Purpose and background

1. On the 13 February 2013 the Department of Planning and Community Development (DPCD) wrote to the City of Melbourne (CoM) providing an opportunity to comment on a proposed planning scheme amendment, C194. Council has until the close of business on 8 March 2013 to provide comments. The request, pursuant to section 20(4) of the Planning and Environment Act 1987 seeks to include a new Incorporated Document into the Planning Scheme to enable the construction of the proposed ‘Australia 108’. A locality plan and plans of the proposal are attached (see Attachment 2).

2. The supporting documentation lodged with the section 20(4) application indicates that the proponent considers the project to be of state significance and therefore eligible for this consideration by the Minister for Planning.

3. The applicant notes that the land is proposed to be rezoned to ‘Capital city’ zone where public notification of the development would not be required, and that the existing planning permit for a 225 m high residential tower on the land demonstrates the suitability of the site for a large development.

4. A report on the proposed development has been prepared by officers and is attached (Attachment 3).

5. The proposed mixed use building is to have 108 levels with an overall height of 388 m. The building is to contain 646 residential apartments, 288 hotel rooms, 500 sqm of office use, 2,150 sqm of retail use, 600 car spaces and 236 bicycle spaces. It is proposed to continue to retain the façade of the existing two level graded building, and would include a basement supermarket and storage. 11 levels of above ground car parking with a skin of office to the City Road frontage on levels 1 and 2 is also proposed.

6. The building tower has a star shaped design, which is to contain apartments (levels 13 to 81) and a 19 level residential hotel (levels 83 to 102). A new internal road running between Fawkner Street and City Road is also proposed, to provide a drop-off area for the hotel.

Key issues

7. The height of the proposed building exceeds the recommended height for this site (100 m) in both the current planning scheme and as proposed under Amendment C171. Amendment C171 encourages a transition of building height downwards to the south and west, with higher built form of 160 m envisaged to the north of the site.

8. The height of the proposed building would exceed the height of neighbouring tower development, being not only the highest building in the area, but Melbourne and, according to the applicant, the highest in the southern hemisphere. It is considered that a building of this height cannot be supported in this area where the predominant mid-rise streetscapes are sought to be maintained. In this context and having regard to the relevant Design and Development Overlays, mid-rise would more appropriately be a 100 m tall building.

9. The proposal is considered an overdevelopment of the site, with a proposed plot ratio of approx. 46.6, almost four times the design standard of 12 which applies to blocks in the Capital City Zone and more than twice that of the Eureka building which has a plot ratio of 20.

10. The podium height, tower bulk and limited tower setbacks are considered to result in a lack of solar penetration at street level, which is one of the built form outcomes sought by DDO39. Concern is also raised that the wind effects of the development have not been addressed in the documentation.
Recommendation from management

11. That the Future Melbourne Committee advise the Minister for Planning that:

11.1. Council does not support Amendment C194 as it is proposed;

11.2. It would be more appropriate for the matter to be dealt with utilising the usual application process and procedures (as had the original application); and

11.3. Should the Minister see fit to approve the development then the recommended sixty-two conditions contained within the delegate report (including condition 4 requiring a developer contribution) be included in any approval granted.
SUPPORTING ATTACHMENT

Legal
1. The Minister for Planning is the responsible authority for determining the application

Finance
2. There are no direct financial issues arising from the recommendations contained in this report.

Conflict of interest
3. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a direct or indirect interest in relation to the matter of the report.

Stakeholder consultation
4. Council officers have not advertised the application or referred this to any other referral authorities. This is the responsibility of the Department of Planning and Community Development acting on behalf of the Minister for Planning who is the Responsible Authority.
5. The Minister has power to amend a planning scheme, with exemption from notice requirement, or to expedite an amendment to a planning scheme under section 20(4) of the Planning and Environment Act 1987. In exercising this power, the Minister exempts him/herself from all requirements of section 17, 18 and 19 (notification requirements) of the Planning and Environment Act 1987 and the Regulations.
6. Generally, the Minister can consider using these powers if he/she considers amongst other matters if the proposal is of State or regional significance.

Relation to Council policy
7. Relevant Council policies are discussed in the attached delegate report (refer Attachment 3).

Environmental sustainability
8. Environmental sustainability has not been discussed in the assessment of this application as no environmentally sustainable report was submitted.
Corner City Road and Southbank Boulevard looking south west
Check and verify all dimensions prior to commencement of work. This drawing shall be read in conjunction with all other contract documents including those by other consultants, and including specifications. Seek clarification of inconsistencies/conflicts. Figured dimensions shall take precedence to scaled dimensions.

