Committee Planning

Presenter Cr Ng

Purpose

1. To advise of an application to the Minister for Planning for planning approval for additions to the existing Hilton Hotel building at 178-226 Wellington Parade, East Melbourne incorporating a 14 storey tower to include 52 apartments, additions to the conference facilities, a retail premises and additional car parking.

2. The Minister for Planning is the Responsible Authority for this application. Council has the opportunity to provide comments to the Department of Sustainability and Environment for consideration.

3. This application was presented to the Planning Committee at the request of Cr Clarke.

Consideration at Committee

4. As a result of consideration at Committee the recommendation contained in the Committee report was endorsed subject to the addition of the following paragraph (to read paragraph 6.5 below):

4.1. “the failure of the proposal to be sympathetic to the setback provisions of the remainder of Wellington Parade and request further consideration of a zero setback proposition.”

Referral Notice Process

5. A referral notice was lodged by Councillor Clarke and therefore this matter is being referred to Council for its consideration.

Recommendation

6. That Council object to the application for a Planning Permit on the grounds that:

6.1. the building is not consistent with the scale of other buildings fronting Wellington Parade and should be reduced in height by two storeys by the deletion of levels 10 and 11;

6.2. a loading bay should be provided within the new basement to allow for all loading and unloading from the front of the site only;

6.3. further information should be required to determine the application including clarification of the ‘retail premises’ use and a demolition plan for the partial demolition works associated with the MCG Hotel;
6.4. minor alterations to the car park layout should be made in line with Council’s Engineering Services Group’s recommendations; and

6.5. the failure of the proposal to be sympathetic to the setback provisions of the remainder of Wellington Parade and request further consideration of a zero setback proposition.
APPLICATION FOR PLANNING PERMIT: THE HILTON HOTEL, 178-226 WELLINGTON PARADE, EAST MELBOURNE

Division          Sustainability & Innovation Division

Presenter        Con Livanos, Manager Development Planning

Purpose

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3. This application has been presented to the Planning Committee at the request of Cr Clarke.

Summary

Application Number: TPM-2006-33

DSE Application Number: 2006/0437

Proposal: Additions to the existing hotel building to include a 14 storey tower to include 52 apartments, additions to the conference facilities, a retail premises and additional car parking

Applicant: Mr Dan Kolomanski – PCH Melbourne Pty Ltd

Zoning: Business 1 Zone

Overlay: Heritage Overlay 2 - Eastern part of site.

Design and Development Overlay 21 – Eastern part of the site.

Existing Use: Residential hotel

Number of Objections: 5 (believed to have been submitted to the Minister for Planning)
Recommendation from Management

4. That the Planning Committee object to the application for a Planning Permit on the grounds that:

4.1. the building is not consistent with the scale of other buildings fronting Wellington Parade and should be reduced in height by two storeys by the deletion of levels 10 and 11;

4.2. a loading bay should be provided within the new basement to allow for all loading and unloading from the front of the site only;

4.3. further information should be required to determine the application including clarification of the ‘retail premises’ use and a demolition plan for the partial demolition works associated with the MCG Hotel; and

4.4. minor alterations to the car park layout should be made in line with Council’s Engineering Services Group’s recommendations.

Key Issues

Proposal

5. The development is described in the submitted drawings (Attachment 1 includes selected plans) which includes:

5.1. the construction of a new 14 storey building on the eastern portion of the site, principally incorporating 52 apartments;

5.2. the building also includes two levels of basement car parking and two levels of above ground parking. A total of 124 new car spaces are provided with new access provided from Wellington Parade; and

5.3. it is proposed to extend the conference facilities of the hotel and provide a retail premises tenancy at the ground level.

Site Description

6. The site is located on the corner of Wellington Parade and Clarendon Street in East Melbourne. It is currently developed with the MCG Hotel, the Hilton Hotel and a car park.

7. To the south of the site is the Jolimont Train Station. Beyond this is the MCG Stadium.

8. To the west, over Clarendon Street are the Fitzroy Gardens.

9. Land to the east is developed with buildings up to 13 storeys facing Wellington Parade and two to three storey buildings fronting George Street.

10. Land to the north is developed with two storey buildings fronting George Street. A laneway (Corporation Lane 1657) runs between the rear of the site and George Street.

