

APPLICATION FOR PLANNING PERMIT: 279-291 LA TROBE STREET, MELBOURNE	
Application Number:	2011/005187
Proposal:	Demolition of the existing buildings and construction of a multi-storey building comprising residential apartments, place of worship with associated facilities and ground floor retail premises (other than adult sex bookshop, department store, hotel, supermarket and tavern) and a waiver of the loading and unloading vehicles requirements
Applicant:	Sinclair Brook Pty Ltd C/- SJB Planning Pty Ltd
Zoning:	Capital City Zone- Schedule 1 (Outside the Retail Core)
Overlays:	Design and Development Overlay- Schedule 1 (Active Street Frontages)
Application Received:	5 May 2011
Further Information Requested and Received:	Requested: 2 June 2011 Received: 29 July 2011
[REDACTED]	[REDACTED]
Number of Objections:	Not applicable
Recommendation:	Permit

PROPOSAL

1. To demolish the existing buildings and construct a 42-storey residential tower above a 12-storey podium comprising of place of worship with associated facilities, residential accommodation and ground floor retail premises (other than adult sex bookshop, department store, hotel, supermarket and tavern). The proposed gross floor area is 31,172m².
2. Details of the application are as follows:
 - Demolition of the existing buildings on site;
 - Provides two basement levels (including substation; storage cages; bicycle, motorcycle and car parking; fire pump room; and rain water tank);
 - Constructs a 12-storey podium, measuring at 41.48 metres to La Trobe Street providing two ground level retail premises (totalling 253m²), St Verena and St Bishopry Coptic Church facilities on Level 1-3 inclusive. The ground floor building envelope is offset 2.6- 3.2 metres from its southern boundary to facilitate car queuing on site;
 - Construction of a residential tower measuring at 42 storeys (134.5 metres) to La Trobe Street. The tower itself has a waved façade with a minimum setback of 2.5 metres from La Trobe Street and separated from adjoining residential towers (approved, not constructed);

- The tower comprises 283 residential apartments predominantly 1 and 2 bedroom apartments, including apartments for visiting dignitaries;
- Vehicle access via the right-of-way to the south of the site. Provision of 125 car parking spaces in one basement levels and 7 levels within the upper podium accessed via car lifts, 102 bicycle parking spaces;
- The physical expression of the podium and tower reflects symbolism and is structured around the nave and altar which must face east (Level 1). The nave is also represented externally within the podium by the use of a recessed expression in an off centred cross, including the use of marble and stained glass windows to La Trobe Street to identify the place of worship space;
- Materials and finishes include concrete panels, glazing (clear and patterned and stained), aluminium louvres, precast concrete, marble, off-form concrete and powder coated steel mullions; and
- The submission is supported by comprehensive reports including a wind tunnel assessment, heritage report, traffic report, waste management report, and ESD report.

Informally Substituted Plans

3. Plans were informally substituted on 15 September 2011. These plans generally show a revised tower setback to La Trobe Street of 3.6- 4.2 metres with a window recess of 4.5 metres. This also results in the increase of the overall tower by 2 storeys to 44 storeys.

SITE AND SURROUNDS

4. The site (consolidation of three individual lots) is located on the southern side of La Trobe Street, between Elizabeth and Queen Streets, Melbourne. The site is bounded by Council Lane PH8024 to the east, Council Lane CL0054 to the south and Sutherland Street to the west. The existing buildings are 2-3 storeys high. The buildings are not affected by heritage overlays, however through the City of Melbourne heritage study, have low heritage gradings of D and E. The site is rectangular in shape with a frontage of 30 metres to La Trobe Street and an approximate site area of 837m².
5. Development surrounding the site is described as follows:

North (opposite side of La Trobe Street):

- Argus building (corner of Elizabeth Street) is a 6-storey Beaux-Arts style building.
- The Argus Centre, west of the Argus building, is a 34-storey building (132 metres) with a 35 metre podium, with a tower offset 3.5 metres from La Trobe Street.
- Further west along La Trobe Street is the Welsh Church which has an approval (issued by the City of Melbourne under Permit TP-2010-888) for 30 storey (97m) tower which is setback 8-10 metres from the street.

