APPLICATION FOR PLANNING PERMIT:  
35 SPRING STREET, MELBOURNE

<table>
<thead>
<tr>
<th>Application Number:</th>
<th>2011/011820</th>
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<tbody>
<tr>
<td>Proposal:</td>
<td>Demolition of the existing building and construction of new building for dwellings and provision of car parking.</td>
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<td>Applicant:</td>
<td>CBUS Property Pty Ltd C/- Urbis</td>
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<td>Zoning:</td>
<td>Capital City Zone- Schedule 1 (Outside the Retail Core)</td>
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<tr>
<td>Overlays:</td>
<td>Not applicable</td>
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<td>Application Received:</td>
<td>19 October 2011</td>
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<tr>
<td>Further Information Requested and Received:</td>
<td>Requested: 15 November 2011</td>
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<td></td>
<td>Received: 13 December 2011</td>
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<td>Number of Objections:</td>
<td>Not applicable. There have been ten (10) letters of concern from neighbouring residents.</td>
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<td>Recommendation:</td>
<td>Permit</td>
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PROPOSAL
1. To demolish the existing building and construct a 42-storey residential tower above an 8-storey podium comprising of residential accommodation, ground level restaurant, basement and podium car parking. The proposed gross floor area is 55,607 m².

2. Details of the application are as follows:
   - Demolition of the existing building occupying the site;
   - 306 car parking spaces over 6 basement levels and 8 podium levels; Provision 50 bicycle parking spaces, services and storage cages for residents within the basement levels;
   - Ground level restaurant tenancy onto Spring Street; Main entrance to the building provided from Spring Street with secure residential entrance, lobby and informal lounge areas; A second residential entry located along Flinders Lane;
   - Access down to the basement car park from Flinders Lane and access up to the podium car park from Howitt Lane; Loading dock accessible from Howitt Lane; A widening of Howitt Lane to 6 metres to provide two way traffic;
   - One (1) apartment per floor on podium levels 2 to 7; Two (2) apartments on level 8 fronting Spring Street and the corner of Flinders Lane;
   - Residential amenities on level 9 including pool, gymnasium, business centre, outdoor deck and a wine cellar;
   - Seven (7) apartments on each floor level 10 to 18, five (5) apartments on levels 19 to 35; Two (2) or three apartments on level 36 to 42; Plant room on roof and level 19;
• Materials and finishes include powdercoated aluminium mullions, masonry fins in warm white stone colour, clear glazing, framing, green plinth, double glazing with grey tint and glazed balustrade;
• The submission is supported by comprehensive reports including an urban context report, urban planning report, traffic and transport assessment, environmental wind assessment and environmental sustainability report.

SITE AND SURROUND
3. The subject site comprises of one lot, known as 35 Spring Street (Lot 1 on Title Plan 2263675) and is located on a prominent corner of Spring Street and Flinders Lane and is almost square in shape. There is frontage to both Spring Street and Flinders Lane that totals approximately 37 metres. The total site area is 1,310 square metres. Howitt Lane extends along the rear boundary of the site and is currently used for access to loading facilities at the rear of the building.

4. The site is currently occupied by an eleven (11) storey office building which occupies 100% of the site. The building occupies the entire site and does not demonstrate any setbacks from its boundaries.

5. Development surrounding the site is described as follows:
   North:
   • 51 Spring Street immediately to the north of the site is a 17 storey residential building with a beauty salon located at ground floor. The building has one pedestrian entrance along Spring Street and car parking is accessed at the rear of the site from Howitt Lane.
   • Further north is 1 Collins Street which is an L-shaped office building that is built 8 levels to Spring Street and extends to 17 levels at the rear of the site. A roof top garden is located on the 8 level building.
   South:
   • The secondary frontage of the site is provided by Flinders Lane to the south. Flinders Lane is an east west orientated road with one way traffic, narrow pedestrian pathways and modest facades.
   • The ‘Philadelphia’ residential building is located on the south corner of Flinders Lane and Spring Street. This building is 27 storeys in height with a restaurant/cafe located on the ground level.
   • Further south along Spring Street are the Mecure Hotel (12 levels) and the former ‘Shell’ building (28 levels).
   East:
   • Spring Street is the principal eastern frontage of the site. Spring Street offers limited kerbside car parking, two lanes travelling north and one lane travelling south. The tram line extends centrally down Spring Street.
   • Further east is the Treasury Gardens (5.8 hectares).
   West:
   • Howitt Lane extends along the west boundary of the site and is accessed via Flinders Lane. Howitt Lane is largely a service only lane and is characterised by built form to each boundary.