11. The site has an area of approximately 6,000 square metres.
12. The site has a lengthy planning history. Key permits are listed as follows:

12.1. A permit (MELB672) was issued on 4 August 1971 for construction of a 21 storey building with 2 levels of basement car parking for use as a hotel with shops, restaurant, meeting rooms, ballroom and offices;

12.2. A permit (CM3276) was issued on 21 January 1982 by the Victorian Civil and Administrative Tribunal (VCAT) for amendments to permit MELB672. This permit became the operating ‘use’ permit for the hotel. This permit included a condition that required extensions of time to be granted to allow the ongoing operation of the hotel (Condition 6);

12.3. Permit TP-2001-345 was refused on 24 October 2001 for construction of a 16 storey building on the eastern side of the site behind the MCG Hotel. This refusal was upheld by VCAT;

12.4. An amended permit, CM3276(A), was issued by VCAT on 4 January 2004. The sole amendment to the permit was to delete condition 6 which required extensions of time to be lodged for the ongoing use of the hotel every 3 years; and

12.5. Permit TP-2004-638, which was for partial demolition of the hotel and construction of a 15 storey building with 79 apartments, was refused by Council under delegation on 5 November 2004. An application for review of this decision was lodged with the Tribunal. The application for review was abandoned on 16 December 2004 (approval date of Amendment C101 which is briefly outlined below).

13. Amendment C101 was approved on 16 December 2004 by the Minister for Planning. This amendment allowed for the following:

13.1. Amendment to Clause 61 of the Melbourne Planning Scheme nominating the Minister for Planning as the responsible authority for the site; and

13.2. Approval of an incorporated document for the redevelopment of the hotel at Clause 81 and 52.03 of the Melbourne Planning Scheme. The proposed development that is the subject of the current application bears similarities to the development approved by the incorporated document.

14. The reason stated for this Amendment C101 was to allow the redevelopment of the land to occur in time for the Melbourne Commonwealth Games.

15. Currently the following matters are before the Supreme Court:

15.1. VCAT’s decision to delete Condition 6 of permit CM3276(A); and

15.2. The Minister’s decision to approve Amendment C101.

16. The Department of Sustainability and Environment approved permit 2005/0345 on 24 May 2005 allowing construction of a six storey building for six dwellings at 36 Clarendon Street, East Melbourne. This site is the land directly to the north of the Hilton Hotel building fronting Clarendon Street.
At the time this report was written, the Department of Sustainability and Environment is also considering two other planning permit applications for the site. These are:

17.1. planning application 2006/0439 for the ongoing use of the site as a hotel and waiver of car parking requirements; and

17.2. planning application 2006/0438 for alterations to the existing loading bay, construction of a new refrigerated garbage store, and permission to use another loading door, all at the rear of the site accessed from the rear laneway.

Assessment

The assessment of the proposal is made under the following key issues:

18.1. the appropriateness of the proposed built form;

18.2. the appropriateness of the land uses;

18.3. amenity impacts on residential properties to the north; and

18.4. car parking and loading facilities.

The appropriateness of the built form

19. The eastern part of the site, where the tallest elements of the development are proposed is affected by a Design and Development Overlay that has a discretionary height limit of 24 metres. This maximum height can be varied where the following requirements are met:

19.1. visual impact to Fitzroy Gardens and Yarra Park is minimised;

19.2. development is compatible with the scale of adjoining buildings in the area;

19.3. Wellington Parade is developed as a major city boulevard with consistent building height and form;

19.4. buildings are spaced to avoid a wall of buildings along Wellington Parade; and

19.5. development does not cause additional overshadowing of Fitzroy Gardens between 11am and 2pm on 22 September.

20. The proposed building is 47.3m high. It also has an additional 3.2m in height for the lift overrun, which is well in excess of the 24 metre discretionary maximum height.

21. Council adopted Amendment C93 on 4 October 2005, which seeks to introduce revised height controls in East Melbourne, including the Hilton Hotel site. Therefore it needs to be considered as part of the assessment of the proposal. This Amendment is before the Minister awaiting approval. The amendment changes the maximum height of 24 metres from a ‘discretionary’ to a ‘mandatory’ height control. Amendment C93 has been with the Minister for Planning for over a year awaiting a determination.

22. The Design and Development Overlay and Clause 22.17 – ‘Urban Design Policy Outside the Capital City Zone’ both require that buildings should be compatible with the scale of others in the area.

23. The development must be considered in its context. The existing Hilton Hotel building to the west is approximately 68 metres high. The building to the east is approximately two storeys lower than the proposed built form. The buildings further east have a fairly consistent façade height to Wellington Street.
24. The existing Hilton Hotel tower is the discordant element in this section of Wellington Street. It is
taller by approximately 18-20 metres than the other buildings and it is set back from Wellington
Street where the others are built to the street frontage.