South:

- The property directly to the south, across the laneway, is a 2-storey brick building used by the Royal Antediluvian Order of Buffaloes Grand Australasian Banner.
- Further south, fronting Little Lonsdale Street, is the Melbourne Star and Melbourne Sky developments which are two residential towers, 35 and 39 storeys (110.7 metres and 123.1 metres respectively). These towers are located on either side of Sutherland Street with the eastern tower offset 3.6 metres from Little Lonsdale Street and both towers built to all boundaries with no setbacks. These towers were approved by the former Minister for Planning under Permit 2008/0717. These towers are currently under construction.
- West of the Melbourne Star and Melbourne Sky towers is 296-300 Little Lonsdale Street where Permit TP-2009-361 was issued by the City of Melbourne for a 35-storey (109 metres) tower with a 2 metre setback from Little Lonsdale Street.

East:

- Are the low scale shops fronting Elizabeth Street. Directly east on the corner of Elizabeth Street is the ANZ building which is 5-storey building.

- South of the ANZ building are 2 and 3 storey shopfronts constructed in the early 1920s. This is a consistent building height along the western side of Elizabeth Street between La Trobe and Little Lonsdale Streets.

West:

- On the opposite side of Sutherland Street is the 3-storey Duke of Kent Hotel.
- Further west at 313 La Trobe Street is a 13-storey office building.
- Majority of the buildings heading west towards Queen Street are 2-3 storeys in height.
- The Celtic Club on the corner of Queen Street is subject to a permit application seeking approval for a 43-storey tower. This application is with the City of Melbourne.

NOTIFICATION

6. Under Clause 37.04 -4 (Capital City Zone), Schedule 1 of the CCZ and under Schedule 1 of the DDO an application to construct or carry out works 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.

REFERRALS

7. The application was referred to the Department's Urban Design Unit, informally to the City of Melbourne, and pursuant to Section 55 of the Act to the Director of Public Transport. The following comments were provided:
8. **Urban Design (DPCD):** Electronic modelling of the tower revealed that tower setbacks to the east and south laneways do not need to be applied given the unlikely redevelopment of adjoining sites and that setbacks to Sutherland Street and La Trobe Street need to be increased. Provision of a 10 metre tower separation is generally sought by both the City of Melbourne and Department Urban Design Unit unless justified. The setback to Sutherland Street should achieve a 5 metre setback to the centre of the laneway (currently provides 2 metres as opposed to 2.5 metres). Modelling revealed that the physical separation of the tower from the podium is limited with a 2.5 metre setback to La Trobe Street. The front tower setback should be increased to 6 metres. Detailing within the podium should be conditioned, including treatment of the church use and its integration with the architecture of the building.
9. **City of Melbourne:** Application referred initially on 13 May 2011, and 9 August 2011 after receipt of further information. Comments (received on 8 September 2011) indicated general support for the proposed subject to the introduction of increased setbacks of 6 metres and 2.5 metres to La Trobe and Sutherland Streets respectively. Other detailed matters raised can be addressed via conditions of any approval.
10. **Director of Public Transport:** offered no objection to the proposal and included two conditions. Letter dated 1 June 2011.

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 1 (Outside the Retail Core)	<p>Under Clause 37.04-2 a permit is required to use the land unless specifically exempted by the schedule.</p> <p>Under Clause 37.04-4 a permit is required to construct a building or construct or carry out works unless the schedule specifies otherwise.</p> <p>Schedule 1:</p> <ul style="list-style-type: none">• The table of uses specifies 'accommodation', 'place of assembly' and 'retail premises (other than adult sex bookshop, department store, hotel, supermarket and