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F N E D E R     K A T S A L I D I S
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AUSTRALIA 108
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1288
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ARCHITECTS
CITY ROAD SOUTH BANK
VICTORIA AUSTRALIA

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LEGEND

SITE BOUNDARY
SITE BOUNDARY

SECTION BB | EAST WEST

8 APTS PER LEVEL
4 APTS PER LEVEL

SKY LINE RISE
SKYRISE

RESIDENTIAL AMENITIES
MARKET

CARPARK

CITY RISE

RESIDENTS AMENITIES
CARPARK

LOBBY/RETAIL
MARKET/ STORAGE

1:500@A1

SECTION BB - TOWN PLANNING

24.10.2012 SK 0TP221

- ISSUED FOR TOWN PLANNINGSJK 03.12.2012
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3/12/2012

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LEVEL 6 - TOWN PLANNING CARPARK

24.10.2012 SK0 TP108

ISSUED FOR TOWN PLANNING SJK 03.12.2012

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LEVEL 12 FLOOR PLAN - TOWN PLANNING
24.10.2012 SK0 TP114 - ISSUED FOR TOWN PLANNING SJK 03.12.2012
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LEVELS 13-43

- 2 BED: 5
- 1 BED + STUDY: 5
- 1 BED: 2
- TOTAL: 12

x 31 FLOORS: 372
Check and verify all dimensions prior to commencement of work. This drawing shall be read in conjunction with all other contract documents including those by other consultants, and including specifications. Seek clarification of inconsistencies/conflicts. Figured dimensions shall take precedence to scaled dimensions.
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LEVELS 67-79
3 BED: 4
x 13 FLOORS: 52
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07 6003 8883
5295 2869

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LEVELS 87-102

KEYS: 18

x 16 FLOORS: 288

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FENDER
ARCHITECTS

CITY ROAD
SOUTH BANK
VICTORIA
AUSTRALIA

PHONE 07 6003 8883
FACSIMILE 5295 2869

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LEVEL 108 STAR BAR
70 SOUTH BANK BOULEVARD

DATE 3/12/2012

SCALE 1:100@A1

DRAFT - FOR INFORMATION
DELEGATED REPORT– MINISTERIAL REFERRAL

Application number: TPM-2013-4
Applicant: Urbis Pty Ltd on behalf of 70 Southbank Boulevard Pty Ltd
Address: 68-82 Southbank Boulevard, SOUTHBASEK VIC 3006, 70 Southbank Boulevard, SOUTHBASEK VIC 3006
Proposal: Amendment C194
Incorporated Document: Australia 108 to allow:
Use and development of the land, including partial demolition associated with the construction of a 108 level, mixed use high rise building containing dwellings, residential hotel, office, gym and retail (café and shop, but not tavern, at basement and ground level) and a reduction in the carparking
Date of application: 14 February 2013
Responsible officer: Kate Yuncken

1 SUBJECT SITE AND SURROUNDS

The subject site is located on the south east corner of the intersection of Southbank Boulevard and City Road, and has frontages to City Road, Southbank Boulevard and Fawkner Street, Southbank.

The site contains a two-storey rendered heritage brick building and a landscaped area to Southbank Boulevard. Part of the site to Fawkner Street is paved and used as an open car park with 21 spaces. The Southbank Boulevard frontage contains a three-storey concrete office building constructed in 1985. Much of the lower level is parking space. The subject site includes three titles and has a total area of 2,640 square metres.

Figure 1 – Location Plan
A BMW dealership is located on the western corner of City Road and Southbank Boulevard. The building occupying the site is a lowrise building.

The Freshwater Place development is located to the north of the dealership. 28 Freshwater Place is a 26 level commercial building with a floor area of approximately 34,000 sqm and includes 348 car parking spaces. 2 Southbank Boulevard contains a 37 storey commercial building with net lettable floor area of approximately 56,000 sqm. The Freshwater Place Residential Tower is located further to the north and is a 60 level building (205 metres). Part of the Freshwater Place development is yet to be completed.

The block (including Freshwater Place) also includes the development known as Prima Pearl which is a 226 metre high building currently under construction and 271 metre high building has been approved for the Queens Bridge Tower site at 1-15 Queens Bridge Street.

The Riverside Apartments are located to the north, also on the corner of Southbank Boulevard and City Road. This building was completed in the mid 1990’s and included the retention of the existing Jones Bond Store building which was converted to apartments.

