct it is considered that the proposal is consistent with an emerging building scale in the area. Further, the existing and emerging built form of the precinct consists of high-rise residential towers combined with commercial uses, which is consistent with the proposed tower.

There is justification for a departure from the suggested height due to the following:

- The DDO60 height controls are not mandatory. It is reasonable to allow a tower of this height in a city, particularly in an area that promotes high density buildings and where the objectives of the overlay control have been met.
- There is supporting policy for intensification and urban consolidation within State and local planning policy in the planning scheme.
- The site is located in an area where there are numerous buildings of comparable scale such as Eureka Tower (300 metres high) and Freshwater Place (comprising two towers of 200 metres & 207 metres).

- The Minister for Planning has approved a number of permits for residential towers in the surrounding area that are in excess of the discretionary 100 metre DDO39 height limit including: 70 Southbank Boulevard, Southbank - planning permit no. 2009/0983 issued 21 April 2010 (70 storeys/226 metres mixed use high rise, review of decision lodged at VCAT), 133-139 City Road, Southbank - planning permit no. 2008/0734 issued (130 metre high residential tower), 174-184 City Road, Southbank - planning permit no. 2006/0453 issued 25/02/07 (142m metres high); 110-120 Kavanagh Street, Southbank - planning permit no. 2007/0539 issued 5/2/07 (113.6 metres high); 269-283 City Road, Southbank - planning permit no. 2007/0624 issued 11/4/08 (124 metres high) and construction complete; 141 City Road, Southbank – planning permit 2010/00273 issued September 2010 (141 metres high).
 - The previously issued NOD for the site (2011/008303) was approved at the current height.
40. The local policy in Clause 22.01 provides guidance on building design to ensure that new development responds to the underlying framework and fundamental characteristics of the Capital City Zone. It is considered that the proposed building is generally in accordance with the objectives of Clause 22.01. While the development does not meet the preferred height identified within the Southbank Structure Plan and DDO60 it is clearly not the only assessment tool to be considered. There is a number of existing buildings above the preferred height with a number approved and awaiting development and it is noted that a building of this height has already been considered acceptable in NOD 2011/008303. However the proposed application has been designed in response to the conditions of NOD 2011/008303 resulting in the inclusion of supporting columns consisting of large concrete pillars designed to support the towers higher levels when the tower form builds out over the northern setback area once the Bank apartments cap out at Level 40. It is considered that a better solution will be to allow the building to revert back to its original design with a 2 – 11 metre setback to the neighbouring Bank Apartments and reducing the height to 198 metres.

Setbacks

41. DDO60 provides guidance on building setbacks. It is clear from the size of the site that the standard model for podium/ tower buildings as generally advocated in DDO60 will be difficult to comply with on this site. The 20 metre tower setback from an adjoining tower development is not achievable and the 10 metre front, side and rear setback requirement difficult to achieve. On this basis, if this site is to be developed intensively at all the design and form will require to respond successfully to the surrounding environment and be exemplary in terms of design intent.
42. The applicant has developed a different design solution to the podium/ tower form that results in a design change at approximately 30 metres that acts as a podium element.
43. To the eastern boundary the tower has a 2 metre setback to Clarke Street. This is less than the 10 metre setback set out in DDO60 however the neighbouring building at 269-283 City Road has been built to the boundary and is therefore considered acceptable in this instance.
44. To the south the proposal is separated from the building at 58 Clarke Street by the width of Hancock Street. The habitable rooms of both buildings will face one another in this direction but are separated by 16 metres approximately. This is considered acceptable and is less than the proposed 10 metre setback between habitable rooms for Freshwater Place and the newly approved 1-15 Queens Bridge Street, Southbank (Planning permit reference 2011011626).
45. The setbacks to the western boundary are approximately 0.9-2.4 metres however added with the road carriageway easement on the adjoining neighbouring site the setbacks are considered acceptable and will allow future development of this site.
46. Consideration has also been given to planning permit TP/2009-864 (issued by City of Melbourne at the direction of VCAT), which has zero setbacks on all frontages to a height of 21 levels (70 metres) at the site at 33 Clarke Street, Southbank – approximately 100 metres from the subject site and 58 Clarke Street, approved by the City of Melbourne. This development has just been completed and provides a 3 metre setback to Hancock Street with 0 metre setbacks to the other three boundaries including Clarke Street to a height of 107 metres.