	<p>tavern' is permitted as of right (Section 1 use) at Clause 1.0 of the Schedule;</p> <ul style="list-style-type: none"> Does not exempt the demolition or removal of a building, to construct any part of a building exceeding a height of 40 metres within 10 metres of a road frontage, construct or carry out works that would case a shadow between 11.00am and 2.00pm on 22 March and 22 September, or buildings and works from requiring a permit; Exempts demolition and buildings and works from notice and appeal requirements; Decision guidelines are contained in Schedule 1 and at Clause 65.
Design and Development Overlay-Schedule 1 (Active Street Frontages)	<p>Under Clause 43.02-2 a permit is required to construct a building or construct or carry out works unless the schedule specifies otherwise.</p> <p>Schedule 1:</p> <ul style="list-style-type: none"> Does not exempt ground floor buildings and works from requiring a permit; Exempts buildings and works from notice and appeal requirements; Decision guidelines are contained in at 43.02-5 and at Clause 65.
Car Parking (Clause 52.06)	<p>Under Clause 52.06-6 a parking precinct plan affects the Capital City Zone including the site. The Schedule to this Clause specifies a maximum number of car parking spaces (calculated at 1 space/dwelling and a ratio for commercial uses using two equations) and the provision of 1 motorbike space per 100 car parking spaces.</p> <p>The limitation policy allows for 301 spaces. The provision of 125 car spaces on site is below the maximum allowed under the schedule; therefore no permit is required.</p> <p>The Schedule also specifies the provision of 1 motorbike space per 100 car spaces to be provided unless the responsible authority is satisfied that a lesser number is sufficient. The proposal includes 1 motorcycle space, 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. The site does not provide any loading facility; therefore a permit is required to waive this requirement.</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 96 spaces. The application provides for 102 spaces, therefore no permit is required under this provision.</p>
Urban Context Report and Design Response	<p>Under Clause 52.35-1 an application for a residential development of four or more storeys must be accompanied by</p>

for Residential Development of Four or More Storeys (Clause 52.35)	an urban context report and design response. Under Clause 52.35-3 the responsible authority must inform the applicant in writing before notice of an application is given that the urban context report meets the requirements of Clause 52.35-2. A letter was sent confirming the above on 22 August 2011.
Integrated Public Transport Planning (Clause 52.36)	Under Clause 52.36-1 an application must be referred in accordance with Section 55 of the Act to the Director of Public Transport for a residential development comprising 60 or more dwellings or lots.

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).

POLICY FRAMEWORK**State Planning Policy Framework (SPPF)**

14. The following policies within the SPPF are relevant:
 - Clause 10.04 (Integrated Decision Making)
 - Clause 15.01-1 (Urban Design)
 - Clause 15.02 (Sustainable Development)
 - Clause 16 (Housing)
 - Clause 18.01 (Integrated Transport)
 - Clause 18.02-2 (Cycling)

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 21.08-1 (Central City) sets out the local area policies for Central City and includes a vision for the area is to continue its primary place of employment, business, finance, entertainment, cultural activity and retail in Victoria as a 24-hour City, co-locates these uses with residential uses, and provides appropriate high quality built form that continues to make the city attractive for workers, residents and visitors. The Local Area Map for Central City at Figure 12 seeks to '*support permanent and temporary residential development in the Central City which accommodates a diverse population*'. Important principles for Central City relevant to the application include:
 - 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
 - Requires development to incorporate a high level and quality of pedestrian and bicycle access.

Amendment C162

24. Amendment to the Melbourne Planning Scheme C162 (Municipal Strategic Statement) has been exhibited. The Amendment is being considered by Planning Panels Victoria. In this amendment the subject site is identified in an area as being an area of "Ongoing Change". Under the proposed Clause 21.02 Ongoing Change Areas are area that are expected to have varied degree of change depending on factors including location, existing use and for of development.

Amendment C188

25. Amendment to the Melbourne Planning Scheme C188 (Built Form Review) is awaiting authorisation. Amongst other things, the built form review proposed to amend the existing controls to contain most of the built form principles under Design and Development Overlay-Schedule 2 where the site would be affected by a 40 metre mandatory height control and the site would be undevelopable.