Further to the north is the Eureka Tower which includes a 92 storey (297 metres) residential building, completed in 2006. The site has a total area of 9223 square metres including a lot containing a 10 level building of office space and car parking and the Travelodge Hotel.

The land fronting City Road, including Freshwater Place, the Prima Peal site and the Queens Bridge Tower site is subject to different planning controls to the south side of City Road which includes the subject site. The north side of City Road is in the Capital City Zone and is generally affected by the Design and Development Overlay 38 which provides a 160 metres discretionary height control. Land along the river is subject to more restrictive height controls.
A 41 storey building with an overall height of approximately 129 metres is currently under construction on the adjoining property to the south at 133-139 City Road. The building has a 9 level podium containing retail uses at ground level and car parking above. A skin of apartments front onto City Road. The residential tower levels starts at level 10. The tower includes apartments which have their only outlook towards the subject site. The setbacks from the common boundary with the site are staggered. The closest apartment on each tower level is setback 3.16 metres from the common boundary. Another is setback 5.96 metres. The apartments at the City Road and Fawkner Street ends of the tower have outlook over these streets.

A planning permit has been issued by the Minister for Planning for the construction of a 36 storey building (131 metres) with a seven storey podium for land further to the south at 151 City Road.

2  BACKGROUND

The subject site has planning approval for use and development of the land, including partial demolition, associated with the construction of a mixed use high rise building containing dwellings, offices, gym and retail (café, supermarket & shop - but not tavern or hotel - at basement and ground floor) and a reduction in car parking.

The Minister for Planning was the Responsible Authority for considering the application for permit for the 225-metre residential tower on the subject land. Notice of the original planning application was given to the City of Melbourne who objected to it. One of the key concerns was the height of the proposed development. A 226 metres high residential tower was proposed on a site with an area of 2640 square metres. The Minister for Planning issued a Notice of Decision to Grant a Permit for the development and the City of Melbourne lodged an application for review of the decision with VCAT. The key issue in dispute was the height of the proposed building.

VCAT ordered that a planning permit issue for the development. The written reasons provided in the order place emphasis on the wording of the Design and Development Overlay 39 at the time that VCAT considered the matter. The interpretation of the Design and Development Overlay 39 is summarised in paragraph 6 of the Order (Melbourne CC v Minister for Planning [2010] VCAT 1459 (30 August 2010)) which states;

6. Provided the design objectives, built form objectives and local policy requirements are achieved (including consideration of such matters as specific site context, off-site impacts, car parking requirements and traffic implications) then there is no limit in how high buildings may be and the DDO does not suggest a preferred or maximum height.

This decision highlighted an unintentional consequence of the wording of the Design and Development Overlays.

Planning Scheme Amendment C174 was gazetted on 18 November 2010. The amendment removed a ‘no permit required’ clause which, it is considered, contributed to the interpretation of the requirements of the Design and Development Overlay by VCAT at the time.

It is considered that the clarification of the wording of the existing DDO and the approval by the City of Melbourne of Amendment C 171 provide a different planning context for the current application with respect to the consideration of the issue of height.
3 PROPOSAL

The DPCD has advised that the Minister has received a request to amend the Melbourne Planning Scheme pursuant to section 20(4) to include a new Incorporated Document in the Scheme to enable the construction of the proposed Australia 108 development.

State Significance

The applicant has stated that approval of an Incorporated Document will facilitate a development which is of state significance for the following reasons:

1. The proposal will deliver an iconic building of the highest quality for Melbourne, one which will become the tallest building in the southern hemisphere.

2. The proposal will demonstrate confidence to local and international markets that Melbourne is a city which is progressing and strengthening. A building of this scale reflects the next evolution of Melbourne as a mature city on a world stage. Tall buildings such as these are powerful tools in which cities can revitalise themselves, or particular areas of a city, and can reinforce the role of a city as attractors for economic investment and prosperity.

3. The proposal will demonstrate the use of innovative, pre-fabrication technology on a very tall building, which has been in development around the world and in Australia for the last six years.

4. Will provide an investment of in excess of $600 Million and generate employment in the hotel, administration, marketing, construction and ancillary industries anticipated to be in excess of 300 full time equivalents.

Rezoning

The documents note that the land is to be rezoned through Amendment C171 to the Capital City Zone where the proposal would not be required to be advertised.

Plans

The mixed use building is proposed to be 108 levels. The building is to provide 646 residential apartments, 288 hotel rooms, 500 square metres of office, 2,150 square metres of retail (including a basement supermarket), 600 car spaces and 236 bicycle spaces. The overall height of the building to the top of all architectural features is 388 metres. The height to the roof of the topmost plant level is 343 metres with a floor level containing a bar above at a height of approximately 353 metres above ground level.