25. It is considered that the proposed building should respond to the prevailing context and should be
reduced in height by a minimum of two-three storeys to match the façade heights of the buildings
to the east. Ideally, levels 10 and 11 would be removed as they create a ‘jutting’ step to the
building. Deleting these levels would also minimise the bulk of the proposal.

26. These changes would also aid to reduce overshadowing cast by the new building over Wellington
Parade and diminish the visual prominence of the development from Yarra Park.

27. The MCG Hotel at the east end of the site is a C graded building within a Level 3 Streetscape. This
part of the site is included within Heritage Overlay 2. Heritage Policy requires that higher rear
parts of buildings should be ‘partly concealed’. This policy requirement is not met by the proposal
as the additions will be clearly visible and will dominate the heritage building.

28. Nonetheless, when a balanced heritage assessment is made of the proposal, the development
(subject to modification) is considered acceptable in this instance. A taller built form is clearly
evisaged as evidenced by the Design and Development Overlay. The set back of the new tower
behind the heritage building maintains the significant fabric of the Hotel. The new building will
read as a separate built form to the heritage building.

29. It is noted that a clear demolition plan for the hotel has not been submitted. It is suggested that this
should be required for consideration before a decision is made on the extent of any demolition of
heritage fabric.

The appropriateness of the land uses.

30. The proposed residential accommodation use of the new building is acceptable. A permit is
required for the use under the Business 1 Zone. The accommodation units will be privately owned
and can be used as dwellings or can be leased back to the hotel as guest accommodation. Both
dwelling and hotel accommodation are acceptable uses in this instance given the residential
development to the north and the existing hotel use of the subject site.

31. The application includes a retail/café premises located at the ground floor. Retail Premises is a
broad definition in the Planning Scheme and includes timber yard, adult sex bookshop and
supermarket. It is suggested that this use be further substantiated to provide clarity in the
assessment. The café use would be acceptable.

Amenity impacts on residential properties to the north.

32. Land to the north, across the laneway is developed with residential dwellings fronting George
Street. These residences have private open space adjacent to the hotel. They are located in a
Residential 1 Zone.

33. The proposed building will not affect these residences by way of overshadowing.

34. The Guidelines for higher Density Residential Development (DSE 2004) provides objectives and
design suggestions for residential buildings over four storeys in height that are not covered by
Clause 55 (ResCode).

35. Of relevance to this application is Objective 2.9 from these guidelines. It suggests the following:

“To maximise residential amenity through the provision of views and the protection of
privacy within the subject site and protection of privacy within the subject site and on
neighbouring properties.”
36. The above objective includes Design Suggestion 2.9.1 which reads:

“Locate living areas, windows and private open spaces to minimise the potential for overlooking.”

37. This objective suggests that the internal layout of buildings and individual apartments should take adjoining properties into account. Existing dwellings should be protected from potential overlooking in accordance with the requirements of Clause 55 of Planning Schemes.

38. The rear elevation of the building includes numerous windows and balconies that allow views into the rear of neighbouring dwellings to the north. The windows and balconies of the proposed building are located so that they are more than nine metres from the neighbouring dwellings. Clause 55 does not require screening of windows that are more than nine metres from neighbouring properties. Nonetheless, the proposal will result in some overlooking to these properties. This level of overlooking is considered reasonable at Clause 55 and it is not considered appropriate to require screening due to the separation distances.

39. The rear laneway is currently used for deliveries and waste removal from the hotel. This is currently causing amenity impacts on the residential properties to the north which also share the rear lane. The amenity impacts relating to the use of the lane by the hotel is discussed below.

Car parking and loading facilities

40. The proposal includes the provision of an additional 124 car parking spaces. Of these, 74 car park spaces will be allocated to the residential component and 51 to the existing hotel. Access is provided by a new entry and exit ramp to Wellington Parade. An internal opening will be made to connect the new car park to the basement car park of the existing hotel building.

41. The planning scheme requires provision of 104 car spaces for the residential component, which results in a short fall of 30 car parking spaces. There is no specified rate in the planning scheme for ‘retail premises’. However, a restaurant or shop have specified car parking requirements. This provides further weight to the suggestion to define the use to allow a complete assessment of the proposal.

42. Council’s Engineering Services Group has provided comments to the proposal. They do not object to the waiver of car parking.