Local Planning Policy Framework (LPPF)

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

ASSESSMENT

Land Use

27. The proposed uses for ground floor retail premises (other than Adult sex bookshop, department store, hotel, supermarket and tavern), place of worship with associated facilities (Coptic Church) and residential apartments replaces a mostly underutilised and inactive site which makes a limited contribution to the area and also removes a prohibited use. The proposal is consistent with many policy directions, will increase the residential population and contribute to the on-going revitalisation of a 24-hour Central Activities District.
28. 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) and the zoning control.

Design and Built Form

Demolition

29. The demolition of the existing 'D' and 'E' graded buildings is considered to be acceptable as no heritage overlay affects the sites. The heritage report provided with the application concurs with this analysis. The proposal also includes a replacement building which is consistent with the decision guidelines of the Capital City Zone which seeks to avoid vacant sites.

Urban Context Response/ Setbacks/ Tower Separation

30. The built form within the surrounding area is changing with a number of recently approved and under construction buildings within close proximity to the site. Heights within the area vary and the proposal is consistent with these heights.
31. The standard model for developing taller buildings in the City is based on a 35-40 metre high podium with the tower element setback from this podium level by at least 10 metres, as described in Local Policy 'Urban Design within the Capital City Zone' (Clause 22.01) and Schedule 1 of the Capital City Zone (Clause 37.04). The purpose of tower setbacks is to provide a number of measures related to the enjoyment of the public realm. Tower setbacks assist in providing a pedestrian scale, sunlight penetration, views to the sky and the deflection of wind downdrafts.
32. The proposed provides a podium measuring at 41.48 metres with a tower at 134.5 metres in height. The tower is setback 2.5 metres from La Trobe Street, 2 metres from Sutherland Street and includes a wavy façade to the south and west with a 0 metre building setback. Discussions with the City of Melbourne have resulted in a suggested street setback of 6 metres which is more critical than setbacks from the south and west. The properties to La Trobe Street are typically low scale with the exception of the 13 storey office building at 313 La Trobe Street. The average tower setback to La Trobe Street is shy of 4 metres. The applicant substituted plans informally on 15 September 2011 which shows a revised tower setback to La Trobe Street of 3.6- 4.2 metres with a window recess of 4.5 metres. Whilst the 6 metre tower setback is preferred, it is considered that it provides sufficient improvement within the context of what has been achieved with other developments in the area and this consequently assists in reducing wind downdrafts.
33. The modifications to the front setback results in an increase in overall tower height by 2 storeys. The additional height is considered to be appropriate by the City of Melbourne and the Department.
34. Tower separation is less than 24 metres stipulated in Clause 22.01. Policy allows a reduction in tower separation where it can be demonstrated that the towers are offset and habitable room windows do not directly face one another and where the redevelopment of adjoining sites is not compromised. The proposal provides the following setbacks/ separation from the adjoining sites, with relevant commentary as follows:
- South & East: The proposal does not provide for any tower offsets from the south and east. The property to the south of the site has limited redevelopment opportunities due to a combination of its size at 308m² and the Melbourne Star and Melbourne Sky developments

fronting Little Lonsdale Street built to its common boundary. Due to the small subdivision pattern along Elizabeth Street and the unlikely consolidation to support a large tower, these sites are also unlikely to be developed.

- West: Sutherland Street measuring at 5 metres in width, combined with a tower setback of 2 metres provides for 9 metres tower separation (with the expectation that the site to the west being offset an equitable distance). The City of Melbourne and Department's Urban Design Unit are seeking an increase in this offset by 0.5 metres in order to achieve a tower separation of 10 metres in total. It is considered to be appropriate to condition an increase.

Street Level Frontages & Pedestrian Safety

35. The proposed development incorporates retail tenancies at ground floor level to La Trobe and Sutherland Streets and a 'skin' of activity through the Church at Levels 1 to 3 inclusive. There is also a residential apartment to the corner of Sutherland Street and the southern laneway which conceals above ground car parking. The inclusion of these active frontages will also serve to increase the perception of safety in this area. The upper level apartments provide passive surveillance of the site's immediate surrounds and allow for future conversion due to the floor to ceiling heights within these areas. The car parking at Level 4 to 10 inclusive is screened with the same pattern as contained within the glass at the lower levels, therefore the podium is considered to be active at the critical levels which a pedestrian appreciates. The podium, with its use of perforated metal and glazing in the similar pattern architecturally distinguishes the podium from the tower. This will provide visual interest to pedestrians.