The application proposes to retain the two-level heritage building façade along City Road. A vertical garden/trellis element which was already approved for the City Road and Southbank Boulevard frontages provides screening to the podium car park levels. The trellis elements include large plantings which project beyond the title boundaries to form ‘pocket gardens’ of useable space, accessible through the car park areas.

The proposed building includes;

- two basement levels consisting of a supermarket and storage;
- 11 levels of above ground car parking with a total of 600 car spaces;
- a skin of office to the City Road frontage on levels 1 and 2 and a star shaped tower containing apartments (levels 13 to 81);
- a 19 level residential hotel (levels 83 to 102);
- two levels of plant;
- a ‘sky bar’ (level 108) located between two beacons. The beacons are of different heights, with the taller being 388 metres above the footpath level.
The tower has setbacks as follows:
- 2.9m from Fawkner St, 3.3m from City Rd
- between 1.6m and 19.2m from Southbank Boulevard; and
- 17-25 metres from the south west boundary.

The tower is proposed to be to clad in blue and silver/grey glass and metal cladding.

The ground level is proposed to have retail tenancies fronting both Southbank Boulevard and City Road, residential and hotel lobbies, a loading bay and car parking access from Fawkner Street.

It is proposed to create a new roadway (Fawkner Lane) between Fawkner Street and City Road as part of the project. This is to operate as a pedestrian link and hotel drop off area. It is anticipated that this road will be a private road.

4 STATUTORY CONTROLS

The following Melbourne Planning Scheme controls are relevant to the site:

<table>
<thead>
<tr>
<th>Clause</th>
<th>Permit Trigger/ Decision Guidelines/ Application Requirement(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mixed Use Zone (Clause 32.04)</td>
<td>Pursuant to Clause 32.04-1 a permit is required to use part of the land for the purpose of a 'retail premises'. Pursuant to Clause 32.04-5 a permit is required to construct two or more dwellings on a lot.</td>
</tr>
<tr>
<td>Design and Development Overlay, Schedule 18 (Southbank Area)</td>
<td>Pursuant to Clause 43.02-2 a permit is required to construct a building or construct or carry out works. This does not apply if a schedule to the Overlay specifically states that a permit is not required. Schedule 18 specifies that a permit is not required to construct a building or construct or carry out works if the requirements in the table to this Schedule are met. The requirements in the table do not apply to residential developments.</td>
</tr>
<tr>
<td>Design and Development Overlay, Schedule 27 City Link Exhaust Stack</td>
<td>Pursuant to Clause 43.02-2 a permit is required to construct a building or construct or carry out works. This does not apply if a schedule to the Overlay specifically states that a permit is not required. A permit is not required to construct a building or construct or carry out works however where a permits is required to use land or for the construction a building under another requirement, notice must be given to EPA, Transurban City Link Ltd and the Roads Corporation.</td>
</tr>
<tr>
<td>Design and Development Overlay, Schedule 39 (Southbank Central Interface)</td>
<td>Pursuant to Clause 43.02-2 a permit is required to construct a building or construct or carry out works. This does not apply if a schedule to the Overlay specifically states that a permit is not required. Schedule 39 does not exempt the proposed buildings and works from requiring planning approval. Buildings or works</td>
</tr>
</tbody>
</table>
should not exceed the Building Height or reduce the Minimum Building Setback specified in the table to this schedule.

Schedule 39 of the DDO seeks to achieve buildings with a maximum height of 100 metres, with a podium height of between 16 and 28 metres, and tower setbacks of up to 6 metres from all major streets. Separation between adjoining towers of similar height is 24 metres (side, rear and tower separation setbacks may be reduced where it can be demonstrated that towers are offset and habitable room windows do not directly face one another.).

| Loading and Unloading of Vehicles (Clause 52.07) | Pursuant to Clause 52.07 a permit is required to reduce or waive the loading and unloading space requirements associated with the manufacture, servicing, storage or sale of goods or materials. |
| Clause 61.01 | The Minister for Planning is the responsible authority for considering and determining applications for developments with a gross floor area exceeding 25,000 square metres. |

5 PLANNING SCHEME AMENDMENT C171 SOUTHBANK

The application site is affected by proposed Planning Scheme Amendment C171-Southbank.

On 25 September 2012 Council adopted this Amendment and resolved that it be sent to the Minister for approval. The amendment continues to be with the Minister.