47. The key setback issue is to the north with the newly constructed building at 269 – 283 City Road (Bank apartments). This building itself has been built to the boundary in one area (balcony to habitable living room) with another wall (window to habitable second bedroom) within 1 metre of the boundary.
48. The tower is set back between 5-7.5 metres from northern boundary and results in a tower separation of between 5.5-12 metres (due to the alignment of the Bank apartments). DDO60 sets out that if there is an inequitable setback on a neighbouring site the minimum setback between towers can be reduced from 20 meters to 10 metres (discretionary). It is considered that the neighbouring Bank apartments to the northern boundary has an inequitable setback therefore the 10 metre tower setback applies.
49. While the development does not meet the discretionary 10 metre tower setback for the entire length the building has been designed to ensure that there are no direct views between habitable rooms by screening the north facing apartments. It is also considered that the tower has been designed to allow for a reasonable outlook and amenity for the habitable rooms on the neighbouring site, particularly as they have been built to the boundary.
50. The proposed application has been designed in response to the conditions of NOD 2011/008303, including increasing the northern setback to the Bank Apartments. However this has resulted in the inclusion of supporting columns consisting of large concrete pillars designed to support the towers higher levels when the tower form builds out over the northern setback area once the Bank apartments cap out at Level 40 (**shown in Figure 1**).
51. The support columns are within 1 metre of the Bank Apartments and within 3 metres of habitable windows. These columns are considered to be unacceptable as they intrude into the lower northern setback and do not provide for an equitable setback between the Bank Apartments and proposed development.
52. The removal of the columns will make the building structural unviable and therefore unbuildable. A better solution will be to allow the building to revert back to its original design with a 2 – 11 metre setback to the neighbouring Bank Apartments and reducing the height to 198 metres (**shown in Figure 2**).
53. This provides for a better design as it removes the perceived cantilevering of the building over the Bank Apartments and provides for a sleeker design that is not reliant on large supporting columns.
54. Additional setbacks of 8 metres to the northern boundary will be required on the original design to accord with the new setback requirements of DDO60. This will ensure a 10 metre setback to the sensitive living room windows of the neighbouring Bank Apartments (**shown in Figure 3**).
55. The original design will also fit better into the local context which is continually evolving. For example the neighbouring site at 58 Clarke Street (approved by the City of Melbourne) provides a 3 metre setback to Handcock Street with 0 metre setbacks to the other three boundaries including Clarke Street to a height of 107 metres.
56. The previous application (NOD 2011/008303) was assessed under the provisions of DDO39. The new DDO60 places a greater emphasis on the form of the development, internal amenity and has specifically removed the objective based around 'architectural quality'. There is now a specific minimum 10 metre tower-to-tower separation. The proposal does not meet this requirement and other built form outcomes within DDO60. However on balance the controls in the Scheme are not sufficiently different to warrant a refusal of the application.