43. They have required design changes to the layout as follows:

43.1. entry and exit lanes should have a minimum width of 3 metres;

43.2. convex signs should be installed at the top of each ramp; and

43.3. ramp widths between car parking levels should have a minimum wall to wall width of 6.6 metres.

44. This application does not include any discussion or provision for loading and unloading of goods.

45. Currently, the hotel uses a rear laneway from George Street for loading and unloading of goods. This current situation of loading and unloading from the rear lane is unacceptable for residents of the dwellings in George Street, particularly those with rear abuttals to the shared laneway. This is evidenced by the history of neighbour involvement in planning proposals for the site and the submissions received for the proposal that outline their concerns with the current arrangements.

46. Clause 52.07 ‘Loading and unloading of goods’ requires that land used for the sale or storage of goods (retail premises) provides a loading bay that is 27.4 square metres in area with a length of 7.6 metres and width of 3.6 metres. Changes of directions should also have a minimum internal radius of 6 metres at a change of direction. No loading bay is provided for the new works.
47. As outlined earlier in the report, the Minister for Planning is currently considering two other applications for the site. One is for the modification of the loading bay at the rear of the site and approval to use another loading bay accessed from the lane. Use of the second loading bay is currently prohibited by permit conditions.

48. It is considered that with the major redevelopment for the site proposed, an ideal opportunity exists to review the loading arrangements. A far more suitable solution would be to create a new loading facility to be accessed from Clarendon Street or Wellington Parade. This would remove delivery vehicles from George Street and the laneway to benefit the northern residential neighbours.

49. From the detailed submissions of the objectors (including photographic evidence) it appears that George Street residents are experiencing negative impacts from trucks queuing in George Street and the loading and unloading of goods for the hotel use. With the expected expansion of the hotel, this is most likely to intensify.

50. It is recommended that Council’s submission to the Minister for Planning seek a requirement that loading and unloading of goods occur from within the basement of the new building. This may require modification of the building to create a higher clearance to the ramp and basement. Nonetheless, it is considered essential to the proposal as:

50.1. the retail premises has a statutory requirement to provide loading facilities; and

50.2. the existing loading facilities at the rear of the site create unacceptable amenity impacts on the adjacent residents to the north of the hotel site.

Relation to Council Policy (including Municipal Strategic Statement)

Municipal Strategic Statement

51. Clause 21.04 – ‘Land Use’ includes the following statement:

   “Areas zoned Mixed Use and Business around the Central City have traditionally provided locations for business activities which support Capital City functions. These areas are under increased pressure for housing, and it is important to ensure their ongoing functioning and viability as business areas which serve both local community needs and the Capital City.”

52. Clause 21.05 – ‘City Structure and Built Form’ identifies the site as being within an area where a moderate change in built form character is envisaged. The built form amenity principles for such areas are:

   “Ensure a high level of on-site amenity for future occupants of new residential developments.

   Ensure that reasonable access to daylight, sunlight and privacy is maintained for neighbouring residential properties.

   Ensure that development does not undermine the significance of any identified Heritage Place or Precinct.

   Ensure that the form, bulk and scale of new development considers the potential future built form and land use on adjoining sites.”
53. Clause 21.08-5 ‘East Melbourne and Jolimont’ provides land strategic direction specific to the area. The following points are relevant:

53.1. this part of Wellington Parage is identified as being suitable for providing shopping facilities with a neighbourhood focus; and

53.2. the site is in an area where it is policy to support the continued operation of existing businesses.

Consultation

54. The application has been advertised by the Department of Sustainability and Environment (as the responsible authority) and we understand that five objections have been received (including one from Council officers).

Time Frame

55. The Minister for Planning is the Responsible Authority for this application. Notice of the application was given to Council on 25 September 2006. A further letter was received 20 October 2006 advising that DSE would consider any comments made by Council on the current applications being considered by the Minister for Planning (including the proposal outlined in this report) that are received within 28 days of the second letter. This time period will have elapsed when the matter is considered by the Planning Committee on 5 December 2006. Council officers have submitted a letter objecting to the proposal. This letter states that the objection is from officer level only, and that the matter will be considered by Council at the Planning Committee. Details of Council’s resolution arising from the Planning Committee meeting will then be forwarded to the Minister for Planning.

Finance

56. There are no significant financial issues arising from the recommendations in this report.

Legal

57. The Minister for Planning is the Responsible Authority for this application. The recommendations of this report are within the functions and powers of the Council.