STATUTORY CONTROLS- Melbourne Planning Scheme
The following controls apply to the site, with planning permit triggers described below:

<table>
<thead>
<tr>
<th>Planning Control</th>
<th>Permit/ Application Requirement(s)/ Decision Guidelines</th>
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<tr>
<td>Capital City Zone-Schedule 1 (Outside the Retail Core)</td>
<td>Under Clause 37.04-2 a permit is required to use the land unless specifically exempted by the schedule.</td>
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building or construct or carry out works unless the schedule specifies otherwise.

Under Clause 37.04-3 a permit is required to construct a building or construct or carry out works which would cast a shadow between 11.00 am and 2.00 pm on 22 March and 22 September over public space, public parks and gardens, public squares, major pedestrian routes including streets and lanes, and privately owned plazas open to the public. A permit may only be granted if the responsible authority considers the overshadowing will not prejudice the amenity of those areas.

Schedule 1:
- The table of uses specifies ‘accommodation’ and ‘retail premises (other than adult sex bookshop, department store, hotel, supermarket and tavern) is permitted as of right (Section 1 use) at Clause 1.0 of the Schedule;
- Does not exempt the demolition or removal of a building and to construct any part of a building exceeding a height of 40 metres within 10 metres of a road frontage;
- Exempts demolition and buildings and works from notice and appeal requirements;
- Decision guidelines are contained in Schedule 1 and at Clause 65.

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<tr>
<th>Car Parking (Clause 52.06)</th>
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<tr>
<td>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.</td>
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<td>The limitation policy allows for 180 spaces. The provision of 306 car parking spaces for 180 dwellings (a ratio of 1.7 spaces per dwelling) is above the preferred limitation policy for car parking numbers within central city residential developments. As the car parking rate is above the preferred limit a permit is required.</td>
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<td>The Schedule also specifies the provision of minimum rate 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 zero motorcycle spaces. As the development does not provide for the minimum rate of motorbike parking, a permit is required.</td>
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<th>Loading and Unloading of Vehicles (Clause 52.07)</th>
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<td>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.</td>
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<td>The site provides a loading facility that meets the requirements of the Clause; therefore no permit is required.</td>
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<th>Bicycle Facilities (Clause 52.34)</th>
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<td>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 58 spaces. The application provides for 50 spaces.</td>
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Urban Context Report and Design Response for Residential Development of Four or More Storeys (Clause 52.35)

Under Clause 52.35-1 an application for a residential development of four or more storeys must be accompanied by an urban context report and design response.

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.

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. On 27 October 2011 the application was referred to the Director of Public Transport.

General Provisions

6. **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 relation to developments with a gross floor area exceeding 25,000 square metres.

7. **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.

8. **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)**

9. 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)**

10. 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.

11. 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’.

12. 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’.
13. 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.

14. 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.

15. Clause 21.05-5 (Sustainable Built Form) seeks to create a built environment that adopts environmentally sustainable design practices.

16. 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.

17. 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.

18. Clause 21.08-1 (Central City) sets out the local area policies for Central City and includes a vision for the area 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.

Local Planning Policy Framework (LPPF)

19. Clause 22.01 (Urban Design within the Capital City Zone) seeks to ensure that new development responds to the underlying framework and fundamental characteristics of the Capital City Zone while establishing its own identity.

20. Clause 22.02 (Sunlight to Public Spaces) seeks to ensure that overshadowing from new buildings or works does not result in significant loss of sunlight and diminish the enjoyment of public spaces for pedestrians.

Other relevant policy/ matters

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

Amendment C162

22. 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.
NOTIFICATION
23. Under Clause 37.04 -4 (Capital City Zone), Schedule 1 of the CCZ 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. Under the Clause permit and prior approval for the redevelopment of the site are required to demolish or remove a building or works.

24. Despite the exemption from notice a number of letters of concern have been received from the surrounding residents, particularly from These relate to:
   - Overall height of the development;
   - Lack of adequate setbacks of the proposal to Flinders Lane and Spring Street;
   - Loss of sunlight to apartments and rooftop swimming pool;
   - Local traffic and access issues arising from, and being exacerbated by, the development;
   - Micro climate issues including wind.

REFERRALS
25. The application was referred to the Department’s Urban Design Unit, the City of Melbourne, the Office of the Victorian Government Architect and pursuant to Section 55 of the Act to the Director of Public Transport. The following comments were provided:

26. Urban Design (DPCD): The Urban Design Unit comments support the overall form and treatment of the proposed buildings and accept a limited overshadowing of the parkland corner but requested:
   - A lightweight weather protection canopy to Spring Street (in line with the neighbour)
   - Activation of the Flinders Lane street corner with a more public use (e.g. the restaurant)
   - Activation of the Flinders Lane podium by extending lower apartments round the corner

27. City of Melbourne: Application was referred on 27 October 2011 and again on 23 December 2011 after receipt of further information. Comments (letter dated 17 February 2012) indicated in-principle support for the application. The only substantial recommendation is a reduction in the number of parking spaces provided, in particular the replacement of spaces in prominent positions at the edge of the car park levels with residential floor space. However the City of Melbourne were able to accept the level of car parking on the site if it was properly justified and a condition was attached to ensure surplus spaces were redesigned as usable floorspace.

28. The City of Melbourne provided 19 conditions, which have been generally incorporated into the final permit. Conditions 1a and b were removed as they related to car parking spaces and the applicant was able to provide a comprehensive argument for the increased rate. Conditions 7 and 13 relate to subdivision and were re-worded in consultation with officers.

29. The City of Melbourne opposed the provision of a pick-up/drop-off area on Spring Street and this was removed during the course of the application.

30. Director of Public Transport: offered no objection to the proposal subject to two conditions being included on any permit issued. Letter dated 22 October 2011.

31. Office of the Victorian Government Architect (OVGA): generally supported the development and building form subject to further activation of Flinders Lane and further design definition of the crown of the building.

ASSESSMENT
32. An assessment has been made against the provisions of the Melbourne Planning Scheme and the proposal is considered to be generally compliant.
Land Use

33. The proposed use for residential apartments and ground floor restaurant is supported by the zoning provisions. It is consistent with many policy directions, will increase the residential population of the city and will contribute to a 24-hour Central Activities District.

34. 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. In particular the use of land for dwellings will meet the requirements of clause 21.04 and is appropriate within the Capital City Zone. The city is projected to experience population increases and the proposal will provide residential dwellings to respond to this projected population increase in an area that is well served by existing social and physical infrastructure including public transport.

Design and Built Form
Demolition
35. The demolition of the existing building is considered to be acceptable as no heritage overlay affects the site. The proposal 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
36. The architectural form and elegance of the building in this prominent location will be an asset to the City. There is no particular design control that affects building height therefore the proposed tower is considered acceptable in a CBD context.

37. 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. The proposal must demonstrate how the development will continue to achieve these design objectives of the MSS and local planning policy.

38. It is considered that the building envelope is appropriately positioned onsite to provide an attractive and optimal design response to the surrounding streetscape and adjoining properties. The building form is supported by DPCD Urban Design Unit, City of Melbourne Urban Design Unit and the OVGA. In particular the DPCD Urban Design Unit stated:

"We are fairly comfortable with the overall building form and generally support the rationale for the building height and setbacks.....the facade treatment with a modular frame of varying dimensions and materials articulates the building in an elegant manner and subtly distinguishes the distinct volumes as well as providing an interesting skyline coronation."

39. The tower is built to the Spring Street frontage, which will provide a more definitive edge to the CBD. The guaranteed presence of Treasury Gardens to the east and the general width of Spring Street will ensure the building retains a sense of space and does not over-dominate the streetscape.

40. The building has setbacks to Flinders Lane that increase incrementally from 4.7-11.3 metres as the tower rises. Given the width of Flinders Lane this ensures a setback to the adjacent 'Philadelphia building' (25 Spring Street) of between 12-24 metres approximately. There was discussion with the applicant regarding the potential to increase this setback and drop the height of the first ‘podium’ level (to potentially match the form of the building as presented in early pre-application discussions and accord with the 40 metres suggested in the existing policy and the City of Melbourne’s Built Form Review).
41. However the applicant has indicated that a reduction in the building form at the prominent corner of Flinders Lane and Spring Streets would result in a poor design outcome. The architects have also used the design of the facade to break up the form and the micro climate factors in the surrounding streets are acceptable. The form and height of will be less than the Philadelphia building (which is built to the boundary of Flinders Lane for it’s full height of 24 storeys). It is also noted that the Department has supported a 10 metre setback tower-to-tower (with windows facing) at 1-15 Queensbridge Street and Freshwater Place. Therefore, on balance this variation to preferred policy has been accepted.

42. The northern boundary of the site (to 49-51 Spring Street) contains windows on or near the boundary that will be affected by the development. However there is a section 173 agreement on that title that allows the 35 Spring Street site to block these windows. In turn the proposal at 35 Spring Street will contain windows on the boundary facing 49 Spring Street. Given the 49 Spring Street site is already subdivided no further condition is required. In the unlikely event that this building is consolidated and re-developed the layout of 35 Spring Street allows for sufficient light to reach apartments.

43. The development to the west of the site is currently a nine storey office building. The proposed building is built to the boundary on this site however it is considered that the presence of the laneway will allow the neighbouring building to be developed in future.

Street Level Frontages & Pedestrian Safety
44. The proposed development incorporates a restaurant and lobby/ lounge areas at ground floor that will respond to the frontages and will provide an adequate level of pedestrian interest, interaction and amenity at this level. The porte-cochere on Flinders Lane has been removed by the applicant at further information stage, which will notably improve pedestrian amenity. The proposal has an active apartment facade to Spring Street that will screen the car park and provide good active surveillance. The development would benefit from an additional skin to the car park on Flinders Lane frontages however this would likely result in a loss in car parking numbers, which the applicant has advised is critical to the project proceeding.

Microclimate (Wind, Weather Protection, Light and Shade/ Overshadowing)
45. The Environmental Wind Assessment (MEL Consultants) submitted with the application concludes that wind conditions around the proposed development have been shown to be mostly either on or within the criterion for walking comfort. An additional canopy will be provided to Spring Street to improve pedestrian comfort (by way of a condition).

46. 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 between 10am, and 3pm has been carried out for 22 September. The analysis shows that additional shadowing will occur over a small section of Treasury Gardens for a period of approximately 20 minutes (2.40-3pm). This has been accepted by all parties given the minor nature of shadowing, the poorer quality section of park that it shadows (resulting in negligible loss in amenity within the park overall) and the massive loss in floor space required to remedy the issue.

ESD
47. The proposed building is a residential development and therefore the ESD requirements are contained within the ‘Building Code of Australia’. The proposal provides a basic ESD report (Umow Lai, August 2011) and is targeted to achieve First Rate House Energy Rating for the dwellings. The proposal incorporates passive design strategies and active strategies. Further details are required and a condition has been added to the permit to ensure ESD principles are followed through.

Internal Amenity
48. The building design provides a good standard of amenity for future residents. All dwellings have an external aspect and orientation to natural daylight and ventilation. 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.

Car Parking / Loading / Waste Collection/ Bicycle Facilities
49. The level of car parking provided on site (ratio 1.7) is above the level normally supported in this location. However the applicant has provided information indicating the critical nature of car parking to high end apartment purchasers. Put simply, the applicant does not believe the current proposal would proceed without this extra rate of car parking. The reports provided were of sufficient detail to justify the additional spaces. Given the size of the apartments (in floor area sqm) and the gross floor area of the entire development the number of car spaces is accepted in this instance. (Smaller apartments for a commensurate GFA would result in a similar net number of spaces.)

50. Traffic generation from the proposal is considered to be relatively minor and is supported by the City of Melbourne. Any further drop off points on street (as an alternative to the porte-cochere) will require separate approval from the City of Melbourne.

51. Bicycle parking is also provided on site, which will encourage cycling both within and to the City – a condition has been added to ensure it meets Planning Scheme rates.

52. The application provides loading and garbage facilities in accordance with the City of Melbourne’s requirements, with consideration to the relevant policy.

CONCLUSION
53. The development is for the construction of a 42-storey residential tower for 180 dwellings with podium and basement car parking for 306 cars and ground level restaurant. The proposed gross floor area is 55,607 sqm on a site of 1310sqm. The proposal is generally supported by the DPCD UD unit, the City of Melbourne, the Office of the Victorian Government Architect, and the Director of Public Transport. It provides an excellent addition to the city in this prominent location both in terms of architectural quality and the contribution to variety and number of additional dwellings. The proposal is considered to be generally compliant with policy within the Melbourne Planning Scheme and on balance should be supported.

RECOMMENDATION
54. That you approve planning permit application 2011/11820 at 35 Spring Street, Melbourne for the development of a 42-storey residential tower subject to conditions.