Figure 1 – Proposed Application

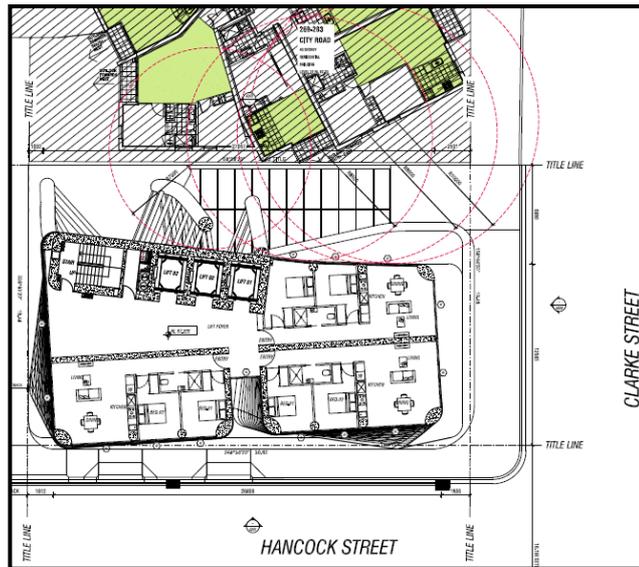


Figure 2 – Original design

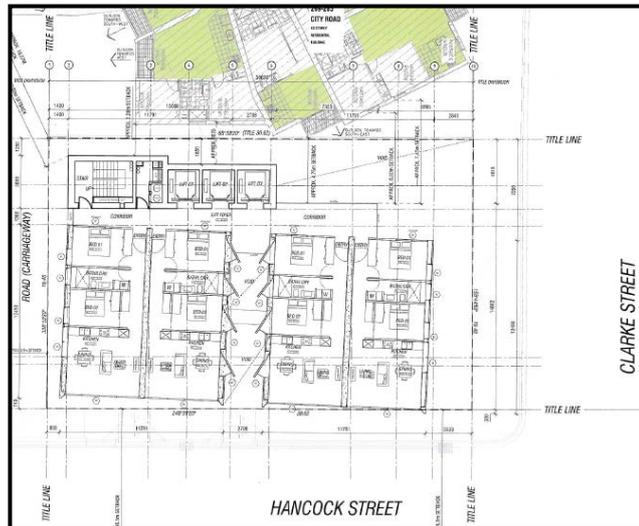
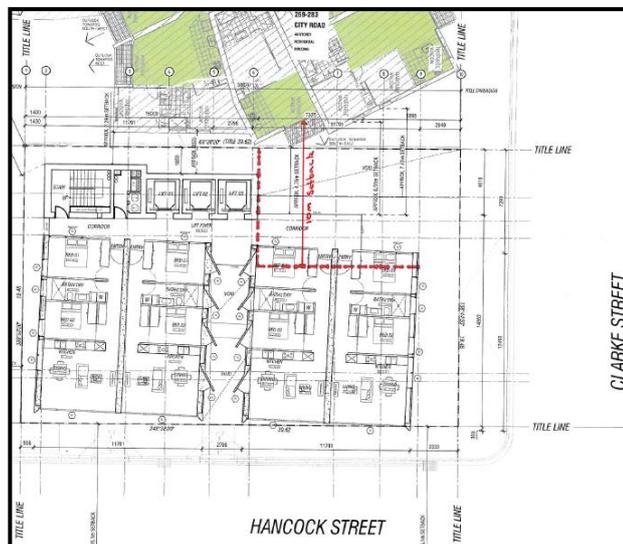


Figure 3 – Original design (with setbacks)



Site Coverage

57. Despite the small site the proposed tower occupies a relatively low site coverage of approximately 60% (subject to tower twists). This compares favourably to the several neighbouring sites including 58 Clarke Street, Southbank, which has a tower footprint of 75% and 33 Clarke Street, Southbank, which has a site coverage of almost 100%. This illustrates that the site has responded well to its context and constraints of a small site.

Form

58. The building has a relatively unique form and design that suggests it will become a landmark of the area. The slender nature of the building and the overall design will result in the proposal becoming a 'bookend' for the precinct and ensure it is a standout design in context. This is also due partly to the irregular grid pattern in this precinct and the urban morphology. As the architect states:

By providing a non-regular and dynamic form the resultant streetscape will be one of contrast where the buildings act as counterpoint to one another, and therefore a visual interest is created.

Street Level Frontages & Pedestrian Safety

59. The proposed development incorporates a food and drink tenancy at ground floor level along with a new foyer. The podium level (up to level 6) consists of apartments facing the street. This is a considerable improvement in design terms on the existing warehouse building on site and also substantially better outcome than the car parking within the podium that is typical in Southbank. It is considered that the proposal responds well to the requirements of DDO60, in terms of pedestrian scale, interest, interaction and amenity.

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

60. The Environmental Wind Assessment (MEL Consultants) submitted with the application concludes that wind conditions around the proposed development have been shown to be either on or within the criterion for walking comfort.
61. The Local Policy 'Sunlight to Public Spaces' (Clause 22.02) requires that development not cast additional shadows between 11.00am and 2.00pm at the equinox that would prejudice the amenity of public spaces. An analysis at 10am, 11am, 12pm, 1pm and 2pm has been carried out for 22 September. The analysis shows that additional shadowing will occur over properties to the east and south. Given the overall height of the proposed building (significantly taller than currently occupying the site), increased overshadowing is inevitable. It is noted however that the development does not overshadow any public parks or gardens or public square, it is therefore considered to be acceptable.

Internal Amenity

62. Developments for new residential uses should incorporate design measures to ensure dwellings have appropriate internal amenity. The proposal has placed a significant emphasis on internal amenity ensuring that no bedroom will rely on borrowed light, which is becoming increasingly utilised in high rise developments.
63. The applicant has provided a noise report that indicates that the rooms will achieve the appropriate attenuation measures given the location close to the Westgate Freeway. Additionally, the site contains an amenities area on level 7 and a roof top garden for residents.

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

64. The level of car parking provided on site is supported and commensurate with the site's level of access to public transport, employment and facilities. Bicycle parking is also provided on site, which will encourage cycling both within and to the City for the journey to work.
65. Waste collection and loading arrangements are on site, however the onsite loading bay only measures 2.4 metres in width and relies on the adjoining carriage way for access. It is considered that given the number of apartments the access way should be generally in accordance with the loading provisions of Clause 52.07 and increased in width to allow for the collection of waste and other associated loading within the sites boundary. It is also recommended that the Waste

Management Plan (WMP) should be assessed in consultation with City of Melbourne. A condition is recommended that occurs prior to approval of the WMP.

Summary & Conclusion

- 66. It is noted that both the DPCD urban design unit and City of Melbourne do not support the development and given the proposal challenges many of the current design policy parameters this position is not altogether surprising. The process of the applications has been challenged by the size of the site, the footprint of the neighbouring tower and the alterations of planning controls immediately before lodgement. However considerable effort has been made to craft a solution and meet State Policy in relation to urban consolidation. It is clear that Southbank is intended to be developed more intensively and if this site is to be developed and provide a contribution to the housing provision in Melbourne then concessions have to be made on this site. Given the design intent and quality, the surrounding land forms and layout, the activate ground floor and podium levels, the modular design intent and the overall improvement to the streetscape this proposal warrants the concession in setbacks and should be approved, subject to changes.
- 67. The proposed development has been assessed against the provisions of the Melbourne Planning Scheme and generally compliant. Consideration has been given to the referral responses and there has been a thorough assessment of the provisions of the design overlay and local design policy. There is justification for a departure from the suggested height and setback requirements in DDO60 as the development respects the objectives of this policy and by allowing the building to revert back to its original design with a 2 – 11 metre setback to the neighbouring Bank Apartments and reducing the height to 198 metres (through conditions of a Permit) it will allow adequate building separation and amenity for the building at 269-283 City Road (Bank apartments).
- 68. The proposal ensures that the scale, siting, massing and bulk of development complements the adjoining and nearby built form and meets this objective of the local design policy. There has also been notable weight in the assessment to the precedent set by the adjacent building at 269-283 City Road, that is both built to the side and front boundary to Clarke Street and exceeds the preferred height control, and the recently issued NOD 2011/008303 that approved essentially the same development to what is currently being considered.
- 69. On balance it is worthy of support subject to conditions and a recommendation has been made on this basis.

RECOMMENDATION

- 70. That planning permit application 2013/005973 at 54-56 Clarke Street, Southbank is approved subject to conditions.

Prepared by: [Redacted] _____
Name: [Redacted]
Title: [Redacted]
Phone: [Redacted]
Date: [Redacted]

Reviewed by: [Redacted]
Name: [Redacted]
Title: [Redacted]
Phone: [Redacted]
Date: [Redacted]

Approved by: [Redacted] _____
Name: [Redacted]
Title: [Redacted]
Phone: [Redacted]
Date: [Redacted]