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

36. Policy recommends that towers, at a height greater than a 40 metre podium, are setback 10 metres from all streets to deflect wind downdrafts from penetrating to street level. The tower setbacks vary to La Trobe Street, Sutherland Street and to the laneways to the east and south. Appropriate wind conditions are produced at street level as confirmed in the wind tunnel testing undertaken.
37. Local Policy 'Sunlight to Public Spaces' 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 March/ September. The analysis shows the 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. Sutherland Street is cast in shadow for the majority of the day due to the Argus Centre to the north. It is noted however that the development does not overshadow any public parks or gardens, public square or major pedestrian route, it is therefore considered to be acceptable.

ESD

38. The proposal is to achieve a minimum 5 star average rating as required under Section J of the Building Code of Australia. The proposal incorporates passive design strategies and active strategies.

Internal Amenity

39. Developments for new and refurbished residential uses should incorporate design measures to attenuate noise associated with the operation of other businesses and activities associated with a vital 24-hour capital city. The decision guidelines of the Capital City Zone specify that *'habitable rooms of new dwellings adjacent to high levels of external noise should be designed to limit internal noise levels to a maximum of 45dB in accordance with the relevant Australian Standards for acoustic control'*. This can be dealt with via condition.
40. The building design provides a good standard of amenity for future residents. There is limited reliance on borrowed light, with a total of 11.7% of the apartments including a bedroom which relies on borrowed light. The majority of bedrooms have an external wall, and thus, have access to natural light and ventilation. The dwellings will also not be constrained by any future development given the location of the site and redevelopment opportunities of adjoining sites.

41. All proposed dwellings have access to varying sized balconies. Additionally, the site is within walking distance of public open spaces particularly the Flagstaff Gardens to the west.

Possible Site Contamination

42. Phase 1 site assessment was undertaken to determine whether there was any possible site contamination issues. The investigation concluded that the site has no 'high potential' contaminated activities that are listed in Table 1 of the General Practice Note for Potentially Contaminated Land. It also indicated that any potential contamination would be resolved when the proposed basements are excavated and that this should be undertaken in accordance with the EPA publication IWRG 621- *Soil Hazard Categorisation and Management* and IWG 702- *Soil Sampling* for disposal or possible re-use at other sites. This can be a condition of approval.

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

43. The limited provision of on-site car parking is supported and accords with Schedule 1 of Clause 52.06 of the Planning Scheme which does not require car parking for residential developments within the Capital City Zone. This was also supported by the Director of Public Transport.
44. The application does not provide loading facilities in accordance with the requirements at Clause 52.07. It is noted that the proposed retail floor area is less than the existing buildings, which does not provide loading bay facilities. Whilst it is preferable that a loading bay be provided for the proposed uses, the site is surrounded by laneways, two of which are already utilised for delivery/waste storage, and the rear (southern) laneway is proposed to be widened to allow for vehicle access to the site. Sufficient room is available for vehicles to stop by the rear lifts in order to deliver large scale items to the site. Given the size of the retail tenancies, and the nature of their use, deliveries will most likely be infrequent and small scale and can therefore be carried out within the surrounding street network. The proposed waste collection arrangements are also considered to be satisfactory.
45. The application provides for a total of 102 bicycle spaces, which is in excess of that required at Clause 52.36, where spaces are provided at ground level from the rear laneway with the remaining spaces located within the car parking areas. It is considered that the location of these spaces at the rear of the building does not provide direct access and that it would be preferable to locate these off La Trobe Street. Signage requirements outlined at Clause 52.36 can be dealt with via appropriate condition.

RECOMMENDATION

46. That you approve planning permit application 2011/005187 at 279-291 La Trobe Street, for the development of a 44-storey mixed use tower subject to conditions.

Prepared by:

[Redacted]

Reviewed by:

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Date: 16 September 2011

Date:

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Approved by:

Name:

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Title:

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Date: