



6.2 14/2015/MIN/A - 91-95 MONTAGUE STREET, SOUTH MELBOURNE

LOCATION/ADDRESS: 91-95 MONTAGUE STREET, SOUTH MELBOURNE

EXECUTIVE MEMBER: LILI ROSIC, GENERAL MANAGER, DEVELOPMENT, TRANSPORT AND CITY AMENITY

PREPARED BY: PATRICIA STEWART, FISHERMANS BEND URBAN RENEWAL SENIOR PLANNER

1. PURPOSE

- 1.1 To provide a Council position to the Minister for Planning C/- the Department of Environment, Land, Water and Planning to prepare, adopt and approve an Amendment to the Planning Scheme under Section 20(4) of the *Planning and Environment Act* for 91-95 Montague Street, South Melbourne.

2. EXECUTIVE SUMMARY

WARD:	Gateway
TRIGGER FOR DETERMINATION BY COMMITTEE	Development exceeding four storeys in the Fishermans Bend Urban Renewal Area
ADDRESS:	91-95 Montague Street, South Melbourne
APPLICATION NO.	DELWP Ref: PA1500040 / PSA C184 port CoPP Ref: 14/2015/MIN/A / PSA C184 port
PROPONENT	Thousand Degree Pty Ltd c/o Planning & Property Partners Pty Ltd
EXISTING USE:	One and two-level commercial building
ABUTTING USES:	Mixed use comprising new retail, office and dwellings and more traditional industrial land uses
ZONING:	Capital City Zone (CCZ1) Abuts Road Zone Category 1 (RDZ1) (Montague Street)
ABORIGINAL CULTURAL HERITAGE	Yes
STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL	26 March 2021

Proposal

- 2.1 This report is to consider an application to the Minister for Planning to prepare, adopt and approve an Amendment to the Port Phillip Planning Scheme to demolish the existing building on the land and construct a 25-level building including a five level podium comprising retail and office uses.
- 2.2 The application site is located in the Montague precinct of the Fishermans Bend Urban Renewal Area (FBURA).



- 2.3 The Minister for Planning is the Responsible Authority for the application pursuant to Section 2.0 of the schedule to Clause 61.01 of the Port Phillip Planning Scheme as the proposal is for development with a building height of four storeys or greater.

Background / Strategic Planning Matters

- 2.4 In February 2016, the Minister for Planning (the Minister) announced a review of the Strategy and Planning Controls for the Fishermans Bend Urban Renewal Area (FBURA)
- 2.5 On 19 December 2017, and then on 21 February 2018, the Minister) called in all 26 live Ministerial planning permit applications in the FBURA on the grounds that:
- The proposals involve significant development within the context of the area which is declared as an urban renewal project of State significance.
 - The proposals may have a substantial effect on the development and achievement of the planning objectives in Fishermans Bend as it may result in development occurring which is inconsistent with the proposed Fishermans Bend Strategic Framework Plan having regard to development density, timing of development, timing and method of delivery of infrastructure and overall population levels to be achieved.
- 2.6 Twenty-one of the called in applications are in the City of Port Phillip and five are in the City of Melbourne.
- 2.7 In October 2018, the Minister:
- Released a revised Fishermans Bend Framework;
 - Approved Amendment GC81 to change the Planning Scheme controls for the FBURA; and
 - Appointed the Fishermans Bend Standing Advisory Committee (the Advisory Committee) to advise on site specific planning controls to facilitate proposals within Fishermans Bend, prior to the introduction of an Infrastructure Contributions Plan for the called in applications and new proposals.
- 2.8 In particular, Amendment GC81 deleted the Development Contributions Plan Overlay (DCPO) and introduced a new Infrastructure Contributions Overlay and Schedule (ICO1) which forbade (with a few minor exceptions) the grant of a permit to construct a building until an infrastructure contributions plan had been incorporated into the scheme. At the time of writing, the infrastructure contributions plan has not been finalised or incorporated into the scheme.
- 2.9 The Minister, through the Department of Environment, Land, Water and Planning (DELWP) (the Department) invited the proponents of the called in applications to revise their designs having regard to the amended Planning Scheme controls and new Strategy.
- 2.10 Revised proposals, such as this application, were required to be submitted as an application for the Minister to prepare, adopt and approve an Amendment to the Port Phillip Planning Scheme under Section 20(4) (i.e. an Amendment for which exhibition and notice is not undertaken) of the *Planning and Environment Act* (the Act).
- 2.11 The Terms of Reference for the Advisory Committee sets out the process for consideration of Planning Scheme Amendment (PSA) applications including:



- The Department must prepare a brief to the Minister requesting the application be referred to the SAC.

Notice

- If the Minister decides to refer a PSA to the Advisory Committee, formal notice must be given to the City of Port Phillip or Melbourne (as applicable), relevant persons including landowners and occupiers, and referral authorities such as Melbourne Water.
- Parties have **20 business days** to provide a written response to the Department, after which submissions are forwarded to the Advisory Committee (author's emphasis).

Pre-referral to Advisory Committee

- The Proponents, through DELWP, must submit their finalised proposals and relevant submissions to the Office of Victoria Government Architect (OVGA) for a Design Review. The OVGA will provide a design response within 5-10 business days that will be provided to all parties to each proceeding.
- The Proponent will respond to any issues raised through the Design Review report and provide a final application to DELWP who will distribute to the parties.
- The Proponent, Council, DELWP, Fishermans Bend Taskforce, relevant agencies such as Melbourne Water and the OVGA will meet to discuss the final application and prepare a short report that provides a statement of agreement and contentions, outlining the remaining issues in dispute.

Referral to Advisory Committee

- The proposal, 'statement of agreement and issues in dispute' and submissions will be referred to the Advisory Committee by letter from the Minister for Planning or delegate of the Minister for Planning.
- The Advisory Committee will convene a round table or virtual forum using video conferencing or similar technology to discuss the issues in dispute.
- Further submissions or evidence can be provided by any party to address the issues in dispute.
- Council would typically be allocated one day to present to the Advisory Committee but may be allowed additional time if calling evidence.
- The Advisory Committee must submit its report to the Minister no later than 20 days from the completion of the round table forum.

2.12 The Minister must then determine whether to approve the proposal and PSA.

2.13 Any approved PSA would then be listed in the Schedule to Clause 72.04 of the Planning Scheme, in the same manner as for example:

- Amendment C9 for the St Kilda Station Redevelopment, July 1999;
- Amendment C110 for the Stokehouse, 30 Jacka Boulevard, St Kilda, July 2014; and
- Amendment Port C149 for the Victorian Pride Centre Incorporated Document 2018.



2.14 To date, the following PSA's have been approved for the Fisherman's Bend Urban Renewal Area:

- 252-262 Normanby Road (Site 2), South Melbourne (Amendment C166port): Approved by the Minister on 30/09/2020 and gazetted on 15/10/2020 allowing a 20-level tower.
- 2-28 Montague and 80 Munro Street, South Melbourne (Amendment C176port): Approved by the Minister on 30/07/2020 and gazetted on 03/09/2020 allowing 3 towers of 15, 24 and 38 levels.
- 118 Bertie Street, Port Melbourne (Amendment C172port): Approved by the Minister on 18/08/2020 and gazetted on 24/08/2020 allowing a 30-level mixed use building. The approval requires, amongst other matters, that the applicant construct a new road between Bertie Street and Ingles Street.
- 203-205 Normanby Road, Southbank (Site 06) (Amendment C163port): Approved by the Minister on 30/07/2020 and gazetted on 14/08/2020 allowing a 36-level tower.
- 477-481 Plummer Street (Cnr. Graham St), Port Melbourne (Amendment C168port): Approved by the Minister on 30/06/2020 and gazetted on 02/07/2020 allowing a Woolworths supermarket, liquor store, shops and carparking. The approval is temporary, for ten (10) years. Development has commenced.
- 11-41 Buckhurst Street, South Melbourne (Amendment C190port): Approved by the Minister on 03/03/2021 and gazetted on 05/03/2021 allowing a two (12 and 20 level) towers.

2.15 Developments could then proceed in accordance with plans and conditions referenced in the Incorporated Document.

2.16 Once the infrastructure contributions plan is finalised and incorporated into the scheme, applications for planning permits in the FBURA could revert to the standard procedure.

Application Matters

2.17 This report is to consider an application to the Minister for Planning to prepare, adopt and approve an Amendment to the Planning Scheme to demolish the existing building on the land and construct a 25-level building including a five level podium comprising retail and office uses.

2.18 The application is an amendment to an application originally lodged with the Department on 18 November 2015.

2.19 The original application proposed to construct a 30-level building including a six-level podium, comprising dwellings, community and resident communal spaces, and associated car bicycle and motorcycle parking.

2.20 On 16 February 2016, Council's Planning Committee determined to advise the Minister that it did not support the application based on concerns regarding building design and setbacks, dwelling amenity, car and bicycle parking, lack of a loading bay, waste management, and sustainable design. It was also noted that the Applicant did not own or control the whole of the subject site and would need to purchase an abutting lane from Council.



- 2.21 The Applicant amended the proposal on 8 April 2016. The amendments did not respond to Council's concerns and the Minister was advised on specific details on 21 June 2016.
- 2.22 On 14 November 2016, PSA GC50 was gazetted. The Amendment inserted a new local policy which specified a number of targets for dwelling diversity, affordable housing and employment within the Fishermans Bend Urban Renewal Area; inserted a new schedule to the Design and Development Overlay with mandatory heights and setbacks and updated the incorporated document, Fishermans Bend Strategic Framework Plan (amended September 2016).
- 2.23 On 21 February 2018, the Minister called in the application (and 19 other applications in CoPP).
- 2.24 PSA GC81 implemented *the Fishermans Bend Framework September 2018* by introducing new planning controls for the Montague, Sandridge, Wirraway and Lorimer precincts of Fishermans Bend.
- 2.25 A Real Estate listing records the property was sold on 23 May 2018. It noted the land as being subject to a 30 storey (100m) discretionary height limit and including a residential scheme for 167 apartments.
- 2.26 On 16 September 2019, an application was made to the Minister to prepare a Planning Scheme Amendment (PSA).
- 2.27 Pursuant to Paragraph 26 of the Fishermans Bend Standing Advisory Committee Terms of Reference, the Department has notified Council of the request for site-specific planning controls.
- 2.28 This proposed amendment to the Port Phillip Planning Scheme (PPPS) is to facilitate a commercial mixed-use development on the subject site and more particularly seeks to implement a site-specific control to enable the proposed use and development.
- 2.29 The PSA application proposes to demolish the existing building and construct a 25-level building and incorporating a five-level podium.
- 2.30 This report relates to the PSA plans and reports referred to Council on 11 December 2020 which generally includes:
- 2.31 At **ground floor level**, the podium will comprise of two retail tenancies fronting Montague Street and a commercial lobby located centrally within the building. Access to the lift core is generally located along the common boundary with 89-103 Gladstone Street (part 29 and 30 level building known as Gravity Tower). Loading and back of house services are to be accessed from Gladstone Place. A mezzanine retail tenancy also presented to this interface.
- 2.32 **Level 1** of the podium comprises plant equipment, bicycle parking and end of trip facilities. The **upper three levels of podium** comprise office floorspace.
- 2.33 **Level 5** features shared amenities with access to the podium rooftop terrace which wraps around the three exposed sides of the tower. Levels 6-13 and 15-23 adopt a repeated floorplate of 278-284 square metres of office space with a 'potential mixed mode space' fronting Montague Street with amenities and plant generally located along the common boundary with Gravity Tower.
- 2.34 **Levels 14, 24 and 25** comprise plant equipment only.

- 2.35 It is proposed to use the land for retail premises and offices, the latter being an as-of-right use within the Capital City Zone (Schedule 1).
- 2.36 The subject site is located in the core area of the Montague precinct of the Fishermans Bend Urban Renewal Area (FBURA).
- 2.37 More particularly, the site is in:
- Building Typology Precinct Area M5 (Hybrid - predominantly mid-rise) of the Design and Development Overlay (DDO30) which has a preferred precinct character of:
'Predominantly mid-rise developments (i.e. 7 to 15 levels) with some high-rise forms (i.e. 16 storeys and taller) on larger sites where well-spaced, slender towers can be demonstrated to provide sunlight access to streets with a particular focus on Buckhurst Street, incorporating a tooth and gap typology.'
 - A preferred maximum building height area of 68m (20 levels) pursuant to DDO30.
 - An area with an active street frontage to Montague Street of Secondary Type 1 (60% permeability).
- 2.38 At 98.9m (100.3m AHD)/25-levels (102.3m [103.7m AHD) including rooftop plant the proposal would exceed the preferred maximum building height.
- 2.39 The proposed street wall height at five levels (podium) would comply with requirements. The tower would be setback between 5m and 10.69m to Montague Street and between 1.6m and 4.6m to Gladstone Place (measured from the title boundary) and 4.5m and 8.5m (measured from the centreline of Gladstone Place which is 5.8m wide) in lieu of a minimum preferred setback requirement of 10m to each interface.
- 2.40 The side setback to 97-99 Montague Street would be 2.6m to 6.18m in lieu of a preferred minimum setback of 10m.
- 2.41 The proposal was internally referred. Officers raised concerns relating to the proposed building height, which they stated as being *"more a continuation of the heights achieved by existing and approved buildings in the block bounded by Montague, Gladstone, Kerr and Buckhurst Streets"*. As a result, there is concern that the proposal would not contribute to a *"varied and architecturally interesting skyline"* as sought by Clause 2.5 of DDO30. There is also concern the combined massing of the built form with Gravity Tower would not result in *"well-spaced slender towers"* or create an appropriate transition to adjoining sites with development constraints that will likely limit the height of development.
- 2.42 The proposed height would result in adverse amenity impacts including a reduction in pedestrian comfort at street level due to wind and visual amenity induced by excessive visual bulk.
- 2.43 The proposal presents reduced setbacks on three of the four interfaces. Construction on the boundary with Gravity Tower is supported and is an outcome that was largely anticipated for this site when the aforementioned permit was approved. The remaining setbacks are generally acceptable but minor increases to both Montague Street and Gladstone Lane would address several awkward junctions with Gravity Tower.
- 2.44 The proposed articulation is acceptable, but it is considered the podium articulation should be amended to facilitate greater activation to Montague Street.



- 2.45 Re-configuration of the Ground Floor Level layout based on Melbourne Water's floor level concession on this site would result in a finished floor level (FFL) of 2.2 AHD for retail tenancies (approx. 600mm higher than footpath). The design could be improved with a ramped entry extending to the lobby and reduced number of stairs.
- 2.46 The scope of the wind assessment is limited to pedestrian comfort. It identified uncomfortable conditions on the north, east and west side and wind conditions to the south generated wind speeds in the surrounding streets exceeding the safety threshold at some locations. The report suggests the terrace area on Level 5 (southeast corner) can also expect undesirable wind conditions and the terrace at Level 24 is predicted to be windier than is preferable for the intended use. The report suggests the planned landscaping at this level will further improve wind conditions however no landscape plan has been supplied with the application. Additional wind modelling would need to demonstrate that landscaping intervention within the title boundary would solve adverse wind effects in surrounding streets.
- 2.47 Officers recommend changes to address their concerns including varying the podium presentation and façade changes to break up building mass, reducing tower height and satisfactory sitting, standing and walking wind comfort levels, clarifying and confirming ESD, WSUSD, Waste Management, Parking and Traffic design and ground floor level activation through the relocation of services. Several other design, operational and amenity concerns with the proposal could be addressed by conditions.
- 2.48 It is recommended that the Planning Committee advise the Minister for Planning C/- the Department of Environment, Land, Water and Planning that:
- The Council does not support the proposed development for the reasons set out in this report.
 - That in the event a Planning Scheme Amendment is supported, the Incorporated Document for the amendment incorporate requirements to address Council's concerns.

3. RECOMMENDATION

3.1 RECOMMENDATION – PART A

That the Planning Committee advise the Minister of Planning C/- the Department of Environment, Land, Water and Planning that Council:

- 3.1.1** Does not support the proposed application in its current form based on the matters set out in Sections 8 and 11 of this report including matters relating to the:
- 1 building height departing from the preferred character and height controls.
 - 2 street wall height negatively impacting the pedestrian scale at along Montague Street.
 - 3 setbacks above the street wall resulting in an awkward junction with the adjoining Gravity Tower.
 - 4 Street activation to upper levels of the podium is limited.
 - 5 Ground floor layout and accessibility is inefficient and fails to provide for ease of access.



- 6 Wind effects on the public realm does not demonstrate a comfortable wind environment.

3.2 RECOMMENDATION – PART B

3.2.1 That the Planning Committee advise the Minister of Planning C/- the Department of Environment, Land, Water and Planning, that in the event that the application for a Planning Scheme Amendment is supported, the Incorporated Document for the amendment incorporate the following amendments:

- 1 Building height - The proposal should have a maximum roof height of 87.03m AHD (approx. 22 levels) and a maximum plant height of 88.91m AHD;
- 2 Street wall height – The street wall should start to splay back to the tower at Level 4, rising to Level 6.
- 3 Setbacks above the street wall to Montague Street and Gladstone Lane be no less than the setbacks to Gravity Tower.
- 4 Street activation to upper levels of the podium improved to provide for greater passive surveillance.
- 5 Ground floor layout and accessibility improved by providing a finished floor level of 2.2 AHD for retail tenancies (approx. 600mm higher than footpath) as informally discussed with Melbourne Water, provide DDA access via internal ramps to the main public entry foyer from Montague Street and Gladstone Place.
- 6 Wind amelioration treatments to provide a comfortable pedestrian environment within the public realm and any treatment being appropriately resolved within the building architecture.

3.3 RECOMMENDATION – PART C

That Council authorise the Manager City Development to instruct Council’s Statutory Planners and/or solicitors on any future VCAT application for reviews and/or any independent advisory committee appointed by the Minister for Planning to consider the application(s).

4. PROPOSAL

4.1 The application proposes to:

- Demolish the existing building on the land in the Capital City Zone.
- Construct a 25-level building (including two levels of plant) comprising a five-level podium and a 20-level tower above in the Capital City Zone (Schedule 1), Design and Development Overlay (Schedule 30) and Special Building Overlay (Schedule 2).
- Use the land for Retail premises in the Capital City Zone (Schedule 1).

4.2 More particularly, the proposal comprises:

Building height:

- Podium: 21.5m (22.9m AHD) / 5 levels



- Tower: 98.9m (100.3m AHD) / 25-levels. Including plant -102.3m (103.7m AHD)

Podium setbacks:

- Montague Street: 0.0m and 0.15m setback at all levels.
- Gladstone Place: 0.0m, 0.1m and 0.15m indent at all levels adjacent to Gravity Tower. 1.2m setback to the mezzanine / retail communal area and 0.39m and 0.14m setback to all levels adjacent to 97-99 Montague Street.
- North west (side) (Gravity Tower): 0.15m, 0.3m, 0.35m, 0.66m setback at all levels
- South east (side) (97-99 Montague St): 0.0m and 0.23m setback at all levels.

Tower setbacks:

- Montague Street: 5m setback from Level 5 to 23.
10m setback at Level 24
The setback of the southern corner of the tower recesses to 9.86m and 10.69m.
- Gladstone Place: 1.6m setback from Level 5 to 24 and 4.6m at Level 24 (measured from the title boundary) and 4.5m and 8.5m (measured from the centreline of Gladstone Place which is 5.8m wide).
The setback of eastern corner of the tower recesses to 3.6 and 4.6m.
- North west (side) (Gravity Tower): 0.15m setback at all levels (i.e. continuation of podium setback).
- South-east (side): Min. 2.6m / max. 3m (due to irregular side boundary) at Levels 5 to 24.
5.13m setback at Level 25 to the edge of the louvered screening and 9.8m from the edge of the roofed plant areas.
The setback of the southern corner of the tower recesses to 4.55 and 8.6m.
The setback of the eastern corner of the tower recesses to 5.13m and 6.18m.

Gross Floor Areas:

- Retail: 173m²
- Office: 6,275m²

Bicycle parking: 80 spaces* (including 8 visitor spaces on the footpath).

**The Cardno Traffic Impact Assessment references 92 spaces.*

Lift pit:

- Circulation area associated with lift pit.
- Inground rainwater tank and recycled water pump

Ground floor and lower mezzanine:



- Two retail tenancies (GFA: 173m²). These tenancies are split level, accessed at grade from Montague Street (1.4 m AHD) with internal steps setback 4m from the front façade, rising to the remaining retail floor area (3.0m AHD).
- The office lobby area including 4 lifts is located centrally to the ground floor footprint and accessed via Montague Street and Gladstone Place. Fire escape stairs are located behind the lift core, abutting the common boundary with 89-103 Gladstone Street (Gravity Tower).
- Services and plant equipment, 16 bicycle parking spaces and loading facilities present to Gladstone Place. A dedicated bike lift is located off the primary office lobby.
- A mezzanine retail / communal space with a floor area of 59m² is located above the bicycle parking, gas and water meter cupboards, the frontage of this tenancy is recessed 1m from Gladstone Place to facilitate a planter bed.
This area is not included in the Development Schedule area. The development schedule is relied upon for the calculations within this report.

Level 1 (first floor podium level):

- Services including a fire pump room, substation, communications and MBS room.
- 56 bicycle parking spaces including horizontal parks and double height racks.
- Male and female end of trip facilities including lockers, showers and toilets.

Level 2 - 4 (second, third and fourth floor podium level):

- Lift and circulation core, services and toilets all generally located along the common boundary with 89-103 Gladstone Street.
- Office floor space extending to all other title boundaries with structural columns interspersed throughout the floorplate. Glazing is provided to both street interfaces.
- The office floor area is 502m² to Levels 3 and 4 with Level 2 being 491m² owing to the bike lift overrun.

Level 5 (podium rooftop):

- Lift and circulation core, services and toilets all generally located along the common boundary with 89-103 Gladstone Street.
- Shared amenities with a floor area of 278m².
- The built form is setback 5m to 10.69m from Montague Street, between 1.46m and 4.45m to Gladstone Place and 2.5m to 6.18m to 97-99 Montague Street noting a splay in the title boundary. The built form extends 13.55m along the common boundary with 89/103 Gladstone Street.
- The terrace area will have a floor area of 226m² with planters extending along the western corner with Gravity Tower and Montague Street and partially along the eastern boundary with 97-99 Montague Street.

Levels 6 -13 (tower):



- Lift and circulation core, services and toilets all generally located along the common boundary with 89-103 Gladstone Street.
- Office floor area of 278m² with structural columns interspersed throughout the floorplate. An area designed as a 'potential mixed mode space' is orientated to Montague Street.
- The built form is setback 5m - 10.69m from Montague Street, 1.6m – 4.6m to Gladstone Place, 4.5m and 8.5m (measured from the centreline of Gladstone Place which is 5.8m wide) and 2.5m - 6.18m to 97-99 Montague Street noting a splay in the title boundary. Elevations are articulated with vertical glazing and white applied finish to flat and protruding façade column elements to all exposed facades.

Level 14 (tower):

- Lift and circulation core and services generally located along the common boundary with 89-103 Gladstone Street.
- The remainder of the floorplate is dedicated services including water tanks, exhaust fans and ducting to upper floor services.
- All three exposed elevations are finished with protruding façade columns with the remainder of the elevation open but for a 1.1m high balustrade to allow for appropriate ventilation.

Levels 15-23 (tower):

- Lift and circulation core, services and toilets all generally located along the common boundary with 89-103 Gladstone Street.
- Office floor area of 284m² with structural columns interspersed throughout the floorplate. An area designed as a 'potential mixed mode space' is orientated to Montague Street.
- Elevations are articulated with vertical glazing and white applied finish to flat and protruding façade column elements to all exposed facades.

Level 24 (tower):

- Lift and circulation core and services generally located along the common boundary with 89-103 Gladstone Street.
- The floorplate is generally dedicated services including hot water units, boiler room, loft overrun, exhaust fans and ducting. A 44m² terrace fronting Montague Street is accessed via the singular lift. The terrace features a 1.1m high wall with planters beyond.
- Elevations are articulated with vertical glazing and white applied finish to flat and protruding façade column elements to all exposed facades.

Roof Plan (tower):

- Circulation core is generally located along the common boundary with 89-103 Gladstone Street.

- The lift overrun and lift motor room are roofed with a 2.3m high louvered plant screen provided to the Montague Street and southern corner. The remaining perimeter is finished with a 3.5m high louvered plant screen.

Materials and Finishes:

A mixture of white and charcoal shades of applied finishes, spandrel glazing in charcoal and gold, gloss black and matte white perforated metal, black, whites and coloured metal louvers and an orange/red 'brick look' finish.



Figure 1: A render of the proposed built form from the western corner of Montague Street and Buckhurst Street, South Melbourne

Table 4.1: Application Summary

Address	91-95 Montague Street, South Melbourne
Planning Scheme Amendment (PSA) No.	PSA C184 port
Plans assessed	Plans prepared by prepared by Plus Architecture Pty Ltd and referred to as Job No. 12819 Drawing Nos. TP095 TP099, TP100, TP101, TP102, TP103, TP104, TP105, TP106, TP107, TP114, TP115, TP124, TP150, TP200, TP201, TP202, TP203, TP204, TP205, TP206, TP210, TP211 and TP212 all Revision 2 dated 23/11/2020
Site area / Title particulars	Area: 656m ² (0.0656 ha.) The first and substantive part of the site is owned by the permit applicant and is generally rectangular, save for minor dog-legs along its north-west and south-east



	<p>sides. This site has a frontage width of approximately 15.94m to Montague Street, a rear width of 18.29m to Gladstone Place and a maximum depth of approximately 38m, for an overall area of 631m².</p> <p>The second and minor part of the subject site/planning unit is a 1.52m wide by approx. 16.5m length (25m²) of road which runs off Montague Street and along part of the north-west side boundary. This road is on Council's Register of Public Roads (No. R3257-01) and vests in Council. The applicant would need to acquire this road from Council and formally close the road before it could form part of the development site. Council's Property Department advise that a proposal for discontinuance was made in 2015, but has not progressed beyond initial inquiries</p> <p>Site boundary to:</p> <ul style="list-style-type: none"> • Montague Street: 17.46m • Gladstone Place: 18.29m • North-west boundary with 89-103 Gladstone Street (Gravity Tower): 36.92m • South-east boundary with 97-99 Montague Street: 37.25m
<p>Minimum plot ratio for non-res floor area Clause 22.15-4</p>	<p>Montague Core area ratio = 1.6:1 x 656m² = 1,049.6m²</p> <p>Proposed: GFA (whole tenancies): 12,298m² 12,298m² / 1,049.6m² = 11.71 Proposed plot ratio: 11.71:1</p>
<p>Non-residential floor area</p>	<p>Development Summary: Commercial: 6,275m² (across 20 levels) Retail: 173m² (2 tenancies at Ground floor level).</p> <p>The above figures are taken from the Development Schedule. The mezzanine retail / commercial tenancy fronting Gladstone Place with a GFA of 59m² is not included in either of the above areas.</p>
<p>Street wall (podium) height and Maximum Height (Tower)</p>	<p>Podium Preferred: at least 4-storeys in height, except where a lower height is necessary to respond to an adjoining heritage place (On a street >22 m wide, Montague Street is approximately 30m wide) Mandatory maximum: 6 storeys</p> <p>On sites with a frontage of less than 50 metres: At least 40 per cent of the frontage must have a street wall of 4 storeys or less. The remaining street wall may be up to the maximum building height Proposed: 21.5m (22.9m AHD) / 5 levels</p> <p>Tower: Building Typology: M5 - Hybrid (predominantly mid-rise being 7-15 storeys) Preferred: 68m / 20 storeys Proposed: 98.9m (100.3m AHD) / 25-levels. Including plant -102.3m (103.7m AHD)</p>



<p>Street wall (podium) Setbacks</p>	<p>Policy: where building height is >20 storeys the following applies:</p> <ul style="list-style-type: none"> • Preferred setback: 10m • Minimum setback: 10m <p>Proposed:</p> <p>Montague Street: 5m from Levels 5 to 23 and 10m at Level 24.</p> <p>Gladstone Place: 1.6m setback from Levels 5 to 23 and 4.6m at Level 24 when measured from the title boundary and 4.5m and 8.5m (measured from the centreline of Gladstone Place which is 5.8m wide).</p> <p>As Gladstone Place is less than 9m wide (approximately 5.8m), the setback must be measured from the centerline of the street. A negative value setback = 0m setback.</p> <p>1.6m setback from Levels 5 to 23 and 3.6m at Level 24 from the title boundary.</p>
<p>Tower Setbacks</p>	<p>Policy: where building height is >20 storeys the following applies:</p> <ul style="list-style-type: none"> • Preferred setback: 10m • Minimum setback: 10m <p>Proposed:</p> <p>Montague Street:</p> <ul style="list-style-type: none"> • 5m setback from Level 5 to 23. <ul style="list-style-type: none"> - A building skin splays from the edge of the podium at Level 5 to the tower façade at Level 7. - Angled architectural fins encroach approximately 1m into the setback from Levels 14 to 23 • 10m setback at Level 24 <ul style="list-style-type: none"> - A terrace area with perimeter planters and roof edge encroach 5m into the setback. - Angled architectural fins encroach approximately 1m into the setback. • 13.1m setback at Level 25 from the edge of the roofed plant areas and louvered screening. • The setback of the southern corner of the tower recesses to 9.86m and 10.69m. <p>Gladstone Place:</p> <ul style="list-style-type: none"> • 4.5m (when measured from the centreline of the road) setback from Level 5 to 24. <ul style="list-style-type: none"> - Angled architectural fins encroach approximately 1m into the setback from Levels 14 to 24. • 8.5m setback (when measured from the centreline of the road) at Level 25 from the edge of the louvered screening. • The setback of eastern corner of the tower recesses to 3.6 and 4.6m. <p>North-west side boundary with 89-103 Gladstone Street (Gravity Tower):</p>



	<ul style="list-style-type: none"> 0.15m setback to the north-west side boundary to all tower levels (i.e. continuation of podium setback). <p>South-east side boundary with 97-99 Montague Street:</p> <ul style="list-style-type: none"> Min. 2.6m / max. 3m (due to irregular side boundary) from the south-east side boundary from Levels 5 to 24. <ul style="list-style-type: none"> Angled architectural fins encroach approximately 1m into the setback from Levels 14 to 24. 5.13m setback from the south-east side boundary at Level 25 to the edge of the louvered screening and 9.8m from the edge of the roofed plant areas. The setback of the southern corner of the tower recesses to 4.55 and 8.6m. The setback of the eastern corner of the tower recesses to 5.13m and 6.18m.
Communal Open Space	<p>A communal roof terrace at Level 5 podium provides 226m². This terrace would be accessible via the lift and staircase. It is noted this area will be partially covered with a perforated metal and glass reinforced concrete building skin. The sides of this area would be partially open to both sides.</p> <p>A second smaller terrace at Level 24 would provide an additional 44m² of communal open space.</p>
Loading bay	<p>A loading bay is proposed to be accessed off Gladstone Place.</p> <p>Bin room at Ground floor with waste chute facilities to upper levels.</p>
Car parking	<p>Policy:</p> <ul style="list-style-type: none"> Not more than 1.7 car parking spaces associated with the retail use. Not more than 62.7 car parking spaces associated with the office use. <p>Proposed:</p> <p>No car parking spaces are proposed.</p>
Motorcycle parking	<p>Policy: Developments with over 10,000m² non-residential floor space - Provision of 1 space per 100 car parking spaces.</p> <p>The development is for less than 10,000m² therefore motorcycle parking is not required.</p>
Bicycle parking	<p>Table 2 of Section 4.2 of Schedule 1 to the Capital City Zone</p> <p>Policy: Developments with over 10,000m² non-residential floor space – Provision of 1 space per 50m² of net non-residential floor area and 1 visitor space per 1,000m² of net non-residential floor area.</p> <p>The development is for less than 10,000m² therefore bicycle parking is not required.</p> <p>Clause 52.34 – Bicycle Facilities</p> <p>Policy:</p> <ul style="list-style-type: none"> Retail: 1 employee space to each 300m² of leasable floor area and 1 visitor space to each 500m² of leasable floor area. 1 employee space required.

	<ul style="list-style-type: none"> Office: 1 employee space to each 300m² of net floor area if the net floor area exceeds 1000m² and 1 visitor space to each 1000m² of net floor area if the net floor area exceeds 1000m². 21 employee spaces and 7 visitor spaces. Total employee spaces required: 22. Total visitor spaces required: 7. Showers: If 5 or more employee bicycle spaces are required, 1 shower for the first 5 employee bicycle spaces, plus 1 to each 10 employee bicycle spaces thereafter. 3 employee showers are required. Change rooms: 1 change room or direct access to a communal change room to each shower. The change room may be a combined shower and change room. 3 employee change rooms are required or one with direct access. <p>Proposed:</p> <ul style="list-style-type: none"> Retail and office bicycle parking spaces: 80 (including 8 spaces on the footpath) (+50) or (+42 discounting spaces on the footpath). Showers: 12 (+9). Change rooms: 2 changes rooms with direct access from shower facilities.
New Roads / Laneways	<p>None.</p> <p>A road which runs off Montague Street and along part of the north-west side boundary (Council's Register of Public Roads (No. R3257-01)) forms part of the subject site and would need to be formally closed before it could form part of the development site. Council's Property Department advise that a proposal for discontinuance was made in 2015, but has not progressed beyond initial inquiries.</p>
Vehicle access	Loading access via an altered crossover to Gladstone Place.
Pedestrian access	Pedestrian access to office lobby and retail tenancies via Montague Street and Gladstone Place.

5. SUBJECT SITE AND SURROUNDS

5.1 Existing conditions are as follows:

Table 5.1: Site context

Site description and area	<p>The subject site is located on the north-east side of Montague Street, South Melbourne, approximately between Gladstone Street and Buckhurst Street.</p> <p>The subject site or planning unit comprises two parts with an overall area of 656m² (0.0656 ha.)</p> <p>The first and substantive part of the site is owned by the permit applicant and is generally rectangular, but for minor dog-legs along its north-west and south-east sides. This site has a frontage width of approximately 15.94m to Montague Street, a rear width of 18.29m and a maximum depth of approximately 38m, for an overall area of 631m².</p> <p>The second and minor part of the subject site/planning unit is a 1.52m wide by approx.</p>
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	<p>16.5m length (25m²) of road which runs off Montague Street and along part of the north-west side boundary. This road is on Council's Register of Public Roads (No. R3257-01) and vested in Council. The applicant would need to acquire this road from Council and formally close the road before it could form part of the development site.</p> <p>Site boundary to:</p> <ul style="list-style-type: none"> • Montague Street: 17.46m • Gladstone Place: 18.29m • North-west boundary with 89-103 Gladstone Street (Gravity Tower): 36.92m • South-east boundary with 97-99 Montague Street: 37.25m <p>The land is generally flat with no discernible slope in any direction. Survey particulars show only a minor fall of 0.2m from front to rear and a similar rise from the north-west side to the south-east side.</p> <p>The land is developed with a circa. 1990s tilt-slab concrete two-storey commercial building comprising a ground floor level showroom facing Montague and under-croft parking at the rear, and offices above.</p>
<p>Surrounds / neighbourhood character</p>	<p>Surrounding land in all directions is mostly developed for one or two-storey commercial / industrial buildings, used for offices, car sales and repairs, light industry, warehousing and the like.</p> <p>South-west (Montague Street / front): Montague Street which is Road Zone Category 1, an arterial road four-lane carriageway, linking with the West Gate Freeway toward the north-west. Beyond this is a single storey significant heritage graded Montague Secondary College, and one and two-storey warehouse, industrial and commercial buildings beyond.</p> <p>North-west boundary (89-103 Gladstone Street (Gravity Tower) / side): The site shares a common boundary with Gravity Tower, part 29 storey / (91.45m AHD) and part 30 storey (94.45m AHD) residential tower. The built form includes a six-storey podium with a retail component at ground floor level. The Minister approved the application on 1 September 2014 after the Fishermans Bend Urban Renewal Area was rezoned as an extension of the Capital City Zone, but prior to the introduction of the Strategic Framework Plan.</p> <p>On the far side of Gladstone Street, two pairs of semi-detached single-storey significant heritage graded 1920s dwellings, the elevated light rail line, and one and two-storey commercial and industrial buildings, vacant land, and the elevated West Gate Freeway and municipal boundary with the City of Melbourne, and Docklands beyond.</p> <p>North-east (Gladstone Place / rear): The site has a rear abuttal to Gladstone Place which is a 5.8m wide fully constructed two-way street with an approx. 4.5m wide bluestone carriageway, with upright bluestone kerbing and narrow asphalt footpaths on both sides. Gladstone Place runs between Gladstone Street and Buckhurst Street only. It currently carries approximately 170 vehicles per day (vpd).</p> <p>The far side of Gladstone Place is 87 Gladstone Place, a four-storey office development with ground floor retail. Beyond this is 15-87 Gladstone Street where construction works have commenced in accordance with Planning Permit 2013/005951 for the demolition buildings and construction of 1 x 27 (88m) and 2 x 30 level (97.2m) towers with a 6 level (25m) podium containing approx. 700 dwellings, 572m² commercial floor space and 393 car spaces.</p> <p>At 6-78 Buckhurst Street a planning permit has been issued to allow the demolition of buildings and construction of four towers (27, 29, 30 and 30 levels) and 4 level</p>

childcare centre containing 1,004 dwellings, 1,383m² retail floor space, 1,167m² office floor space and 697 car spaces. To date, demolition works have commenced but construction works associated with the approved built form are yet to commence.

South-east (97-99 Montague Street / side): One, two and three storey commercial and industrial buildings along Montague Street.

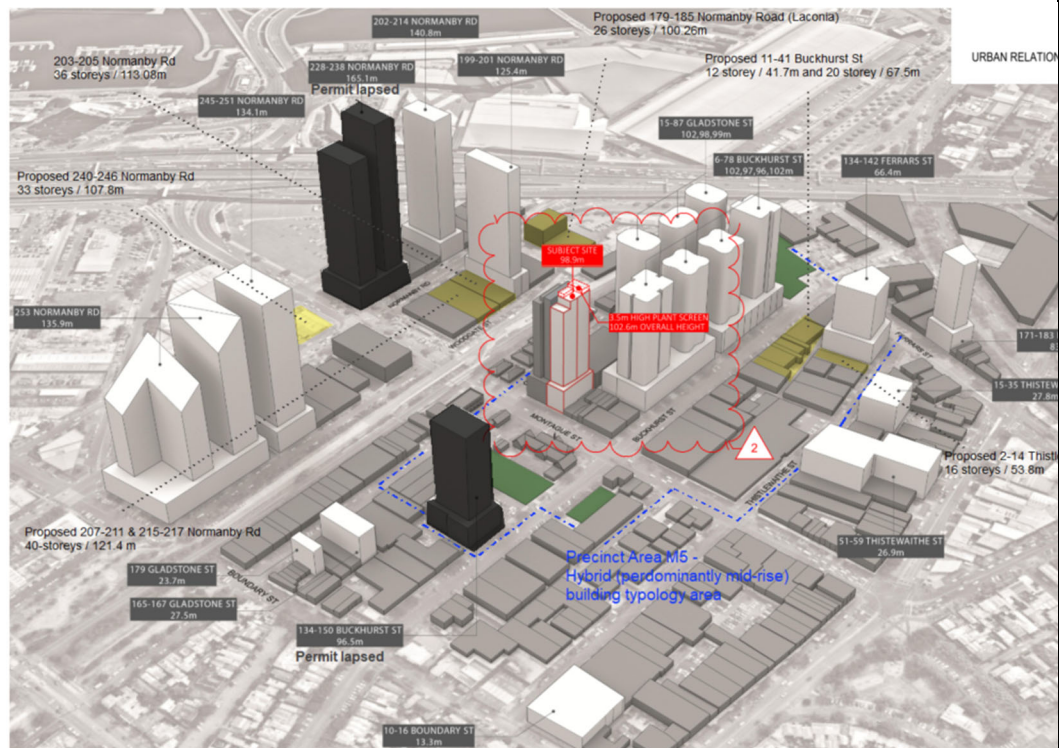


Figure 2: Extract from proponent's Urban relationship – height with additional annotations.

The high frequency Route 109 City to Port Melbourne light rail line runs along an embankment on the southeast side of Woodgate Street. There is an elevated platform stop immediately to the southeast of the Montague Street bridge.

Limited bus services run along Normanby Road (235 service) with more frequent services operating along City Road (234 service).

A bike path runs parallel to the Route 109 light rail line connecting Port Melbourne with the CBD.

Vehicle access to the Westgate Freeway is approximately 500m from the site via Montague Street.

The South Melbourne Activity Centre including South Melbourne Market is located approximately 500m to the southeast of the site, providing a wide range of employment, shopping opportunities and community services.

Fishermans Bend Framework October 2018

The Fishermans Bend Framework and the Planning Scheme propose:

For the subject site:

- Montague Street designated as a Strategic cycling corridor running between the junction with Lorimer Street and City Road.



	<p>For the surrounding area:</p> <p><u>Medium term (2020-2025)</u></p> <ul style="list-style-type: none"> • Investigation area for an arts and cultural hub on the opposite side of Montague Street and area bound by Buckhurst Street, Gladstone Lane, Milsom Place (and general alignment beyond). • Strategic cycling corridor / Bay Street to City bike connection along Buckhurst Street. • Buckhurst / Montage Street intersection upgrade. <p><u>Long term (2025+)</u></p> <ul style="list-style-type: none"> • New public open space to the south west of Montague School. • Buckhurst Street linear park running from Ferrars Street to Boundary Street. • Montague Street route 109 (Stop 126) tram stop upgrade to the north west of the subject site. <p><u>Other</u></p> <ul style="list-style-type: none"> • New 6m wide laneways between Buckhurst Street and Gladstone Street, and Kerr Street and Gladstone Place (locations indicative).
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6. PERMIT TRIGGERS

6.1 The following zone and overlay controls apply to the site. If the application was for a Planning Permit (rather than an application for a Planning Scheme Amendment) the following permissions would have been required:

Table 6.1: Planning Permit Triggers

Planning Scheme Provision	Why is a planning permit required?
Clause 36.04: Road Zone Category 1	<p>Pursuant to Section 2 of Clause 52.29-2, a permit is required to create or alter access to a road in a Road Zone, Category 1. This may include a substantial increase in traffic to or from a Road Zone.</p> <p>Kerbside conditions to Montague Street remain unchanged. A planning permit <i>would not</i> be required under this clause.</p>
Clause 37.04: Capital City Zone (CCZ1)	<p>Pursuant to Clauses 37.04-1 and 37.04-2 of the CCZ1 and the Table of uses at Clause 1 of the Schedule to the CCZ1, a planning permit is not required to use land for an Office (other than a Bank).</p> <p>The use as a Retail premises (other than Hotel, Shop and Tavern) is a Section 1 use (no permit required) if the following conditions are met:</p> <ul style="list-style-type: none"> • Must not exceed 1,000 square metres gross leasable floor area and be located in a Core area. • Must not be within 450m of the South Melbourne to Brooklyn or Dandenong to West Melbourne pipeline as shown on Map 5. • Must not be within 100m of the Port Melbourne to Symex Holdings pipeline as shown on Map 5.



	<p>The land is in a Core Area, and within 450m of the South Melbourne to Brooklyn pipeline. A permit is required to use the land for a Retail premises (other than Hotel, Shop and Tavern under this clause.</p> <p>Pursuant to Clause 37.04-4 of the CCZ1 and Clause 4.0 of the Schedule to the CCZ1, a permit is required to construct a building or construct or carry out works in the Capital City Zone, with the exception of an addition of, or modification to a verandah, awning, sunblind or canopy of an existing dwelling.</p> <p>Pursuant to Clause 37.04-4 of the CCZ1 and Clause 4.1 of Schedule 1 to the CCZ1, a permit is required to demolish or remove a building or works, except for:</p> <ul style="list-style-type: none"> • The demolition or removal of temporary structures; • The demolition ordered or undertaken by the responsible authority in accordance with the relevant legislation or local law. <p>An application for the use of land, or to demolish or remove a building, or construct a building or 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. This does not apply to an application to use land for a nightclub, tavern, hotel or adult sex product shop.</p> <p>A planning permit <i>would</i> be required under this clause.</p>
<p>Clause 43.02: Design and Development Overlay - Schedule 30 - Fishermans Bend - Montague Precinct (DDO30)</p>	<p>The land is in Precinct Area M5 of DDO30 which encourages a hybrid (predominantly mid-rise) building typology and a preferred maximum building height of 68 metres (20-storeys).</p> <p>Pursuant to Clause 43.02-2 of the DDO and Clause 2.0 of Schedule 30 / 32/ 33 to the DDO, a permit is required to construct a building or construct or carry out works in the Design and Development Overlay.</p> <p>Pursuant to Clause 62.02-3, this excludes the construction of or putting up for display of a sign unless a permit is specifically required.</p> <p>An application to construct a building or construct or carry out works or subdivide land in DDO30 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.</p> <p>A planning permit <i>would</i> be required under this clause.</p>
<p>Clause 44.05: Special Building Overlay - Schedule 2 (SBO2)</p>	<p>Pursuant to Clause 44.05-2, a permit is required to construct a building or construct or carry our works. This does not apply if specifically exempted.</p> <p>Schedule 2 notes a permit is not required for the following buildings and works:</p> <ul style="list-style-type: none"> • An open sided carport, or other open sided structure such as a verandah or pergola. • A fence that is the same height and constructed of similar materials as an existing fence. <p>A planning permit <i>would</i> be required under this clause.</p>
<p>Clause 45.03: Environmental Audit Overlay (EAO)</p>	<p>Pursuant to Clause 45.03-1 of the EAO, before a sensitive use (residential use, child care centre, pre-school centre, primary school, education centre or informal outdoor recreation) commences or before the construction or</p>



	<p>carrying out of buildings and works in association with a sensitive use commences, the developer must obtain either;</p> <ul style="list-style-type: none"> • A certificate of environmental audit issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or • A statement in accordance with Part IXD of the Environment Protection Act 1970 by an accredited auditor approved under that Act that the environmental conditions of the land are suitable for the sensitive use. <p>A planning permit <i>would not</i> be required under this clause.</p>
Clause 45.09: Parking Overlay (P01)	<p>Pursuant to Clause 45.09-1, the Parking Overlay operates in conjunction with the requirements of Clause 52.06.</p> <p>Table 1 of Schedule 1 to the Parking Overlay specifies maximum rather than minimum parking rates for Retail premises and Office.</p> <p>A planning permit is required to provide car parking spaces in excess of the rates specified in Table 1.</p> <p>The application does not provide for any on-site car parking.</p> <p>A planning permit <i>would not</i> be required under this clause.</p>
Clause 45.11: Infrastructure Contribution Overlay (IC01)	<p>Pursuant to Clause 45.11-2, a permit must not be granted to subdivide land, construct a building or construct or carry out works until an infrastructure contributions plan has been incorporated into the Planning Scheme.</p> <p>Pursuant to Clause 45.11-6, land or development of land is exempt from the ICO if it is for:</p> <ul style="list-style-type: none"> • A non-government school; • Housing provided by or on behalf of the Department of Health and Human Services; • Any other land or development of land specified in a Schedule to the ICO. <p>Pursuant to Schedule 1 to the ICO, a permit may be granted to subdivide land, construct a building or construct or carry out works before an infrastructure contributions plan has been incorporated into the scheme for:</p> <ul style="list-style-type: none"> • An existing use of land provided the site coverage is not increased. • A sign. • Consolidation of land or a boundary realignment. • Subdivision of buildings and works approved by a permit granted before the approval date of Amendment GC81. • Subdivision of an existing building used for non-residential purposes provided each lot contains part of the building and each lot is not intended for a residential purpose <p>A planning permit cannot be granted for the proposal under this clause.</p> <p>The application for a Planning Scheme Amendment allows consideration of the application by an alternative process whilst the Infrastructure Contributions Plan is being prepared.</p>
Clause 52.05: Advertising signs	<p>Clause 52.05 is silent regards the construction or display of a sign in the Fishermans Bend Urban Renewal Area. Renders submitted in support of the application detail an embossed symbol on the southern corner of the podium to Montague Street. This detail is not noted on the architectural</p>



	<p>plans or consent expressly sought in the application material and therefore will not be considered in this assessment</p> <p>A permit <i>would not</i> be required under this clause.</p>
Clause 52.06: Car Parking	<p>Pursuant to Clause 45.09-1 (Parking Overlay), the Parking Overlay operates in conjunction with the requirements of Clause 52.06. As noted above the car parking rates associated with both uses are set out at Clause 45.09.</p> <p>Car parking plans must meet the design requirements of Clause 52.06-9 unless the responsible authority agrees otherwise.</p> <p>A permit <i>would not</i> be required under this clause.</p>
Clause 52.34: Bicycle Facilities	<p>A new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities have been provided on the land pursuant to Clause 52.34-1.</p> <p>A planning permit is required to vary, reduce or waive any bicycle facilities requirement of Clause 52.34-3 and Clause 52.34-4.</p> <p>A planning permit <i>would not</i> be required under this clause as bicycle facilities are required in accordance with this clause.</p>

7. PLANNING SCHEME PROVISIONS

7.1 Planning Policy Frameworks (PPF)

The application needs to be assessed against the Planning Policy Framework (PPF), including:

Clause 11: Settlement, including:

Clause 11.01-1R1: Settlement - Metropolitan Melbourne

Clause 11.02: Managing Growth

Clause 13: Environmental Risks and Amenity, including:

Clause 13.01: Climate Change Impacts

Clause 13.03: Floodplains

Clause 13.07: Amenity

Clause 15: Built Environment and Heritage, including:

15.01-1: Built Environment

15.01-1R: Urban design - Metropolitan Melbourne

15.01-2S: Building Design

15.01-4R: Healthy neighbourhoods - Metropolitan Melbourne

15.01-5S: Neighbourhood character

15.02-1: Sustainable development

15.02-2S: Aboriginal cultural heritage

Clause 18: Transport, including:

Clause 18.02-4S: Car parking

Clause 19: Infrastructure, including:



Clause 19.01: Energy

Clause 19.01-1S: Energy supply

Clause 19.01-2R: Renewable energy - Metropolitan Melbourne

Clause 19.01-3S: Pipeline infrastructure

Clause 19.03-1S: Development and infrastructure contributions plans

Clause 19.03-4S: Stormwater

7.2 Local Planning Policy Framework (LPPF)

The Municipal Strategic Statement (MSS) contains several clauses, which are relevant to this application as follows:

Clause 21: Municipal Strategic Statement

Clause 21.01: Vision and Approach

Clause 21.02: Municipal Context and Profile

Clause 21.03: Ecologically Sustainable Development

Clause 21.04: Land Use, including

21.04-1: Housing and Accommodation

Clause 21.05: Built Form, including:

21.05-2: Urban Structure and Character

Clause 21.06: Neighbourhoods, including

21.06-8: Fishermans Bend Urban Renewal Area

7.3 Local Planning Policy Framework (LPPF)

The application also needs to be assessed against the following Local Planning Policies:

Clause 22.12: Stormwater Management (Water Sensitive Urban Design)

Clause 22.13: Environmentally Sustainable Development

Clause 22.15: Fishermans Bend Urban Renewal Area Policy

7.4 Other relevant provisions

Clause 59.10: Car Parking

Clause 65: Decision Guidelines, including:

Clause 65.01: Approval of an Application or Plan

7.5 Relevant Planning Scheme Amendment/s

Past and present Planning Scheme Amendments relevant to the subject site since the submission of the original application on 18 November 2015 include:

14 November 2016: Amendment GC50:

- Introduced new Local Planning Policy (Clause 22.15) Employment and Dwelling Diversity within the Fishermans Bend Urban Renewal Area, which specifies discretionary targets for dwelling diversity (a percentage of apartments with three



or more bedrooms), affordable housing, and minimum floor areas for employment uses;

- Moved interim height controls from the CCZ1 to a new Design and Development Overlay (DDO30), which specifies mandatory maximum street wall and tower heights, and mandatory minimum tower street, side and rear boundary setbacks and tower separation distances. The height and setback controls apply on an interim basis until 31 March 2019, and updates the Fishermans Bend Strategic Framework Plan, July 2014 (Amended September 2016) and incorporated document provisions.

05 October 2018: Amendment GC81:

- Amends MSS at Clauses 21.01 (Vision and Approach), 21.02 (Municipal Context and Profile), 21.03 (Ecologically Sustainable Development), 21.04 (Land Use), 21.05 (Built Form), 21.06 (Neighbourhoods) to update references to FB and include a refined vision for Montague, Sandridge and Wirraway precincts.
- Introduces new local planning policy at Clause 22.15 (Fishermans Bend) to provide guidance and assist with the exercise of discretion in the assessment of planning permit applications in FB. Includes Fishermans Bend Framework October 2018 as a Reference Document.
- Introduces a new Schedule 1 to Clause 37.04 (CCZ) to ensure land use and development outcomes implement the FB Vision, September 2016 and FB Framework, September 2018.
- Introduces new precinct specific Schedules 30, 32 and 33 to Clause 42.03 (Design and Development Overlay) to align built form controls with preferred character and vision for Montague, Sandridge and Wirraway precincts, respectively.
- Introduces new Schedule 1 to Clause 45.09 (Parking Overlay) to encourage sustainable transport patterns and the provision of alternative forms of parking.
- Deletes Schedule 2 to Clause 45.06 (Development Contributions Plan Overlay).
- Inserts Clause 45.11 (Infrastructure Contributions Overlay) and Schedule 1 (ICO1) and applies it to land to enable implementation of an Infrastructure Contributions Plan when prepared.
- Applies Environmental Audit Overlay (EAO) to Montague, Sandridge and Wirraway precincts.
- Applies Environmental Significance Overlay - Schedule 1 (ESO1) to Wirraway precinct near Port of Melbourne.
- Amends Schedule to Clause 66.04 to include the Port Phillip City Council and Melbourne Water as a recommending referral authority for planning permit applications where the Minister for Planning is the responsible authority and makes minor corrections to existing provisions.
- Amends Schedule to Clause 66.06 to require notice of certain permit applications to be given to the relevant pipeline licensee and Transport for Victoria.



- Amends Schedule to Clause 72.03 to reflect the deletion of Planning Scheme Map 1DCPO and insertion of new Planning Scheme Maps 1EAO, 1ICO, 2ICO and 3ICO.
- Amends Schedule to Clause 72.04 to delete the Fishermans Bend Strategic Framework, July 2016 (amended September 2016) as an Incorporated Document.

20 June 2019: Amendment GC118:

Corrects technical, formatting and grammatical errors identified in the Fishermans Bend planning controls.

8. REFERRALS

8.1 Internal referrals

The application was internally referred for comment.

Referral responses are summarised below and outlined in full at **Appendix 5** of this report.

Table 8.1: Internal Referral Summary

Internal Department / Referral Officer	Internal Referral Comments (summarised)
Heritage	No heritage issues on this site, although it does abut an original bluestone lane to the rear, which will need to be protected during construction and repaired/reinstated as required when the building is completed.
City Strategy / Urban Design	<p>I have reviewed the amended proposal plans and supporting reports and provide the following strategic planning advice (based largely on my previous advice dated 5 March 2020).</p> <p>Firstly, it needs to be recognised that the proponent has not accurately responded to the scope of the Fishermans Bend Standing Advisory Committee (SAC) to consider a site-specific planning control to facilitate the proposal that responds to the permanent planning controls introduced under GC81. In accordance with the Terms of Reference (ToR), the SAC’s consideration of the proposed control is <u>subject to it</u>:</p> <ul style="list-style-type: none"> a) <i>Responding to local policy;</i> b) <i>Meeting the requirements of the DDO, the PO and the CCZ other than:</i> <ul style="list-style-type: none"> ▪ <i>The dwelling density requirement;</i> ▪ <i>The requirement to be generally in accordance with the Fishermans Bend Framework (September, 2018); and</i> ▪ <i>The permit condition requirement to enter a section 173 agreement to provide a new road or laneway; and</i> c) <i>Making appropriate development contributions.”</i> <p>This matter relates to the proposed variation to mandatory requirements relating to setbacks above the street wall and wind effects on the public realm, as discussed below.</p>



Key Issues

1. The proposal has a maximum building height of 106.4m and 27 storeys. The roof plant and lift overrun (Level 25 – Plant and Roof on the elevation plans) are to be included in height calculations, as they are not set back at least 3m behind the building façade (refer Clause 2.5 of DDO30). There may be strategic planning justification for a ‘high-rise’ building with a building height greater than the 68m / 20 storey maximum height sought in DDO30, due to the heights of existing and approved buildings in the immediate area (particularly the abutting ‘Gravity Tower’ at 89-103 Gladstone Street).

I do not agree, however, with the proponent’s assertion that; “*the Gravity Tower establishes a relevant built form expectation for the subject site*” (p. 3 of Planning & Property Partners letter dated 15 April 2020). Under the SAC Terms of Reference, the proposal is subject to it [amongst other things]:

- a) *Responding to local policy;*
- b) *Meeting the requirements of the DDO, the PO and the CCZ [other than some specific matters not related to building height].*

It is considered that the proposed building height does not achieve the built form outcomes in Clause 2.5 of DDO30:

- A consolidated built form with the Gravity Tower, which is built on the common boundary, is a logical approach. This building was approved in 2013 (prior to the current planning controls) and exceeds the building height sought in DDO30. There has been no justification provided for an overall height of the subject proposal almost 10m above Gravity Tower;
- The proposal does not adequately respond to the preferred precinct character of Area M5, which is; “*Predominantly mid-rise developments with some high-rise forms on larger sites where well-spaced, slender towers can be demonstrated to provide sunlight access to streets*”:
 - It is not considered that the site (even if combined with the Gravity Tower site) is a ‘larger site’ to justify a high-rise form, particularly a building taller than its neighbour;
 - The combined tower form (with Gravity Tower) and proposed building separation from future development to the south will not result in ‘well-spaced slender towers’ or provide sunlight access to Montague Street (as evidenced by the overshadowing analysis in Design Response (p. 2.19).
- There is concern that the proposal will not contribute to a “*varied and architecturally interesting skyline*”. As illustrated in the Design Response provided by the project architect (pp. 2.13-2.14), the proposed building height appears to be more a continuation of the heights achieved by existing and approved buildings in the block bounded by Montague, Gladstone, Kerr and Buckhurst Streets; and

Furthermore, I do not agree that the acoustic performance of the building (namely noise impacts from the rooftop plant) justify the proposed building height. It is the proponent’s responsibility to manage noise within the development site – even if this requires the provision of acoustic screening (that would need to be integrated with the building design).

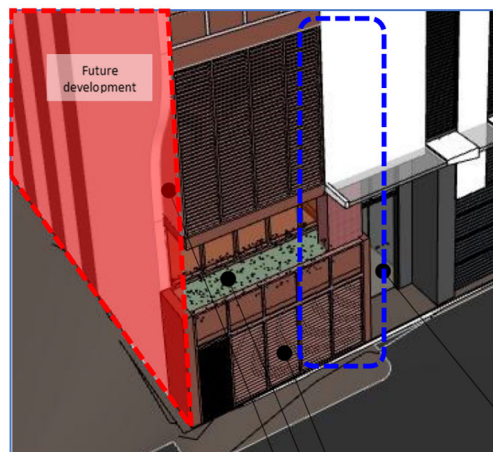
It is recommended that the building height be reduced to act as a transition between the height of ‘Gravity Tower’ (97.15m overall) and the 68m / 20 storey maximum height sought in DDO30. City Design may have other urban design advice in relation to this matter. It is preferred that this change



	<p><u>be addressed through amended plans prior to a decision being made, however it could potentially be conditioned (with the amended building design to be assessed).</u></p> <p>2. The proposal seeks to vary the mandatory <u>setback requirements above the street wall</u> set out in DDO30 (Clauses 2.8 and 2.9). Although some variation may be supportable in the site context from a planning perspective (particularly the existing development abutting to the north), the proposal (and associated planning scheme amendment) needs to meet the requirements of DDO30 (refer to the SAC ToR). I expect the SAC will establish a standard approach to varying mandatory requirements. Nevertheless, the following matters need to be resolved:</p> <ul style="list-style-type: none">a) There is concern that the proposed setbacks to <u>Gladstone Place</u> could visually overwhelm this part of the public realm and affect daylight access to the laneway, as outlined in Clause 2.8 of DDO30. It is recommended that the minimum setback above the podium be increased to match that of the adjoining Gravity Tower building (2m);b) The proponent has not sufficiently demonstrated that the proposed setbacks to the <u>southern boundary</u> above the podium (approximately 3m) will provide <u>equitable development opportunities</u> for properties immediately to the south. Although the Design Response considers a number of potential site consolidation scenarios (pp. 2.06-2.12), it does not justify the assumed building envelopes of potential development (particularly building heights) and does not demonstrate how future development will be afforded equitable access to <i>“sunlight and daylight to, and outlook from habitable rooms in existing and potential developments on adjoining sites”</i>, as required in Clause 2.9 of DDO30; andc) The proponent has not demonstrated that the proposed zero setback to the <u>northern boundary</u> will not unreasonably impact on natural ventilation of the podium car parking and natural daylight access to the south-facing windows (core / stairs areas) in the abutting ‘Gravity Tower’.d) There is strategic planning justification for the proposed setbacks to <u>Montague Street</u> above the street wall, due to the setbacks of the abutting ‘Gravity Tower’, relatively narrow frontage and ‘stepping back’ to achieve the 10m mandatory setback at the southwest corner. I defer to City Design for urban design advice on the proposed façade treatment and ‘curved’ transition between the podium and tower elements. <p>3. The approach to manage the <u>flood risk</u> to the site, whilst seeking to provide an active frontage to Montague Street is supported in principle. The proponent, however, has not demonstrated that portions of the development that will be flood prone comply with the requirements of Clause 22.15-4.5. Melbourne Water should be consulted at this stage of the process for minimum floor level requirements rather than at the Standing Advisory Committee process. I defer to City Design for urban design advice on this matter.</p> <p>4. The <u>wind assessment</u> by RWDI, and the resultant built form outcome, does not comply with the policy requirements in Clause 2.11 of DDO30. A safe and pleasant pedestrian environment needs to be maintained on footpaths and other public spaces for walking, sitting or standing. The following issues need to be addressed in an amended wind assessment:</p>
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- a) The wind assessment needs to address the requirements of DDO30, not those included in Amendment C270 to the Melbourne Planning Scheme;
- b) Several developments either approved or under construction have not been included in the proximity model, particularly 6-70 Buckhurst Street (30 storeys) and 15-87 Gladstone Street (30 storeys);
- c) The mandatory wind safety criteria in DDO30 must be achieved. Where the safety criterium is already exceeded, the development must not increase the extent of non-compliance. The current proposal results in exceedance or worsening of safety criteria in 13 test locations (# 3, 5, 10, 24, 25, 29, 30, 32, 39, 44, 46, 47 and 56);
- d) Standing comfort criterium should be achieved, or existing comfort not worsened, for the footpaths / verges to Montague Street and Buckhurst Street. These areas are on key streets within the Montague Core Area where pedestrians will be encouraged to linger. The current proposal results in exceedance or worsening of this criterium in 7 test locations (# 8, 9, 10, 20, 25, 28 and 29);
- e) Any proposed wind treatments need to be located within the development (not on public land). Reliance on the street trees along Montague Street is not acceptable; and
- f) Any proposed changes to the built form and/or wind treatments need to be qualified to demonstrate how an amended proposal will achieve the policy requirements in Clause 2.11 of DDO30.

The built form response and proposed wind treatments need to be incorporated into the proposal architectural and landscape plans as they will form part of the design outcome for the development.



Issues that could be conditioned

1. A full canopy should be provided along the entire Montague Street frontage to contribute to continuous weather protection along this street within the Montague Core Area. This change could be conditioned.
2. The proponent has not explained the purpose and function of the 'potential mixed mode spaces' proposed on Levels 06-13 and 15-23. If not relevant to the assessment of the proposal, these notations should be removed. This change can be conditioned.
3. The Mezzanine level activation at the Gladstone Place frontage is supported. The effectiveness of the southern façade treatment (cutaway), however, will be limited by future development on the abutting site that will



	likely be built to the northern and laneway boundaries (refer to diagram below – red shading). It is recommended that the cutaway façade treatment be relocated to the interface between the Mezzanine Retail / Communal area and the Rear Entry & Bike Access (blue dashed outline in diagram below). <u>This change could be conditioned.</u>
Development Engineer	In comparison to the 15-85 Gladstone St development (which has an area of 5970 m ² and have proposed to have two tanks with combined volume of 32.13 kl) we are satisfied with the 32kl rainwater tank as proposed in the SMP for the 91-95 Montague Street, South Melbourne development. In addition to the above, we note that there are no details on the WSUD maintenance schedule.
Asset Management and Property	It appears that the site frontage to Montague Street according to the title survey on p15 is 15.94m and the road is 1.37m. This is marked as a non-government road, but it is a municipal road which I would mark as government. It is on our road register. This correlates with our Intramaps. On pages 23-27 the drawings for context all show a frontage of 17.9m. This means they are incorporating our road into the plans. We have no application for discontinuation of the laneway.
Sustainable Design	<ul style="list-style-type: none"> • The SMP commits to a 5 star certified Green Star Design and As Built rating, which is appropriate for a development of this scale and is consistent with mandatory condition requirements in the Capital City Zone (CCZ1). • Overall, the SMP demonstrates that the development has the potential to achieve a 5 star certified Green Star Design and As Built Rating, with potential for achieving a 6 star rating. While it's acknowledged that further design development is required to specify the specific details of how each credit will be achieved, it's preferable that some firmer commitments be made in the SMP at the planning assessment stage. This is mentioned in relation to some specific examples in the comments below. • The SMP also commits to a 5 star NABERS rating for Energy (without Green Power) and a 4 star NABERS rating for Water. • The proposed 32kL rainwater meets the required capacity of 0.5m³ per 10m² of catchment (catchment = 641m²), as per the conditional requirements of the CCZ1. However, note that the CCZ1 requirements are for an <i>effective</i> tank capacity, meaning that the overall capacity must be slightly larger to accommodate for dead space.
Traffic Engineers	<p>Parking</p> <ul style="list-style-type: none"> • A Traffic Impact Assessment is required. <p>Loading area</p> <ul style="list-style-type: none"> • A swept path assessment is required to show loading and/or waste vehicles accessing the loading bay via Gladstone Place. <p>Bike Facilities</p> <ul style="list-style-type: none"> • It is recommended the Applicant consider design guidelines outlined in Clause 52.34. • Recommend to remove staircase and provide a ramp to access the 'Bike Lift'. The Bike Lift does not appear to be to conveniently accessible from Montague Street.



	<ul style="list-style-type: none"> Remove/delete proposed bike racks along Montague Street. All proposed bike racks must be contained on-site. The Applicant should consider providing on-site bike parking near the building's frontage for visitors. <p>Other</p> <ul style="list-style-type: none"> We recommend the crossover on Gladstone Place is reduced.
Waste Management	<ul style="list-style-type: none"> How will the cleaners access the bin room with their trolley? The bin room needs to be accessible to people with trolleys or are in wheelchair in general, to dispose of any items other than general rubbish. Please add that a trained spotter will be appointed to assist with manoeuvring waste vehicle. The remaining aspects are acceptable.

8.2 External referrals

The Minister for Planning C/- the Department is responsible for external referrals, including to Council. Council needs to provide a response.

9. PUBLIC NOTIFICATION/OBJECTIONS

9.1 The Department has given notice of the proposal to the City of Port Phillip, relevant persons including land owners and occupiers, and referral authorities.

10. FISHERMANS BEND STANDING ADVISORY COMMITTEE

10.1 The Minister has appointed the Fishermans Bend Standing Advisory Committee (the Advisory Committee) to:

- Advise the Minister for Planning on only unresolved issues between the Proponent and other parties relating to site-specific planning controls pursuant to clause 45.12 to achieve appropriate land use and development outcomes for land within Fishermans Bend in advance of approval of an Infrastructure Contributions Plan.
- Provide a timely, transparent and consultative process for assessment of the suitability of site-specific planning controls for land within Fishermans Bend.

10.2 Paragraph 18 of the Fishermans Bend Standing Advisory Committee Terms of Reference states '*The advisory committee may inform itself in anyway it sees fit.*'

10.3 Paragraph 19 sets out matters the Advisory Committee must consider '*In assessing the appropriateness of a site-specific planning control to facilitate a proposal ...*'

10.4 Paragraph 20 directs that the Advisory Committee must not consider submissions and evidence in relation to:

- The application or operation of the Infrastructure Contributions Overlay.
- The quantum of or need for public open space, roads and laneways.

11. OFFICER'S ASSESSMENT

Fishermans Bend Standing Advisory Committee Terms of Reference

An assessment of the application against the Fishermans Bend Standing Advisory Committee Terms of Reference is as follows:

11.1 Responding to Local Policy

Clause 22.15: Fishermans Bend Urban Renewal Area Policy

Table 11.1: Clause 22.15 Assessment

Clause 22.15 Fishermans Bend Urban Renewal Area Policy	Officer Assessment
<p>22.15-4.1 Providing for employment floor area Development in a Core area <u>should</u> provide a minimum floor area ratio not used for dwelling of: Montague: 1.6:1. Exceptions apply.</p>	<p>Achieved Recommended: Montague Core area ratio = 1.6:1 x 656m² = 1,049.6m² Proposed: GFA (whole tenancies): 12,298m² 12,298m² / 1,049.6m² = 11.71 Proposed plot ratio: 11.71:1</p>
<p>22.15-4.4 Design Excellence <u>Encourage</u> varied built form that aligns with precinct character areas in DDO.</p>	<p>Not achieved Recommended: Predominantly mid-rise developments (i.e. 7 to 15 levels) with some high-rise forms (i.e. 16 storeys and taller) on larger sites where well-spaced, slender towers can be demonstrated to provide sunlight access to streets with a particular focus on Buckhurst Street, incorporating a tooth and gap typology.’ Proposed: 25-level building (including two levels of plant) comprising a five-level podium and a 20-level tower.</p> <ul style="list-style-type: none"> Podium: 21.5m (22.9m AHD) / 5 levels Tower: 98.9m (100.3m AHD) / 25-levels. Including plant -102.3m (103.7m AHD) <p>The proposal will not contribute to a “<i>varied and architecturally interesting skyline</i>”. As illustrated in the Design Response provided by the project architect the proposed building height appears to be more a continuation of the heights achieved by existing and approved buildings in the block bounded by Montague, Gladstone, Kerr and Buckhurst Streets. The proposal should be reduced below the adjacent Gravity Tower development to help realise the appropriate mix of built form outcomes outlined in Clause 2.4 and 2.5 of DDO30.</p>
<p>22.15-4.5 Achieving a climate adept, water sensitive, low carbon, low waste community <u>Energy:</u> Assess against:</p> <ul style="list-style-type: none"> <u>Should</u> achieve a 20% improvement on current National Construction Code energy efficiency standards including for building envelopes, lighting and building services. 	<p>Achieved The SMP commits to a 5 star certified Green Star Design (with potential for achieving a 6 star rating) and As Built rating, which is appropriate for a development of this scale and is consistent with mandatory condition requirements in the Capital City Zone (CCZ1). The SMP also commits to a 5 star NABERS rating for Energy (without Green Power) and a 4 star NABERS rating for Water.</p>
<ul style="list-style-type: none"> Developments <u>should</u> incorporate renewable energy generation, on- 	<p>Achieved in part</p>



<p>site energy storage and opportunities to connect to a future precinct wide or locally distributed low-carbon energy supply.</p>	<p>To assist with achieving 5-star NABERS the design will integrate solar PV electricity generation where practical on the roof top, the optimum potential location is shown below. The clear 78m² would allow for an approximately 10kW array.</p> <p>The minimal space available for the Solar PV increases the reliance on other energy efficiency measures identified throughout this section for achievement of 5 Star NABERS.</p> <p>Spatial allowance should be investigated for future battery connection with cables installed to facilitate connection.</p>
<p><u>Urban heat island</u>: Assess against:</p> <ul style="list-style-type: none"> • At least 70% of total site <u>should</u> comprise building or landscape elements that reduce impact of urban heat island effect including: <ul style="list-style-type: none"> - Vegetation, green roofs and water bodies; - Roof materials, shade structures, solar panels or hard scaping materials with high solar reflectivity index. 	<p>Achieved</p> <p>The SMP commits to achieving the Green Star Design and As Built credit 25 – Urban Heat Island Effect, which means that the development would meet the urban heat island objective at Clause 22.15 of the Port Phillip Planning Scheme (at Clause 22.15-4.5).</p>
<ul style="list-style-type: none"> • Non-glazed façade materials exposed to summer sun <u>should</u> have a low solar absorbance. 	<p>Achieved</p> <p>The SMP states roofing material with a Solar Reflectance Index (SRI) of 82 (for roofs pitched less than 15 degrees) or an SRI of 39 (for roofs pitched greater than 15 degrees); and light coloured balcony finishes - which will not introduce glare to the office space.</p>
<p><u>Sea level rise, flooding and water recycling and management</u>:</p> <p>Raise internal floor levels above street level as a last resort, except where other measures and evidence / risk management necessitates it.</p>	<p>Achieved in part</p> <p>The design proposes split level retail tenancies, accessed at grade from Montague Street (1.4m AHD) with internal steps setback 4m from the front façade, rising to the remaining retail floor area (3.0m AHD). Informal correspondence with Melbourne Water advises the finished floor level for the retail tenancies could be reduced to 2.2m AHD.</p>
<p>Assess proposals in flood prone areas against:</p> <ul style="list-style-type: none"> • Design elements and materials <u>should</u> be resilient inc. water proof doors and windows, elevated power outlets and the like. 	<p>Not achieved</p> <p>The plan and elevation drawings and application documentation do not provide details of flood resilient materials.</p>
<ul style="list-style-type: none"> • Land uses at ground level <u>should</u> be able to easily recover from temporary flooding. 	<p>Achieved in part</p> <p>The plan generally show ground floor levels above the designated flood levels for the site but for the sacrificial edges to the retail tenancies and entry points off Montague Street and Gladstone Place.</p>
<ul style="list-style-type: none"> • Any level changes required between street level and internal 	<p>Achieved in part</p>



ground floor <u>should</u> be integrated into the building design to maintain good physical and visual connection between street and interior.	A proposed 4m setback to the Montague Street frontage to the retail tenancies allows for these areas to be appropriately activated to the streetscape. It is preferable to provide disabled access via a ramp all the way to the lift lobby (rather than relying on a platform lift).
<ul style="list-style-type: none"> Essential services such as power connections, switchboards and other critical services <u>should</u> be located to address flooding impacts. 	<p>Not achieved</p> <p>The plan and elevation drawings do not show details of this.</p>
<ul style="list-style-type: none"> Developments and public realm layout and design <u>should</u> integrate best practice WSUD. 	<p>Achieved in part</p> <p>It is proposed to capture stormwater from non-trafficable areas and store it on site for reuse. Council's Sustainable Design officer requested details to confirm the proposal would collect stormwater from all podium and tower roofs, and tank sizes be increased to meet FBURA requirements.</p> <p>Council's Drainage Engineer noted that a 32kl rainwater tank as proposed in the SMP is satisfactory. However, note that the CCZ1 requirements are for an effective tank capacity, meaning that the overall capacity must be slightly larger to accommodate for dead space.</p>
<p>22.15-4.6 Communal open spaces</p> <p><u>Encourage</u> developments to landscape all public, communal and private open space.</p>	<p>Not achieved</p> <p>The design includes indicative planters to the edge of communal terraces. A Landscape Plan providing further details should be provided as a condition of any Incorporated Document. The proposed planter box areas however would be partially covered by the glass reinforced concrete and perforated metal roofing treatment to the podium rooftop area and further details on any impacts to establishing landscaping would be required.</p>
<p>Landscape areas <u>should</u>:</p> <ul style="list-style-type: none"> Contribute to creation of sense of place and identity and preferred character for the precinct. 	<p>Not achieved</p> <p>The design includes indicative planters to the edge of communal terraces. A Landscape Plan providing further details should be provided as a condition of any Incorporated Document.</p>
<ul style="list-style-type: none"> Incorporate innovative approaches to flood mitigation and stormwater run-off, and best practice WSUD. 	<p>Achieved in part</p> <p>Applicable flood mitigation, stormwater run-off, and best practice WSUD is achieved but information provided does not include any innovative approaches sought by this policy.</p>
<ul style="list-style-type: none"> Incorporate opportunities for community gardens. 	<p>Not achieved</p> <p>No community garden is proposed.</p>
<ul style="list-style-type: none"> For POS, interpret and celebrate heritage and culture inc. Aboriginal cultural heritage. 	<p>Not achieved</p> <p>The open space does not interpret and celebrate heritage and culture including Aboriginal cultural heritage.</p>
Plant selection <u>should</u> :	<p>Not achieved</p> <p>A Landscape Plan has not been provided.</p>



<ul style="list-style-type: none"> • Support complex and biodiverse habitat including native and indigenous flora and fauna. 	
<ul style="list-style-type: none"> • Balance provision of native and indigenous plants with exotic climate resilient plants that provide opportunity for biodiversity. 	<p>Not achieved A Landscape Plan has not been provided.</p>
<ul style="list-style-type: none"> • Support creation of vegetation links within FB to surrounding areas of biodiversity, plant selection design. 	<p>Not achieved A Landscape Plan has not been provided.</p>
<p><u>Buildings should:</u></p> <ul style="list-style-type: none"> • Include deep soil zones of at least 1.5m or planter pits for canopy trees. 	<p>Not achieved A Landscape Plan has not been provided, it is further questioned the level of vegetation that could establish due to wind and partial canopy cover for the communal terraced areas.</p>
<ul style="list-style-type: none"> • Incorporate green facades, rooftop, podium or terrace planting that is water efficient, located and designed to be sustainable, viable and resilient and appropriate to micro-climate conditions. 	<p>Not achieved A Landscape Plan has not been provided.</p>
<p>22.15-4.9 Sustainable transport Ensure development does not compromise the delivery of future PT inc, new tram, train and bus routes.</p>	<p>Achieved The development would not compromise the delivery of future PT including new tram, train and bus routes.</p>
<p>Reduce impacts of new vehicle access points on pedestrian, PT and bicycle priority routes.</p>	<p>Achieved The site does not abut a pedestrian or PT priority route. Montague Street is identified as a future strategic cycling corridor. The proposal would not impact on the future cycling corridor and would reduce the extent of vehicle crossings on Gladstone Place subject to conditions of any Incorporated Document.</p>
<p>Design internal connections to give priority to pedestrians and bicycles.</p>	<p>Achieved There is limited opportunity for traffic conflicts with pedestrian and bicycles.</p>
<p>Provide high levels of and easy access to bicycle parking facilities, including change rooms, showers and lockers.</p>	<p>Achieved in part The plans show details of bicycle parking facilities including change rooms, showers and lockers but do not detail the design and dimensions of bike parking spaces and associated areas / enclosures and can be required as a condition of any permit issued.</p>
<p>Encourage developments to provide less than preferred max. no. car spaces.</p>	<p>Achieved There is no on-site car parking provided.</p>
<p>22.15-4.10 Land use transition Ensure new uses and expansion of existing uses with potential adverse amenity impacts do not prejudice the urban renewal of Fishermans Bend.</p>	<p>Achieved The proposed uses would not prejudice the urban renewal of Fishermans Bend.</p>



11.2 Clause 37.04: Capital City Zone (CCZ1)

11.2.1 Use of Land

Use for a Retail premises (other than Hotel, Shop and Tavern) (including Restaurant) requires a permit because the land is within 450m of the South Melbourne to Brooklyn and Dandenong to West Melbourne pipelines. Use for **Office** does not require a permit.

All uses are considered satisfactory for the site, subject to conditions and for management of amenity impacts such as noise emissions and / or protection from nearby sources of noise etc. such as by the building including noise attenuation measures in its construction.

11.2.2 Buildings and Works Requirements

Buildings and works must be generally in accordance with the Urban Structure, Amenity Buffer, Pipeline Buffer and Transport and Infrastructure maps of the Schedule to the CCZ. This does not apply to a new road or laneway marked as indicative.

Map 1: Urban Structure seeks proposals to have an active frontage with 60% permeability facing Montague Street.

Map 5: Pipeline buffers includes the land in the 450m buffer of the South Melbourne to Brooklyn gas pipeline. The proposed developments would be satisfactory subject to conditions for any protection measures required by the gas pipeline operators,

Map 6: Transport Infrastructure shows the site is proximate to the Route 109 tram corridor and would not adversely impact on any proposed future transport infrastructure.

11.2.3 Bicycle, Motorcycle and Car Share Parking

(Note: See also assessment at 11.4 of this report).

Clause 4.2 of Schedule 1 to the Capital City Zone requires bicycle, motorcycle and car share parking spaces (unless the responsible authority is satisfied a lesser number is sufficient).

A summary of the requirements and provision (based on the Development Schedule) is set out below (**Note:** The bicycle parking allocation in the Cardno Traffic Impact Assessment notes a provision of 92 bicycle spaces and the architectural plans and development schedule cites 80 spaces).

Table 11.2: Bicycle, Motorcycle and Car share parking

Measure	Bicycle Spaces Required	Bicycle Spaces Proposed	Motorcycle Spaces Required	Motorcycle Spaces Proposed	Car Share Spaces Required	Car Share Spaces Proposed
Development with > 10,000m ² non-residential floor space	1 per 50m ² of net non-residential floor space	N/A	1 per 100 car parking spaces	N/A	For all development with 120 or less car spaces: A minimum of 2 spaces	Nil



	1 visitor space per 1000m ² of net non-residential floor space	N/A	None specified	N/A	None specified	N/A
Sub total:	Nil	80 spaces	Nil	Nil	2 spaces	Nil
Total:	Nil	80 spaces	Nil	Nil	2 spaces	Nil

* including 8 spaces on Montague Street footpath.

* Cardno Traffic Impact Assessment notes 92 bicycle spaces.

Bicycle parking

The development would provide more bicycle parking than required and is generally considered acceptable. Please refer to Section 12.4.4 of this report for further discussion.

Motorcycle parking

No motorcycle parking is required or proposed to be provided on site.

Car share spaces

The plans do not propose car share spaces. Refer to Section 11.4.1 of this report for further discussion.

11.2.4 Conditions on Permits

Clause 4.3 of Schedule 1 to the CCZ sets out mandatory conditions to be included on permits (as relevant). The listed conditions for:

- Green star rating; and
- Third pipe and rain tank;

should be included in any approved Incorporated Document for the proposal.

11.3 Clause 43.02: Design and Development Overlay - Schedule 30: Fishermans Bend - Montague Precinct (DDO30)

11.3.1 Building Typologies

The land is in Precinct Area M5 of DDO30 which encourages a hybrid (predominantly mid-rise i.e. 7 to 15 storey) building typology and a preferred maximum building height of 68 metres (20-storeys).

The preferred precinct character is mid (i.e. 7 to 15 storeys) to high-rise (i.e. 16 storeys or higher) developments, including on larger sites where well-spaced, slender towers can be demonstrated to provide sunlight access to streets with a particular focus on Buckhurst Street, incorporating a tooth and gap typology.

Assessment

The proposal would not achieve the preferred precinct character of predominantly mid-rise buildings with the opportunity for some towers.



The building is defined as a high-rise podium and tower form, with a 5-storey podium and 25-storeys overall. The built form would be 10 storeys taller than the upper limit for mid-rise, and 5 storeys taller than the preferred maximum height for the land.

It is acknowledged that the site is relatively small which generates challenges in implementing a hybrid building typology, particularly considering the site's abuttal to a 30-storey building of a podium and tower typology.

Council's Urban Designers commented the development being approximately 5.45m taller than Gravity Tower (104.00m AHD and 98.55m AHD - heights include plant equipment) would not contribute to the mid-rise character sought for the area, rather would contribute to a predominance of high-rise built forms. Figure 2 on Page 21 of this report highlights key emerging developments within the area.

The proposal will be read in conjunction with Gravity Tower from various vantage points, both within the precinct and along key transport corridors. The ability for the built form to present as a slender tower is challenging thus elevating the importance of distinguishing one built form from the other.

To provide an interesting and varied skyline, a departure from the upper numerical definition of mid-rise (being 15 storeys) is acceptable and contemplated by policy to achieve the built form outcome sought for this area. A variation to the preferred heights can also provide an appropriate transition between built forms emerging within the area; however, the additional height in excess of 20 levels / 68m sought for this development would undermine rather than contribute to this objective.

The application material does not provide any compelling justification referable to the Planning Scheme objectives which would support the notion that exceeding the preferred maximum height for this site is warranted and would align with the predominant mid-rise character sought for the area.

The site's high level of visibility from key vantage points is compounded with the proposed setbacks to plant and equipment being less than setback requirements of DDO30; however, Council officers now generally support the resolution of the crown of the building to better incorporate plant equipment into the architectural design of the built form.

The proposal would not contribute to a "*varied and architecturally interesting skyline*". As illustrated in the Design Response provided by the project architect (see Figures 4 and 5) the proposed building height appears to be more a continuation of the heights achieved by existing and approved buildings in the block bounded by Montague, Gladstone, Kerr and Buckhurst Streets.

The proposal should be reduced in height below the adjacent Gravity Tower to help realise the appropriate mix of built form outcomes outlined in Clause 2.4 and 2.5 of DDO30. Council officers consider that the proposal should:

- step down in height from Gravity Tower;
- be no higher than 22 levels and have a maximum roof height of 87.03m AHD; and



- have a maximum plant height of 88.91m AHD;

Please refer to Section 11.3.3 for further discussion.

11.3.2 Overshadowing

Buildings must not cast any additional shadow above the shadows cast by hypothetical buildings built to the Maximum street wall height and existing buildings over:

- The existing residential zoned land south of City Road and east of Montague Street between the hours of 11.00am and 2.00pm on 22 September.
- The existing or new public open spaces shown in **Map 4** of this schedule between the hours of 11.00am and 2.00pm on 22 September.

Assessment

Objective 3.7 of 'Delivering Montague' in the Fishermans Bend Framework proposes a new open space at 112-132 Buckhurst Street to the south-east of the subject site as a long-term objective (2025+). Map 2 of DD30 identifies overshadowing controls to this site.

Overshadowing diagrams indicate that the proposal would not overshadow the specified existing residential zoned land or the new public open space at 112-132 Buckhurst Street between 11.00am and 2.00pm on 22 September.

11.3.3 Building Height

Street Wall Height

Preferred: at least 4 storeys (except where a lower height is necessary to respond to an adjoining heritage place, and the maximum street wall height of 6 storeys.

On sites with a frontage of less than 50 metres: At least 40 per cent of the frontage must have a street wall of 4 storeys or less. The remaining street wall may be up to the maximum building height.

Proposed: 21.5m (22.9m AHD) / 5 storeys

Assessment

At 21.5m (22.9m AHD) the street wall height is comparable with the street wall height of the adjoining Gravity Tower at 21.05m (22.45m AHD)

The proposed street wall and podium height read as taller than Gravity Tower because rather than stepping the tower back in a conventional manner with an unroofed podium rooftop above the street wall, the podium rooftop is enclosed by a 1.75m partly glazed balustrade and above this, is covered by a two-level volume convex curved perforated metal screen which continues the podium façade detailing in a rising curve to the top of Level 7 of the tower. This structure gives the building the appearance of having a six-level podium. This transition structure is repeated on the south-east side and Gladstone Place street frontage as well.

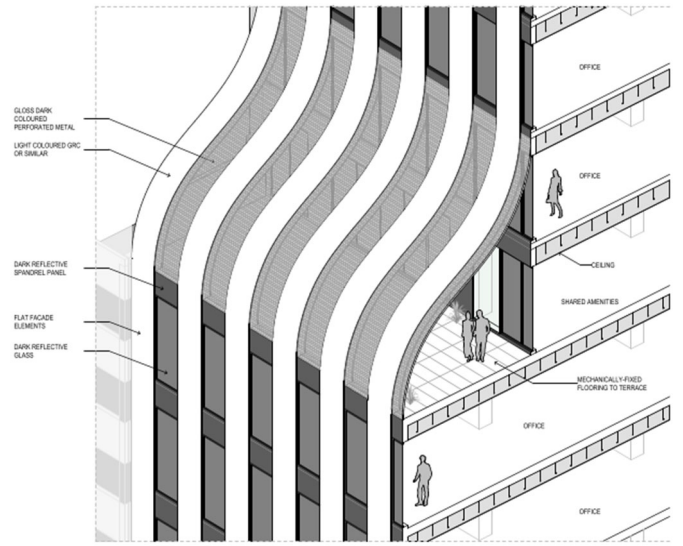


Figure 3: Street wall height

The proposed street wall would vary from the technical expectation for a 'stepped' height, including 4 storeys or less for 40 percent of the frontage as required by DD030. It is recommended the point where the front façade starts to splay back to the tower be reduced by at least one storey. The recommended design response would assist the street wall to read as commencing at Level 5 and provide a human scale to the street wall.

Whilst the street wall height is one storey less than the maximum street wall height, the architectural design response of the building needs to have due regard to its site context and street rhythm, noting that the floor to floor heights of plant and commercial uses are greater than the heights of the corresponding car parking and residential levels within the podium of Gravity Tower.

It is considered that combined with an overall reduction in the building height by to be no higher than 22 levels, have a maximum roof height of 87.03m AHD, have a maximum plant height of 88.91m AHD and increase the tower setbacks from Montague Street and Gladstone Place to be no less than Gravity Tower, the proportions and architectural expression of the building would provide an improved response to the DDO30 character precinct objectives and improved pedestrian scale along a key arterial route within the precinct.

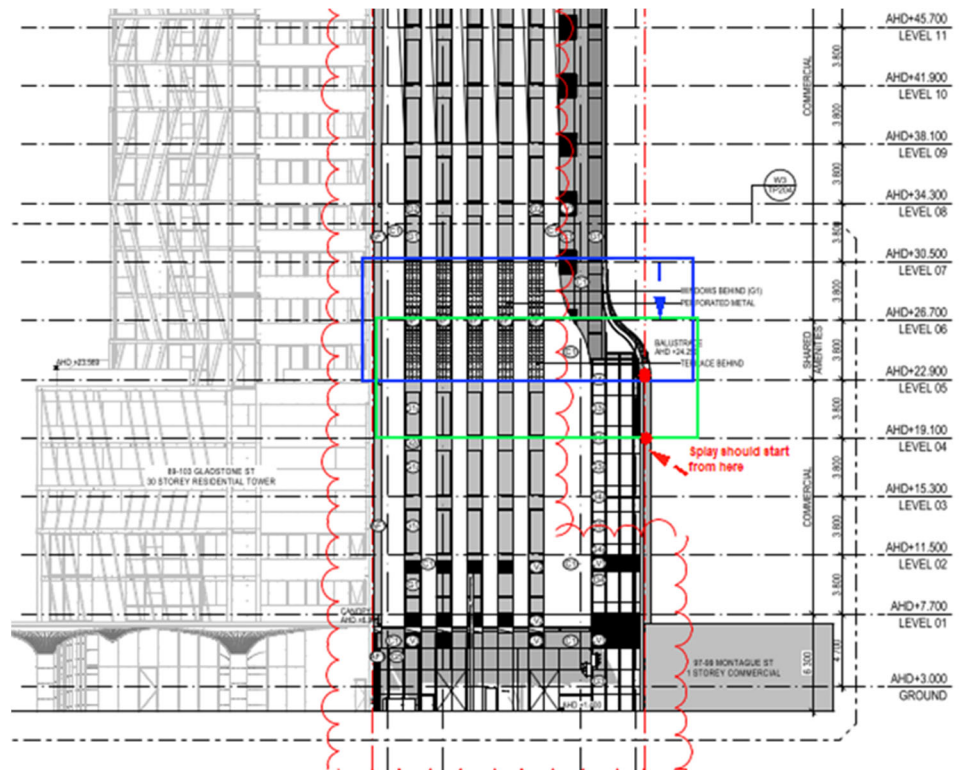


Figure 4: Street wall height

Tower Height

Precinct preferred building height: 7-15 storeys

Preferred: 68m / 20 storeys

Proposed: 98.9m (100.3m AHD) / 25-levels. Including plant -102.3m (103.7m AHD)

Assessment

The 25-storey tower height considerably exceeds the preferred mid-rise 7-15 storey height for the land and the 20-storey discretionary maximum height.

Having regard to the relevant planning objectives and provisions, particularly those related to the building height, form and typology outcomes that are sought. It is appropriate to evaluate the weight to be given to the relationship of the site with the adjoining sites including Gravity Tower and other emerging developments within the area.

The below extracts from the Urban Context Report detail the relationship of the proposal along Montague and Buckhurst Street scenes respectively.

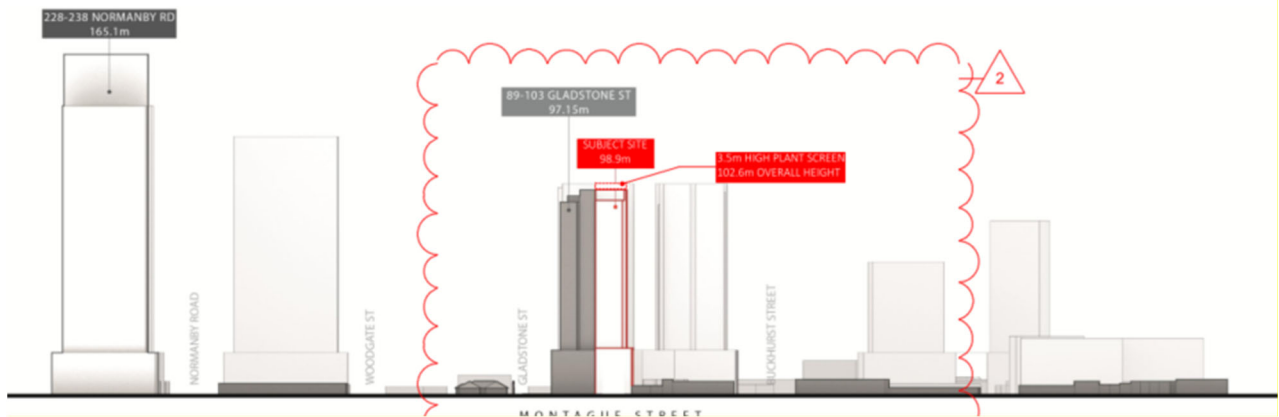


Figure 5: Montague Street building heights

Note: The approval for the building shown at 228-238 Normanby Road lapsed on 20-05-2019. There is no planning approval for this site.

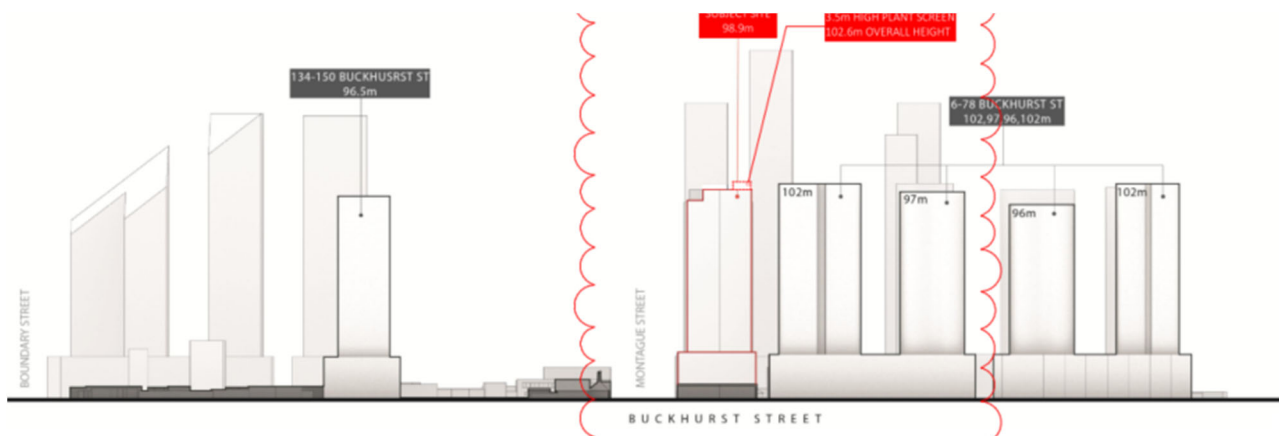


Figure 6: Buckhurst Street Building heights.

Note 1: The approval for the building shown at 134-150 Buckhurst Street lapsed on 01-09-2019. There is no planning approval for this site.

Note 2: The approval shown for 6-78 Buckhurst Street may not proceed in its current form. There is a current approval and intention to construct an alternative 3 and 4 level building on the eastern end of this site abutting Kerr Street.

Council notes the advice of The Advisory Committee in Planning Scheme Amendment C163port for 203-205 Normanby Road, South Melbourne (Site 6) 13 May 2020 which considered, amongst other things, transitions to buildings which exceed the preferred maximum building height and the role of the development in concealing an adjacent sheer blank walls.

The Advisory Committee found *“there is an expectation in the Planning Scheme for a varied skyline, which anticipates that taller buildings need not necessarily be ‘matched’ by equally tall buildings. While the Planning Scheme provisions seek a transition to lower rise areas of built form, there is no indication that a high-rise building should*



necessarily transition to a taller building height in establishing the preferred precinct character.

The Committee accepts that there might be instances where it is appropriate to exceed this preferred height but considers that any such proposal should provide clear justification referable to the Planning Scheme objectives including the Framework if it is to be supported.”

The Advisory Committee also noted, *“Allowing future development that substantially exceeds preferred maximum heights for the Precinct on the basis of higher adjacent approvals has the potential to perpetuate the former Planning Scheme regime and detract from the preferred future character to an even greater extent. Such an approach does not respond to policy aspirations for the Precinct”.*

Council’s Strategic Planners and Urban Designers have expressed concern that this proposal exceeds the preferred height by a significant margin. With an area 626m², the site is not considered to be a ‘larger’ site which can easily accommodate a high-rise and slender tower, this is evident in the variation to side and rear setbacks sought.

A five-level uplift from the preferred maximum height represents a 25% increase in the number of levels. The commercial use of these levels however translates to a greater visual impact as commercial floor to floor heights are proposed at 3.8m in lieu of typical residential floor heights of 3.3m. The proposed additional height is therefore more akin to eight residential floor levels. The proposal would exceed the preferred height by 32.3m to roof level and 35.7m to the top of the plant.

Consideration now turns to the site’s immediate neighbour, Gravity Tower. It is the advice of Council’s Urban Designer that there should be a distinction between the adjoining built form to avoid unreasonable visual bulk and contribute to an interesting and varied skyline. This may be achieved by many different design responses, but the proposition put forward in this application is that a ‘step-up’ in height from Gravity Tower is an acceptable design outcome. Council officers note that Figures 5 and 6 detail a relatively uniform skyline along the eastern side of Buckhurst Street and would not provide visual interest from key vantage points.

Council officers support the contemporary architecture and amendments to reduce the dominance of plant equipment to the upper levels however the volumetric relationship of the built form adjacent to Gravity Tower would be dominant from key vantage points within and outside the Fisherman Bend Urban Renewal Area (FBURA) and is not supported.

The Urban Context Report also considers the relationship of the built form on the adjoining sites to the south east which comprises multiple smaller parcels of land. Independently these lots are unlikely to achieve a built form greater than eight (8) levels, or 20 levels if consolidated.

Having regard to the evolution of planning policy within the FBURA and the preferred character, it is considered appropriate that Gravity Tower ‘bookend’ the corner with Gladstone Street and new built form transition down in height towards Buckhurst Street, acknowledging that overshadowing controls over the proposed Buckhurst Street open space to the south east will also limit the height that can be achieved on these sites.

In addition to the above, the proposed height also compounds wind conditions as discussed at Section 11.3.6 of this report. The Pedestrian Wind Environment Study,



whilst not specific to the amended scheme, identifies requirements for wind mitigation. Council’s Urban Design Advisor also notes matters relating to construction standards and impacts on the structural integrity due to constructions heights greater than Gravity Tower. Whilst the latter concern sits outside the ambit of discretion for planning, it is appropriate to note that the height extending above Gravity Tower has the potential to impact pedestrian safety from wind events.

In assessing what is an appropriate height for development on this site, Council officers have considered the extent of exposed wall of 199-201 Normanby Road that was deemed to strike an acceptable balance in determining the height of 203-205 Normanby Road. Table 11.3.3 summarises the findings of the Standing Advisory Committee and what was ultimately approved.

In approving 36 levels for 203-205 Normanby Road, four levels of exposed wall were determined to achieve an acceptable variation to the skyline in this location. These four levels represented a difference of approximately 8% (7.85%) to the roof height and 10% (9.78%) to the plant height between 199-201 and 203-205 Normanby Road. In applying the same equivalency as a point of reference only, a 10% reduction in the number of levels and overall height would equate to a 2.5 / 3 level reduction to the proposed built form (roof level being approximately 87m AHD) or roof plant height to approximately 89m AHD.

It is considered that as these towers will be read together from the public realm, a clearer distinction between the crown of the buildings should be established. Gravity Tower, whilst having a wider frontage to both Montague Street and Gladstone Place, largely reads as two slender towers.

Given the level of articulation to the south-eastern side wall of Gravity Tower, partial visibility to this wall from near vantage points will likely be limited if the proposed development were to be reduced to 22 levels, have a maximum roof height of 87.03m AHD and a maximum plant height of 88.91m AHD. The articulated side wall to Gravity Tower would provide a satisfactory backdrop to any reduction in height of the proposal from longer range views. Notably, a reduction in height to the proposal would minimise, but not fully conceal, the adjoining wall to Gravity Tower, an outcome deemed acceptable by the Advisory Committee for PSA C163 Port. **Table 11.3.3** details officers recommended heights for the proposal.

Table 11.3.3: Comparison of transitions to taller building heights

	Abutting lots: 199-201 and 203-205 Normanby Road		Abutting lots: 89-103 Gladstone Street and 91-95 Montague Street (Gravity Tower)	
	199-201 Normanby Road	203-205 Normanby Road	89-103 Gladstone Street (Gravity Tower)	91-95 Montague Street (Subject site)



	As built	Proposed	SAC Recommendation	Approved	Difference between approval for 203-205 with as built 199-201 Normanby Road Normanby Road	As built	Proposed	CoPP Recommendation	Difference between proposed built form and as built 89-103 Gladstone Street	
Roof Height	40 levels / 124.8m AHD	36 levels / 115m AHD	30 levels / 101m AHD	36 levels / 115m AHD	4 levels (10%) / 9.8m (7.85%)	30 levels / 94.45m AHD	25 levels / 100.3m AHD	22.5 / 22 levels / 87.03m AHD	-2.5/3 levels / - 7.42m	
Plant Height	130.8m AHD	118m AHD	104m AHD	118m AHD	12.8m (9.78%)	98.55m AHD	103.7m AHD	88.91m AHD	-9.64m	
DDO 30	Typology M1 – Building Height 20 storeys / 68m					Typology M5 – Building Height 20 storeys / 68m				

The direction set out in policy and the above findings for C163port, is that a significant departure from the preferred building heights and preferred precinct character would diminish the objective of a hybrid mid-rise character between 7 storeys to 15 storeys.

In order to achieve the preferred precinct character, the proposed development should:

- step down in height from Gravity Tower;
 - be no higher than 22 levels and have a maximum roof height of 87.03m AHD; and
 - have a maximum plant height of 88.91m AHD;
- to help realise the appropriate mix of built form outcomes outlined in Clause 2.4 and 2.5 of DDO30.

11.3.4 Street Wall Setbacks

The podium is proposed to be constructed to all boundaries apart from minor variations up to 0.15m to facilitate kinks in boundary alignments.

11.3.5 (Tower) Setbacks Above the Street Wall / Side and Rear Setbacks

For buildings over 20 storeys a 10m preferred and minimum setback should be provided to all boundaries.

The tower is proposed to be setback as follows:

Montague Street:

- 5m setback from Level 5 to 23.



- A building skin splays from the edge of the podium at Level 5 to the tower façade at Level 7.
- Angled architectural fins encroach approximately 1m into the setback from Levels 14 to 23.
- 10m setback at Level 24
 - A terrace area with perimeter planters and roof edge encroach 5m into the setback.
 - Angled architectural fins encroach approximately 1m into the setback.
- 13.1m setback at Level 25 from the edge of the roofed plant areas and louvered screening.
- The setback of the southern corner of the tower recesses to 9.86m.

Gladstone Place:

- 4.5m (when measured from the centreline of the road) from Level 5 to 24.
 - Angled architectural fins encroach approximately 1m into the setback from Levels 14 to 24.
- 8.5m setback (when measured from the centreline of the road) at Level 25 from the edge of the louvered screening.
- The setback of eastern corner of the tower recesses to 3.6 and 4.6m.

South-east side boundary with 97-99 Montague Street:

- Min. 2.6m / max. 3m (due to irregular side boundary) from Levels 5 to 24.
 - Angled architectural fins encroach approximately 1m into the setback from Levels 14 to 24.
- 5.13m setback at Level 25 to the edge of the louvered screening and 9.8m from the edge of the roofed plant areas.
- The setback of the southern corner of the tower recesses to 4.55 and 8.6m.
- The setback of the eastern corner of the tower recesses to 5.13m and 6.18m.

North-west side boundary with 89-103 Gladstone Street (Gravity Tower):

- 0.15m setback to the north-west side boundary to all tower levels (i.e. continuation of podium setback).

The proposed setback behind the street wall is proposed at 5m and marginally forward of the adjoining Gravity Tower. The proposed setback to Montague Street is also enclosed by the building façade.

It is acknowledged that due to the wing wall of the snorkel bedroom layouts of Gravity Tower, stepping forward marginally will not have any resultant amenity impacts in



terms of daylight access to the adjoining Gravity Tower. It is nevertheless considered to result in an awkward junction between the two developments. It is recommended the proposal should step back to be no less than Gravity Tower, noting the fins will step forward of the façade at upper levels. Alternatively, the junction between the two developments should be reconsidered so as to present a deeper shadow gap beyond that proposed or a change in materiality at this location.

There is concern that the proposed setbacks to Gladstone Place could visually overwhelm this part of the public realm and affect daylight access to the laneway, as outlined in Clause 2.8 of DDO30. It is preferable that the minimum setback above the podium be increased to match that of the adjoining Gravity Tower building.

The proposed zero (0.15m) setback to the north west boundary would not unreasonably impact on natural ventilation of the podium car parking of Gravity Tower.

In the interests of equitable development, it is historically anticipated that construction along this common boundary would occur in front of the south-facing windows (core / stairs areas which are non-habitable areas). The development permit for Gravity Tower includes a condition which required the owner to enter into a S173 agreement regarding construction along the common boundary.

Council officers previously raised concerns with the setback to the south east side boundary. A review of the revised plans which include further articulation details has confirmed the variation to the setbacks can be acceptable. A 3m setback proposed for the central 21.33m length of the wall with the remaining 6m length closest to Montague Street and 3m closest to Gladstone Place stepped back to a maximum of 6.18m which is considered to deliver an acceptable outcome. The daylight analysis confirms that the floorplate is of a depth that would receive an acceptable level of daylight. The proposed variation to the setbacks can be supported.

The floorplate area would be compromised (given that narrow width of this site) if the mandatory setbacks were rigorously applied to this site and the proposed variations to the side boundaries can be supported however minor increases to both street setbacks should be required as a condition of any Incorporated Document.

11.3.6 Wind Effects on the Public Realm

A Pedestrian Wind Environment Study including wind tunnel assessment was prepared on 13 September 2019, referring to a 25-storey building (106m high including plant). This report has not been updated to reflect amendments to the current scheme which includes reducing the building height to 102.3m (including plant) and an altered crown to the building. That report concluded that wind amelioration treatments were required such as landscaping to terrace areas and the addition of porous screens.

The report did not identify preferred locations of wind mitigation measures to achieve a comfortable wind environment. Further, the assessment plans that are the subject of this report do not specify if the recommendations of the wind report have been incorporated.

Council officers have identified the following issues with the report:

- The wind assessment needs to address the requirements of DDO30, not those included in Amendment C270 to the Melbourne Planning Scheme;



- Several developments either approved or under construction have not been included in the proximity model, particularly 6-70 Buckhurst Street (30 storeys) and 15-87 Gladstone Street (30 storeys);
- The mandatory wind safety criteria in DDO30 must be achieved. Where the safety criterium is already exceeded, the development must not increase the extent of non-compliance. The current proposal results in exceedance or worsening of safety criteria in 13 test locations (# 3, 5, 10, 24, 25, 29, 30, 32, 39, 44, 46, 47 and 56);
- Standing comfort criterium should be achieved, or existing comfort not worsened, for the footpaths / verges to Montague Street and Buckhurst Street. These areas are on key streets within the Montague Core Area where pedestrians will be encouraged to linger. The current proposal results in exceedance or worsening of this criterium in 7 test locations (# 8, 9, 10, 20, 25, 28 and 29);
- Any proposed wind treatments need to be located within the development (not on public land). Reliance on the street trees along Montague Street is not acceptable; and
- Any proposed changes to the built form and/or wind treatments need to be qualified to demonstrate how an amended proposal will achieve the policy requirements in Clause 2.11 of DDO30.

There are concerns the application does not include responses to mitigate wind impacts and how any measures would be architecturally resolved in a development which is underpinned by an emphasis on clean lines.

Any Incorporated Document that may be approved for the proposal must include conditions for:

- Further wind reports, including wind tunnel testing to be prepared to confirm that the proposal would satisfy the relevant standing and walking wind criteria abutting each site and for pedestrian areas within the site and at podium rooftop level.
- The depth of any awning over any adjacent footpath must not impact on any existing street tree or proposed street tree plantings.
- The proposal to incorporate all the recommendations of the revised wind report.

11.3.7 Active Street Frontages

Montague Street is designated a Secondary Type 1 (60% permeability) active frontage which seeks at least 60% clear glazing along the ground level frontage to a height of 2.5m, excluding any solid plinth or base. Gladstone Place is not designated as an active street.

Assessment

The elevation drawings and renders detail the Montague Street façade at ground floor incorporating floor to ceiling glazing in excess of 2.5m height but the drawings lack a dimension to confirm.

The renders also differ from the plan drawings in the way they depict the fire boosters, showing them as external and highlighted in a bright red finish to accentuate their functionality as quasi urban sculpture whereas the plans indicate a rebate and partial concealment. The plans should be amended to accurately show the location and

design of the fire boosters, which should be minimised in size facing any street and preferably relocated so as to maximise the active street frontage to Montague Street and architecturally resolved within the building design.

Council's Urban Designer noted it is important to consolidate services within buildings and ensure any externally accessible services or substations are integrated. It is preferred that services be accessible from Gladstone Place as the secondary frontage.

Whilst not designated as an active frontage, Gladstone Place plays a role in the laneway character of the area. The façade treatment is dominated by access to the loading and service area. The provision of activation through a retail / communal area is supported. A planter bed over the gas and water meter cupboards is supported, nothing that these areas may need to be setback from the boundary to accommodate service doors opening within the title boundary. Council does not support any encroachment of doors over public land.

Further consideration of the façade activation above street level and the detailed design is discussed at Section 11.3.9 of this report.

Any Incorporated Document that may be approved for the proposal must include conditions for detailed plan and elevation drawings including detailed façade strategy elevations for the podium levels.

11.3.8 Adaptable Buildings

Adaptable buildings should incorporate elements as follows:

Table 11.3: Adaptable Building Assessment

Building element	Adaptability opportunity	Compliance
Lower levels up to the height of the street wall	At least 4.0m floor-to-floor height at ground level At least 3.8m floor-to-floor height for other lower levels	Achieved: Ground level floor-to-floor height: 4.7m within the lift lobby area and increasing to 6.1m to the retail frontages. Podium levels 1 to 4 floor-to-floor height: 3.8m
Car parking areas	<ul style="list-style-type: none"> In areas not in a basement: Level floor. A floor-to-floor height at least 3.8m. Mechanical parking systems to reduce the area required for car parking	N/A Whilst there are no car parking areas it is noted that an 5.3m floor-to-floor height for the loading area.
Dwelling layout	The ability for one and two-bedroom dwellings to be combined or adapted into three or more-bedroom dwellings	N/A
Internal layout	Minimal load bearing walls to maximise flexibility for retail or commercial refits.	N/A

Assessment

The building meets the adaptability standards and is appropriately designed for its proposed retail and office uses. The upper level floorplates are considered adaptable and can be easily be retrofitted with stud walls or similar to partition the floorspaces to meet specific requirements which is particularly important at present as the State

emerges from a COVID enforced lockdown where a return to working in an office environment requires social distancing.

11.3.9 Building Finishes

The building presents as a mixture of white and charcoal shades of applied finishes; spandrel glazing in charcoal and gold; gloss black and matte white perforated metal; black, white and coloured metal louvers and an orange/red 'brick look' finish. The articulation includes a vertical emphasis with chamfered corners to facilitate the presentation of a 'slender tower' from primary vantage points within the public realm before splaying out to the centre of the site to facilitate a greater floorplate area.

The use of coloured glass and reinforced concrete in vertical stripes 'twisting' between Levels 9 and 15 and interspersed with glazing from the first floor of the podium to Level 24 provides a fluid design across both the podium and tower. The recessed corners to the towers are treated with gold coloured spandrel glazing. Whilst the simplicity and clean lines of the architectural language are generally supported, Council queries if the solid to void ratio of the façade, particularly within the podium levels results in limited activation. Further consideration should be used to increase the width of glazing elements within the podium and / or 'twisting' the white fin elements to add greater depth to the podium and introduce opportunities for greater shadow lines and visual interest along the façade.

The canopy suitably integrates with the architecture of the building and streetscape elevations indicate it would provide a continual cover with the same clearance from the footpath. It is queried if the 'white stripe' element should form a continuation of the vertical articulation above or whether the offset proposed is a suitable juxtaposition.

It is also considered that the canopy should extend for the full width of the site frontage, as failure to do so would create a miscellaneous gap along the streetscape when the adjoining lots are developed. Any Incorporated Document should include a requirement for the canopy to be suitably setback from traffic signals and street tree canopy clearances.

The design response provides for a well-articulated, innovative, and a visually interesting presentation to the public realm, subject to amendments noted above, and would generally be viewed and positively experienced from many surrounding vantages within and outside Fishermans Bend.

It is however noted that the areas of the building and retail tenancies that may be impacted by floodwater (e.g. transition areas) will need to be designed and operated to manage flood risk during the life of the development. Any Incorporated Document that may be approved for the proposal must include conditions for:

- Design elements and materials to be resilient including waterproof doors and windows, elevated power outlets and the like.
- Uses at ground floor level should be able to easily recover from the impacts of temporary flooding.

11.4 Clause 45.09: Parking Overlay and Clause 52.06: Car Parking

(Note: See assessment at 11.2.3 of this report).

11.4.1 Car Parking

The subject site is within the Parking Overlay pursuant to Clause 45.09 of the Planning Scheme. The Parking Overlay specifies maximum rather than minimum parking rates for **Retail premises** and **Office** uses A permit is required to provide parking in excess of the Parking Overlay rates.

An assessment of car parking rates and provision is set out at as follows:

Table 11.4.1: Car parking rates and provision

MAXIMUM CAR PARKING PROVISION	PROPOSED CAR PARKING PROVISION
Retail premises: Max. 1 space / 100m ² gross floor area (Clause 45.09)	
173m ² x 1/100 = 1 (1.7) spaces	Total: 0 spaces. Complies
Office: Max. 1 space / 100m ² gross floor area (Clause 45.09)	
6,275m ² x 1/100 = 62 (62.7) spaces*	Total: 0 spaces. Complies
TOTAL: 63	TOTAL: 0

* It is noted Page 14 of the Carndo Traffic Impact Assessment incorrectly notes the Office GFA as 12,496m²

Car parking is not proposed as part of this application.

Assessment

The Fishermans Bend Framework Plan sets out *Sustainability goals* including *A connected and liveable community* where, "... people will be connected through integrated walking, cycling public transport links that will make choosing Sustainable transport options easy....Activity cores will be located near public transport and include community services and public spaces to ensure the people can access their daily needs close to where they live and work. These reliable and sustainable transport options will mean fewer than one in five trips will be made by private car."

General strategies for Fishermans Bend at Clause 21.06 Section 6.8.7 seeks to, "Encourage the highest concentration and mix of uses in the defined core areas, located on public transport nodes and routes to increase public and active transport use, reduce car dependence and promote multi-purpose trips".

Policy provides clear direction in encouraging a modal shift towards sustainable transport modes and a reduction in car dependency.

The subject site is close to light rail and bus routes and is within walkable distance to convenience shops and services popular with office workers in South Melbourne in the short term until the strategic vision set out for Buckhurst Street and the Montague core area is realised.

The site is also in an area that experiences very high traffic volumes, where it is desirable that new developments minimise additional traffic generation. Notwithstanding this, Council must consider whether zero provision of car-parking on-site would result in unreasonable parking pressure within the adjoining street networks.

The Cardno Traffic Impact Assessment includes details of a parking occupancy survey of on-street parking, generally within a 250-300m radius of the site, was undertaken on

1 May 2019 between 7.30am and 6.30pm (pre-COVID lockdown). The survey identified:

- A total of 424 car parking spaces were available for public use and are regarded as suitable for future occupants of the development during typical office hours.
- The available 424 spaces included a mix of time restricted parking spaces, unrestricted parking spaces, ticketed parking, plus one DDA compliant space.
- The overall peak demand occurred at 1:30pm at which time 347 spaces were occupied, leaving at least 77 spaces vacant and available.

The report states, “*The results indicate demands are relatively moderate-high with a moderate number of parking spaces being available between 9:00am-6:00pm (maximum occupancy rate of 82% was recorded)*”.

It is acknowledged that future works within the Montague precinct, especially in the realisation of the Buckhurst Street linear park and Buckhurst / Montague Streets and other developments being finalised will likely result in a reduction in on-street car parking capacity. Any reduction in on-street car parking will be complemented by upgrades to strategic cycling connections and public transport upgrades within the area. Officers note that the subject site is close to the Montague Street light rail stop #126 and City Road stop #126, the #234 and #235 bus routes and there are other bus services nearby and car share services nearby.

On site bicycle facilities will be discussed at Section 11.4.4 of this report. It is also anticipated that future workers within the area may be local residents. The delivery of these key infrastructure projects will therefore facilitate the transition to more sustainable transport modes and will not result in the saturation of existing on-street car parking by this development.

Whilst the Traffic Impact Assessment notes the development is in proximity to carshare facilities, little weight is given to this as a sustainable alternative in the short-term as the nearest location is approximately 450m but it is acknowledged that further car share facilities are likely to be available within the area as the precinct is further developed.

11.4.2 Design Standards

As per the internal referral comments set out at Section 8 and Appendix 5 of this report, Council’s Traffic Engineers raised concerns regarding the car park design and the level of detail in the drawings noting:

Crossover

- Recommend the crossover on Gladstone Place is reduced to the minimum necessary to facilitate ease of access to the Loading Bay. The kerbs and channel to be reinstated to the satisfaction of Council.

Bicycle Facilities

- See comments at Section 11.4.4 of this report.

Loading and Waste area

- Plans need to clearly show the loading bay dimensions, clearance from walls/columns/obstruction, aisle width, etc. to confirm compliance.
- Plans need to show details of access arrangements / restrictions (eg: swipe card access or similar).



- Plans need to RLs of the Loading Bay. Recommend drawings include a longitude cross section.
- The loading area does not provide convenient access to lifts and retail spaces. The transition from 1.4m AHD to 3.0m AHD of the lobby area must be appropriately designed.
- Need more information on how users can access the loading / waste area.
- All loading should be accommodated on-site. The loading area should be accessible to all tenants.

Other

- A Green Travel Plan should be provided.

These matters would need to be provided for by conditions of any Incorporated Document that may issue for the proposal.

11.4.3 Motorcycle Parking

Developments with over 10,000m² non-residential floor space - Provision of 1 space per 100 car parking spaces.

The development is for less than 10,000m² therefore motorcycle parking is not required and none are proposed.

11.4.4 Bicycle Facilities

Clause 52.34 of the Planning Scheme sets out different bicycle parking requirements to those specified at Clause 4.2 of Schedule 1 to the Capital City Zone.

Neither Clause 4.2 of the Schedule to the Capital City Zone or Clause 52.34 provides guidance as to whether either clause supersedes the other or the clauses should be read in conjunction with one another.

For this assessment, officers have elected to:

- Use both the bicycle parking rates specified at Clause 4.2 of the Schedule to the Capital City Zone because they are the most recent addition to the planning scheme and because they relate specifically to the Fishermans Bend Urban Renewal Area; and
- Use the bicycle spaces, shower and change room requirements at Clause 52.34-5 and the Design of bicycle spaces and Bicycle signage requirements at Clauses 52.34-6 and 52.34-7 because Clause 4.2 of the Schedule to the Capital City Zone does not set out alternative requirements for these matters.

An assessment of the bicycle facilities for the proposal is as follows:

Table 11.4: Bicycle Facilities

Bicycle Facility	Rate	Requirement	Proposed
	Table 2 of Section 4.2 of Schedule 1 to the Capital City Zone		



Bicycle Parking	Developments with over 10,000m² non-residential floor space <ul style="list-style-type: none"> 1 space per 50 m² of net non-residential floor area 1 visitor space over 100 m² of net non-residential floor area. 	N/A	N/A
Bicycle Parking	Use listed in Table 1 of Clause 52.34	Requirement	Proposed
	Retail premises: <ul style="list-style-type: none"> 1 employee space to each 300m² of leasable floor area and 1 visitor / shopper space to each 500m² of leasable floor area Office: <ul style="list-style-type: none"> 1 employee space to each 300m² of net floor area if the net floor area exceeds 1000m² 1 visitor space to each 1000m² of net floor area if the net floor area exceeds 1000m² 	Retail premises: 173m ² <ul style="list-style-type: none"> 1 employee space required Office: 6,275m ² <ul style="list-style-type: none"> Total employee spaces required: 22. Total visitor spaces required: 7 Total: 30	Retail and office bicycle parking spaces: 80* (+50). * including 8 bicycle spaces on the footpath.
Showers:	If 5 or more employee bicycle spaces are required, 1 employee/resident shower for the first 5 employee bicycle spaces, plus 1 to each 10 employee bicycle spaces thereafter.	3 employee showers are required	12 (+9)
Change rooms:	1 employee/resident change room or direct access to a communal change room to each shower. The change room may be a combined shower and change room.	3 employee change rooms are required or one with direct access.	2 changes rooms with direct access from shower facilities.

The plans show details of bicycle facilities required by Clause 52.34-5.

The plans do not show details, including dimensions, of the design of bicycle spaces or distinguish between visitor and staff bicycle parking.

The bicycle parking spaces at ground floor level would have reasonable accessibility and convenience, bike lift being remote from the Montague Street entrance.

A redesign to provide more or all bicycle parking at ground level would improve bicycle-parking usability.

It is recommended the Applicant consider design guidelines outlined in Clause 52.34, including:

- Remove/delete proposed bike racks along Montague Street. All proposed bike racks must be contained on-site. The Applicant should consider providing on-site bike parking near the building's frontage for visitors.
- Recommend removal of staircase and provide a ramp to access the 'Bike Lift'. The Bike Lift does not appear to be to conveniently accessible from Montague Street.



- Proposed Bike Lift must be able to safely fit the length of a bike, lift to be dimensioned.
- Ground Level visitor bike racks should be horizontal.
- Plans need to clearly show bike rack spacing and aisle width, and which racks/areas are visitor/resident/staff spaces.
- Swept path diagram detailing ease of access of the bike lift to the storage area at Level 1.

The above matters need to be provided for by conditions of any Incorporated Document that may be approved for the proposal.

The ground floor stairs could alternatively be modified to include bike tracks to both sides.

11.4.5 Cumulative Traffic Impacts

Council's traffic engineers have requested a Traffic Impact Assessment. Despite the title of the supporting Traffic Report prepared by Cardno, there is no modelling provided regarding traffic movements. Whilst it is acknowledged that zero provision of car parking on-site and the general acceptability of this to Council, the traffic report must consider the cumulative traffic impact of the proposal and other approvals and potential approvals within the immediate road network.

Any report should:

- Consider the broader Montague Precinct and FBURA and make assessment of traffic impacts on the road network.
- Provide modelling or detailed assessment for arterial / local intersections including the Montague / Gladstone Street intersection, Montague / Buckhurst Street intersection and respective intersections with Gladstone Place and new laneways to be delivered by approvals at 6-78 Buckhurst Street and 15-87 Gladstone Street.
- Provide details of SIDRA (i.e. intersection) modelling and consider future traffic growth, noting that key intersections are already operating at or close to capacity.
- Cumulative impacts of currently approved and other potential future developments to provide a better understanding of existing and forecast traffic conditions which would better inform VicRoads and Council on necessary changes to the road network / intersection operating conditions as the area is gradually redeveloped.
- Undertake trip generation analysis.

In addition, officers further note:

- The existing street network is already heavily congested during the morning and evening peaks, particularly along Montague Street leading to and from the West Gate Freeway;

- It is unclear if the existing public transport network has sufficient capacity to accommodate the additional demand generated by these developments.

11.5 Waste Management

The Waste Management Plan (WMP) proposes:

- A private collection service is recommended to collect all waste streams from within the property twice weekly.
- Building Management is responsible for all aspects of waste management including access for the waste contractor to enter the site and bin store on the days of collection.
- A 6.35m rear mini loader waste vehicle only is to enter the rear lane from Gladstone Street and reverse into the rear loading bay. After collection occurs, the waste vehicle can exit the site in a forward direction and continue down Gladstone Place through to Buckhurst Street.
- Waste shall be stored within the development, adjacent to the loading bay to the rear of the building (hidden from external view).
- Users shall sort their waste and dispose garbage and recyclables via the chutes detailed at every floor level and/or directly into collection bins as will be the case for the retail tenancies.
- The commercial space waste generation rates are specific to the area types shown. Should there be a different use of the commercial space then the waste generation and allowances are to be review and may be subject to further approvals.
- A private maintenance contractor will be responsible for removing any green waste from common areas and can also by arrangement, remove green waste from individual tenancies acknowledging that it is expected that organics collection will become standard practice amongst all councils over the next 1-3 years. Food waste collections should occur a minimum 2-3 times per week (depending on the temperature of the bins) to avoid a build-up of odour and unwanted mess.
- A private collection service arranged by Building Management is to be engaged for hard waste collections as required. Alternately, items can be taken to the local waste recovery centre.
- The WMP refers to the follow collection summary:

Table 11.5: Waste Facilities

Waste type	Bin type	Frequency of collections
Garbage	3 x 660L	2 times weekly
Co-mingled Recycling	2 x 660L	2 times weekly
Green garden waste	n/a	n/a
Organic	1 x 240L	2-3 times weekly
Hard plastics	1 x 360L	2 times weekly
Cardboard and paper	1 x 660L	2 times weekly



Hard waste	Designated area 2m ²	As required to maintain space
E-waste	1 x240L	As required to maintain space

- A mechanical ventilation system for the bin storage area must not cause a public health nuisance (noise and odour generation) is recommended to comply with EPA requirements and in accordance with the ventilation requirements of the Building Code of Australia and AS 1668.2.
- The WMP plan provides a Bin store design assessment detailing required changes / points of clarification such as dimensions of roller door and doorway width, internal instructional signage.

The Waste Management Plan further notes the following noise management strategies:

- Insulating waste chutes.
- Collections occurring during the below stipulated collection times restricts the hours of noise from collections.
- Collection vehicles should not break up bottles at the point of collection, only once off site.
- Compaction of waste should only be carried out whilst waste vehicles are on the move.
- Waste collection times in accordance with EPA Noise Guidelines and Local laws.

The WMP and the Architectural Drawings are inconsistent. Officers note:

The Architectural Drawings and Waste Management Plan are generally acceptable subject to clarification of the matters outlined below:

- Plans to show bin/refuse rooms with all bin locations clearly marked, bin sizes noted, numbers and colours.
- Dimensions of roller door and doorway width.
- Clarification on access arrangements for cleaners to access the bin room with cleaning equipment / trollies. The bin room needs to be DDA compliant or to people with trollies, to dispose of any items not suitable for the chute.
- Location of internal instructional signage.
- A swept path diagram as per the Traffic Engineers comments at Section 11.6 of this report.
- A trained spotter will be appointed to assist with manoeuvring waste vehicle.

Any Incorporated Document for the Amendment should include a condition requiring detailed plans and an updated Waste Management Report to be prepared and approved by Council.

11.6 Loading

The plans detail a loading bay to the rear of the property accessed of Gladstone Place. The Traffic Impact Assessment prepared by Cardno dated 28 August 2019 specifies the dimensions of the loading bay to be approximately 6m wide (narrowing to 4.35m wide) by 9.5m in length. Council notes that this statement and associated Swept Path diagrams relate to an earlier version of plans for the site, therefore Council continues to



request that any Incorporated Document include a swept path assessment to show loading and/or waste vehicles accessing the loading bay via Gladstone Place in relation to the assessment plans. It is recommended that the loading area is designed to *AS2890.2 – Off Street commercial vehicle facilities*.

Council notes that the aforementioned loading bay dimensions cited above would be sufficient to cater for the loading requirements of a 6.35m Wastewise Mini and an SRV and would meet the recommended condition noted above.

Noting the size of the retail component delivery of goods is likely to be undertaken by smaller trucks or vans, Council would consider this to be appropriate provision of loading and unloading facilities for the development.

11.7 Sustainable Design

A Sustainability Management Plan (SMP) was submitted with the application.

The SMP was prepared by WSP and was entitled Revision B and dated 27 August 2019 and was accompanied by a Green Star Design & As Built v1.2 Score Card dated 5 August 2019, also prepared by WSP. Officers note the report is based on a previous version of the proposal and has not been updated to reflect amendments to the current scheme.

Council's Sustainable Design officer noted the SMP commits to a 5-star certified Green Star Design and As Built rating, which is appropriate for a development of this scale and is consistent with mandatory condition requirements in the Capital City Zone (CCZ1). The SMP also commits to a 5 star NABERS rating for Energy (without Green Power) and a 4 star NABERS rating for Water.

Overall, the SMP demonstrates that the development has the potential to achieve a 5 star certified Green Star Design and As Built Rating, with potential for achieving a 6 star rating. While it's acknowledged that further design development is required to specify the specific details of how each credit will be achieved, it's preferable that some firmer commitments are made in the SMP as noted below:

- The SMP notes that sufficient spread of natural daylight through the internal spaces will be dependent on both light coloured internal finishes and optimisation of façade glazing and shading systems, the daylight factor that would be achieved via the design as shown on the proposed architectural plans should be modelled now, at the planning application stage. Daylight modelling at this stage will demonstrate whether any significant design changes would be required to meet this daylight target, prior to planning approval. This would avoid the need for amendments further on in the planning process.
- The SMP states that to assist with achieving 5 star NABERS a highly efficient hot water system is required, with the option of implementing a high efficiency electric heat pump hot water system. The potential to offset the system with solar is encouraged and it's noted that the SMP refers to the need for sufficient plant space onsite. This should be explored now at the planning stage, with further details provided to demonstrate how much plant space would be required and whether any architectural design modifications would be required to achieve it.
- The proposed 32kL rainwater meets the required capacity of 0.5m³ per 10m² of catchment (catchment = 641m²), as per the conditional requirements of the CCZ1. However, note that the CCZ1 requirements are for an effective tank



capacity, meaning that the overall capacity must be slightly larger to accommodate for dead space.

- The WSUD report in Appendix B of the SMP uses STORM to measure the stormwater quality outcome. MUSIC is the preferred modelling tool for development in FBURA, particularly of this scale. MUSIC modelling should be provided.
- The SMP does not refer to third pipe or provision of a connection point to the future precinct scale water recycling system. The SMP must include the third pipe commitments as per the mandatory requirements at Clause 4.3 of the CCZ1.
- A Green Travel Plan must be submitted with this application – This is an application requirement of Clause 22.13 of the Port Phillip Planning Scheme, refer to Table 1 at Clause 22.13-4.
- The Building Materials and Waste Management potential commitments in the SMP are positive. It is preferable for the SMP to provide some solid commitments in this regard at the planning stage, so that the commitments on materials choices can be carried forward to detailed design development.
- A number of innovation challenges have been proposed. Although further work is required in order for the project team to ensure full commitment to these initiatives, it's preferable for some solid commitments to be made in the SMP at the planning stage. For example, the Reconciliation Action Plan is consistent with overarching objectives for development in FBURA.

All other aspects are considered satisfactory.

11.8 Flooding / Street Interface

It is a requirement that Melbourne Water's Planning for Sea Level Rise Guidelines (February 2017) and Melbourne Water's Guidelines for Development in Flood-Prone Areas (October 2008) be applied to the Fisherman's Bend Urban Renewal Area.

A recent Design Sprint with government stakeholders in Fishermans Bend workshopped how flooding risks could be appropriately managed and still maintain good urban design principles such as activation at street level and accessibility. This application has been identified as a working example as to how the interface with Montague Street could be improved.

Council's Urban Designer has noted that a 4 m deep transition zone at footpath is successful in providing some activation to footpath, this space is divorced from the rear of the tenancy by a 1.6m high internal split. The rear of the tenancy is at 3.0m AHD.

The following opportunities are for improvement:

- Existing Montague footpath appears to be RL1.6 contour (not 1.4 as shown on architectural plans). Existing levels to be confirmed by proponent.
- MW floor level concession on this site is FFL 2.2 AHD for retail tenancies (approx. 600mm higher than footpath). Melbourne Water have provided a level of comfort to Council's Urban Designer, noting, "*that a finished floor level for retail tenancies can be considered at 2.2m to AHD in this case (based on the flood levels and natural surface levels) – with a caveat around the size of the retail tenancies. I understand the attached plans are the current draft plans?* The southern retail tenancy is quite sizeable, and where there is reasonable*



opportunity to transition up to a higher floor level we would expect the applicant to consider that in their design. If the retail spaces were to be increased from that proposed, we would probably look for them to raise all or part of the floor level.

- *MW floor level concession on this site is FFL 2.2 AHD for retail tenancies (approx. 600mm higher than footpath). MW to confirm in writing to proponent.”*

**The above advice related to an early set of architectural plans but Council notes that the assessment plan that are the subject of this report are similar. Such details should be confirmed with Melbourne Water.*

- Preferred retail frontage strategy is therefore at grade entry at footpath level with internal steps and DDA access via internal ramp in main public entry foyer. This arrangement could retain one platform lift at top of ramp to provide access up to 3.0m AHD lift lobby. A similar strategy should be adopted for access arrangements from Gladstone Place. The platform lift only provides access from the lift lobby at FFL 3.0 AHD to the mezzanine retail / communal and not from the entry level off Gladstone Place at FFL 1.4 AHD.

It is considered that the above amendments, subject to being determined as an acceptable design response by Melbourne Water should be included as a condition of any Incorporated Document.

11.9 Environmental Audit

An environmental audit has not been undertaken for the land.

Pursuant to Clause 6 of the Schedule to the Capital City Zone:

Before a sensitive use (residential use, childcare centre, pre-school centre, primary school, education centre or informal outdoor recreation) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, the developer must obtain either;

- *A certificate of environmental audit issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or*
- *A statement in accordance with Part IXD of the Environment Protection Act 1970 by an accredited auditor approved under that Act that the environmental conditions of the land are suitable for the sensitive use.*

The use is not classified as sensitive therefore an Environmental Audit would not be required for uses and construction (excluding demolition) on this site.

To ensure the use of future adaptability of the building and its use, the proponent is encouraged to undertake an appropriate level of environmental assessment as directed by the *Potentially Contaminated Land General Practice Note June 2005* and any recommended land remediation.

11.10 Infrastructure Contribution Overlay (ICO1)

Amendments **VC146** (15 May 2018) and **GC81** (05 October 2018) introduced the Infrastructure Contributions Overlay and Schedule 1 to the ICO respectively.

Pursuant to Clause 45.11-2, a permit must not be granted to subdivide land, construct a building or construct or carry out works until an infrastructure contributions plan (ICP) has been incorporated into the Planning Scheme.



The application for a Planning Scheme Amendment allows assessment and approval of applications in the interim before an ICP has been incorporated into the Scheme.

Pursuant to the FBSAC Terms of Reference (Paragraph 20), the Advisory Committee is directed not to consider submissions and evidence in relation to the application or operation of the Infrastructure Contributions Overlay.

11.11 Aboriginal Cultural Heritage

All of the land is in an 'area of cultural heritage sensitivity' as defined under the *Aboriginal Heritage Regulations 2018*. This includes registered Aboriginal cultural heritage places and land form types that are generally regarded as more likely to contain Aboriginal cultural heritage.

Under the Aboriginal Heritage Regulations 2018, 'areas of cultural heritage sensitivity' are one part of a two-part trigger which require a 'cultural heritage management plan' be prepared where a listed 'high impact activity' is proposed.

If a significant land use change is proposed (for example, a subdivision into 3 or more lots), a cultural heritage management plan may be triggered. One or two dwellings, works ancillary to a dwelling, services to a dwelling, alteration of buildings and minor works are examples of works exempt from this requirement.

Under the Aboriginal Heritage Act 2006, where a cultural heritage management plan is required, planning permits, licences and work authorities cannot be issued unless the cultural heritage management plan has been approved for the activity.

The *Planning and Environment Act 1987* (Act) does not define the amendment of a planning scheme as a "statutory authorisation", prior to which a Cultural Heritage Management Plan or relevant exemption must be resolved. Rather, these requirements must be met before the start of any works on site.

Notwithstanding the above, an Aboriginal Heritage Due Diligence Report was prepared by Heritage Insight P/L dated 8 April 2020 was submitted with the PSA application. This report concludes that, "*It is evident that the property at 91-95 Montague Street, South Melbourne, has undergone significant ground disturbance as defined in the Aboriginal Heritage Regulations 2018. The background research has identified that the entirety of the study area has been extensively disturbed ... It is therefore the opinion of the consultant that significant ground disturbance can be established for the entire study area and therefore a mandatory CHMP is not required.*"

The report goes on to advise that although a mandatory CHMP is not required for the study area, the client should be aware that the *Aboriginal Heritage Act 2006* provides blanket protection for Aboriginal cultural heritage should artefacts be found during construction.

12. COVENANTS

- 12.1 A review of the Titles for the site confirms they are not encumbered by a restrictive covenant or Section 173 Agreement or building envelope or easement.
- 12.2 Further to previous discussions regarding the ownership of lands to which the title relates, it is recommended that any Incorporated Document include the following condition:

Road Discontinuance and Purchase



Before the development starts (other than demolition or works to remediate contaminated land), the owner/developer of the land must, to the satisfaction of the Responsible Authority:

- (a) *Seek and obtain Council approval to commence the statutory procedures to discontinue and sell the approx. 1.5m width x 16.5m length Road along the north-west side of the site, commonly known as R3257-01 on Council's Register of Public Roads.*
- (b) *Seek and obtain Council approval to complete the statutory procedures to discontinue and sell Road R3257-01 on Council's Register of Public Roads.*
- (c) *Complete the statutory procedures to discontinue and sell Road R3257-01 on Council's Register of Public Roads.*
- (d) *Acquire Road R3257-01 on Council's Register of Public Roads.*

12.3 The proponent advised in correspondence dated 23 November 2020 that, "Further to ongoing discussions, we are instructed that our client is actively engaging with relevant parties to resolve matters relating to the title boundaries. This includes a consideration of the discontinued road which forms part of the Site and the neighbouring Gravity Tower building and title boundary alignment irregularities. These matters are ongoing and well understood. We do not consider that they materially impact the advancement of the amendment or are unreasonably detrimental to the proposal."

13. OFFICER DIRECT OR INDIRECT INTEREST

13.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.

14. OPTIONS

- 14.1 Support the Planning Scheme Amendment.
- 14.2 Support the Planning Scheme Amendment with modifications and conditions to be included in any Incorporated Document.
- 14.3 Not support the Planning Scheme Amendment on key issues.

15. CONCLUSION

- 15.1 This Planning Scheme Amendment application is required to introduce a site-specific control to facilitate the demolition of the existing building, use and development of the land for a mixed-use development comprising retail and offices.
- 15.2 A planning permit cannot be granted until an Infrastructure Contributions Plan is approved or an alternative infrastructure contributions mechanism is implemented.
- 15.3 It is recommended that the Statutory Planning Committee resolve that a letter be sent to the Minister of Planning C/- the Department of Environment, Land, Water and Planning advising that:

Council does not support the proposal based on the following aspects of the development:

- Building height – The 25 levels of the proposal exceeds the preferred mid-rise 7-15 storey height for the land and the 20-storey discretionary maximum height. The proposal does not adequately respond to the preferred precinct character of



Area M5, which is; *“Predominantly mid-rise developments with some high-rise forms on larger sites where well-spaced, slender towers can be demonstrated to provide sunlight access to streets”* and the proposal will not contribute to a *“varied and architecturally interesting skyline”* sought by Design and Development Overlay, Schedule 30.

- Street wall height – Due to the proposed convex curved façade the street wall reads as a six-level podium in lieu of the five levels proposed. The proposed street wall height does not provide a pedestrian scale at street level to Montague Street.
- Setbacks above the street wall – Setbacks to Montague Street and Gladstone Place create an awkward junction with the adjoining Gravity Tower.
- Street activation to upper levels of the podium – the solid to void ratios of the podium levels reduce façade activation to the streetscape.
- Ground floor layout and accessibility – the location of services to Montague Street limits street level activation and the Ground Floor layout and flood management fails to provide for ease of access.
- Wind effects on the public realm – the Pedestrian Wind Environment Study fails to demonstrate identify how a comfortable wind environment can be achieved. It is unknown how wind mitigation measures would be architecturally resolved.

15.4 If the proposal was to be supported, officers recommend that any Incorporated Document include:

- Conditions to address Council’s concerns; and
- Clear parameters for progressing purchase of all lands to which the development is proposed.

All other aspects of the proposal including traffic, sustainable design and waste management are acceptable subject to receipt for more detailed information which will likely result in minor changes to the proposal. These design and operational concerns could be addressed by conditions of any Incorporated Document. A summary of key aspects of the proposal in agreement and issues in dispute are summarised in the below table.



Use and non-residential floor area	Retail premises and office, the latter being an as-of-right use within the Capital City Zone (Schedule 1).	Acceptable
Built form typology	Podium and tower	Acceptable subject to: resolution of height and setback issues noted in this table. (refer to discussion at Section 11.3.1 – Building Typologies)
Building height	Podium height: 21.5m (22.9m AHD) / 5 levels The podium rooftop is enclosed by a 1.75m partly glazed balustrade and above this, is covered by a two-level volume convex curved perforated metal screen which continues the podium façade detailing in a rising curve to the top of Level 7 of the tower.	Not supported It is recommended the point where the front façade starts to splay back to the tower be reduced by at least one storey (commencing at Level 4, rising to Level 6). The change would assist the street wall to read as 5 level podium and provide a more human scale to the street wall. (refer to discussion at Section 11.3.3 – Street Wall Height)
	Tower: Roof level: 98.9m (100.3m AHD) / 25-levels. Plant level: 102.3m (103.7m AHD)	Not supported The proposal should: <ul style="list-style-type: none"> • step down in height from Gravity Tower; • have a maximum roof height of 87.03m AHD (approx. 22 levels); and • have a maximum plant height of 88.91m AHD. (refer to discussion at Section 11.3.3 – Tower Height)
Tower setbacks (above the podium)	South-west (Montague Street / front): 5m setback from Level 5 to 23. 10m setback at Level 24.	Acceptable subject to: the setback being no less than Gravity Tower, alternatively a deeper shadow gap or change in materiality. (refer to discussion at Section 11.3.5 - (Tower) Setbacks Above the Street Wall / Side and Rear Setbacks)
	North-west (89-103 Gladstone Street (Gravity Tower) / side): 1.6m setback from Level 5 to 24 and 4.6m at Level 24 (measured from the title boundary) and 4.5m and 8.5m (measured from the centreline of Gladstone Place which is 5.8m wide).	Acceptable subject to: increasing the setback to be no less than Gravity Tower. (refer to discussion at Section 11.3.5 - (Tower) Setbacks Above the Street Wall / Side and Rear Setbacks)
	North-east (97-99 Gladstone Street / side): Min. 2.6m / max. 3m (due to irregular side boundary) at Levels 5 to 24. 5.13m setback at Level 25 to the edge of the louvered screening and 9.8m from the edge of the roofed plant areas	Acceptable



	North west (side) (Gravity Tower): 0.15m setback at all levels (i.e. continuation of podium setback).	Acceptable
Activation, materials and articulation	<p>A mixture of white and charcoal shades of applied finishes; spandrel glazing in charcoal and gold; gloss black and matte white perforated metal; black, white and coloured metal louvers and an orange/red 'brick look' finish.</p> <p>The articulation includes a vertical emphasis with chamfered corners. coloured glass and reinforced concrete in vertical stripes 'twisting' between Levels 9 and 15 and interspersed with glazing from the first floor of the podium to Level 24. The recessed corners to the towers are treated with gold coloured spandrel glazing.</p>	<p>Acceptable subject to:</p> <p>resolution of the solid to void ratio of the façade, particularly within the podium levels which results in limited activation. Further consideration should be given to increase the width of glazing elements within the podium and / or 'twisting' the white fin elements to add greater depth to the podium and introduce opportunities for greater shadow lines and visual interest along the façade.</p> <p>(refer to discussion at Section 11.3.7 – Active Street Frontages)</p>
Ground floor level layout, accessibility and flooding	Two retail tenancies fronting Montague Street, a lift core generally located along the common boundary with 89-103 Gladstone Street. Loading and back of house services are to be accessed from Gladstone Place with a mezzanine retail tenancy also presented to this interface.	<p>Acceptable subject to:</p> <p>a finished floor level of 2.2 AHD for retail tenancies (approx. 600mm higher than footpath) as informally discussed with Melbourne Water.</p> <p>DDA access via internal ramp in main public entry foyer.</p> <p>A similar strategy should be adopted for access arrangements from Gladstone Place.</p> <p>(refer to discussion at Section 11.3.8 – Flooding / Street Interface)</p>
Communal open spaces and landscaping	<p>A 226m² communal roof terrace at Level 5 podium. A second smaller terrace at Level 24 would provide an additional 44m² of communal open space.</p> <p>A593m² retail / mezzanine area is proposed to front Gladstone Place.</p>	<p>Acceptable subject to:</p> <p>a Landscape Plan providing further details of appropriate species selection and maintenance.</p> <p>(refer to discussion at Section 11.1 Responding to Local Policy)</p>
Car parking / traffic	Zero car parking proposed.	<p>Acceptable subject to:</p> <p>a Traffic Impact Assessment considering the cumulative traffic impact of the proposal and other approvals and potential approvals within the immediate road network.</p> <p>(refer to discussion at Section 11.4 Car Parking and Section 11.5 - Cumulative Traffic Impacts)</p>



<p>Bicycle parking and end of trip facilities</p>	<p>80 spaces* (including 8 visitor spaces on the footpath). Ground floor level: 16 bicycle spaces. Level 1: 56 bicycle spaces. Male and female change room, each with 6 showers. Footpath: 8 bicycle spaces</p>	<p>Acceptable subject to:</p> <ul style="list-style-type: none"> Remove/delete proposed bike racks along Montague Street. All proposed bike racks must be contained on-site. The Applicant should consider providing on-site bike parking near the building's frontage for visitors. Recommend removal of staircase and provide a ramp to access the 'Bike Lift'. The Bike Lift does not appear to be to conveniently accessible from Montague Street. Proposed Bike Lift must be able to safely fit the length of a bike, lift to be dimensioned. Ground Level visitor bike racks should be horizontal. Plans need to clearly show bike rack spacing and aisle width, and which racks/areas are visitor/resident/staff spaces. Swept path diagram detailing ease of access of the bike lift to the storage area at Level 1. <p>(refer to discussion at Section 11.4.4 – Bicycle Facilities)</p>
<p>Wind impacts on the public realm</p>	<p>Wind report indicated wind amelioration treatments were required such as landscaping to terrace areas and the addition of porous screens.</p>	<p>Acceptable subject to: wind amelioration treatments being appropriately resolved with the building architecture. (refer to discussion at 11.3.6 – Wind Effects on the Public Realm)</p>
<p>ESD / WSUD</p>	<p>The SMP commits to a 5-star certified Green Star Design and As Built rating. The SMP also commits to a 5 star NABERS rating for Energy (without Green Power) and a 4 star NABERS rating for Water</p>	<p>Acceptable subject to:</p> <ul style="list-style-type: none"> Daylight modelling Consideration of offsetting the hot water system with electric heat pump with solar panel. Effective rainwater tank capacity increased to accommodate for dead space. Stormwater calculated using MUSIC modelling. Third pipe provision and connections to future precinct scale water recycling system. Green Travel Plan. Commitments regarding building material choices. Commitment to innovation challenges. <p>(refer to discussion at 11.7 - Sustainable Design)</p>



<p>Waste Management</p>	<p>A loading bay is proposed to be accessed off Gladstone Place.</p> <p>Bin room at Ground floor with waste chute facilities to upper levels</p> <p>A private collection service is proposed to collect all waste streams from within the property twice weekly via a 6.35m rear mini loader waste vehicle</p>	<p>Acceptable subject to:</p> <p>amended information including:</p> <ul style="list-style-type: none"> • Plans to show bin/refuse rooms with all bin locations clearly marked, bin sizes noted, numbers and colours. • Dimensions of roller door and doorway width. • Clarification on access arrangements for cleaners to access the bin room with cleaning equipment / trollies. The bin room needs to be DDA compliant or to people with trollies, to dispose of any items not suitable for the chute. • Location of internal instructional signage. • A swept path diagram as per the Traffic Engineers comments at Section 11.6 of this report. • A trained spotter will be appointed to assist with manoeuvring waste vehicle <p>(refer to discussion at 11.5 – Waste Management)</p>
<p>Overshadowing</p>	<p>Overshadowing diagrams indicate that the proposal would not overshadow the new public open space at 112-132 Buckhurst Street between 11.00am and 2.00pm on 22 September.</p>	<p>Acceptable</p>

TRIM FILE NO:

PF19/44064

ATTACHMENTS

- 1. Appendix 1 - Site Location**
- 2. Appendix 2 - Architectural Plans**
- 3. Appendix 3 - Urban Context Report**
- 4. Appendix 4 - Internal Referral Responses**
- 5. Appendix 5 - Standing Advisory Committee Terms of Reference**