The effect of the amendment on the application site would be as follows:
- Rezoning the land to Schedule 3 to the Capital City Zone (CCZ3). No planning permit would be required for the proposed uses including a supermarket. The application would be exempt from the giving of notice under the proposed zone provisions.
- New Schedule 59 to the Design and Development Overlay. The subject site would be within Area 3—Southbank Central Interface.
- Amend Clause 22.02 ‘Urban Design in the Capital City Zone’ by including specific design objectives and policies for ‘where Schedule 3 of the Capital City Zone applies’.

The design objectives of Areas 2 and 3—Southbank Central Core and Southbank Interface are:
- To avoid detriment to the public domain from the impacts of buildings;
- To ensure that development has a pedestrian scale at the street level;
- To provide for appropriate spacing between buildings so as to maximise light, air and outlook for occupants.

Buildings and works should not exceed the building heights specified in the table to the Schedule and must comply with the building design features specified in Table 2 to this Schedule.
The table to Schedule 59 provides:

<table>
<thead>
<tr>
<th>AREA</th>
<th>BUILDING HEIGHT</th>
<th>BUILT FORM OUTCOMES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Area 3 – Southbank Central Interface</td>
<td>100 metres</td>
<td>Buildings that provide an appropriate transition to development in adjoining Areas to the south, west and east. Buildings that do not dominate urban form in adjoining Areas. The maintenance of the dominant streetscape scale.</td>
</tr>
</tbody>
</table>

In addition to height, the schedule specifies that:

- Podium heights should not exceed 30 metres.
- Development above a podium should be no less than 10 metres from the front side and rear boundary.
- Towers should be no less than 20 metres from an adjoining tower. This cannot be varied unless:
  - It can be demonstrated that sunlight, good daylight and privacy, and an outlook from habitable rooms can be provided, the 20 metre tower separation may be reduced.
  - It can be demonstrated that the tower façade accommodates habitable room window/s The minimum setback between that tower façade and any other tower is 10 metres.
- Towers should be well spaced to equitably distribute access to an outlook, sunlight between towers and to ensure adequate sun penetration at street level.
- Towers should be designed so that habitable room windows do not directly face one another and that consideration has been given to the development potential of adjoining lots.
- Towers above the podium should be designed to encourage a reasonable sharing of access to daylight and an outlook, and the mitigation of wind effects.

6 STRATEGIC FRAMEWORK

6.1 State Planning Policy Framework (SPPF)

Clause 11.02-1 Supply of urban land seeks to ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.

Clause 15.01-2 Urban design principles seeks to achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties.

Regard should be given to the “Design Guidelines for Higher Density Residential Development (Department of Sustainability and Environment 2004)” in assessing the design and built form of residential development of four or more storeys.

Clause 16.01-2 Location of residential development encourages new housing to be located in or close to activity centres and employment corridors and at other strategic redevelopment sites that offer good access to services and transport.

The objectives of Clause 16.01-3 for Strategic Redevelopment Sites encourages the identification of strategic redevelopment sites for large residential development in Metropolitan Melbourne.
6.2 Local Planning Policy Framework (LPPF)

6.2.1 Municipal Strategic Statement (MSS)

Clause 21.03-1 Vision for Melbourne is for it to be a thriving and sustainable City that simultaneously pursues economic prosperity, social equity and environmental quality.

Clause 21.03-3 sets out the ‘approach for managing built form’ which supports the provision of high levels of public and private amenity.

Clause 21.04-1 Housing and Community seeks to ensure that high standards of residential amenity are achieved which addresses such issues as access to sunlight, overlooking, open space and noise. Southbank is identified as an area which will accommodate significant population growth, contributing the State Planning Policy which supports urban consolidation.

Clause 21.05 City Structure and Built Form identifies the part of Southbank in which the site is located, to be an area where substantial changes in building heights and forms are envisaged. In all areas where a new built form character is sought, a high quality environment will be achieved. The associated amenity principles for these areas include:

- Ensure new buildings are well spaced and offset to equitably distribute access to outlook and sunlight between towers and minimise overlooking between habitable room windows where possible.
- Ensure that the form, bulk and scale of new development considers the potential future built form and land use on adjoining sites.

Relevant objectives include:

- Ensure the design, height and bulk of development in the Docklands, Capital City Zone and parts of the Mixed Use and Business Zones, where a new built form character is envisaged (identified in Figure 10), creates a new but high quality built form character.
- Ensure development in areas where a new built form character is to be created (identified in Figure 10), complement the scale of, and provide a transition to, adjoining low scale buildings in areas where the existing built form character should be maintained.
- To ensure that the height, scale, massing and bulk of new development helps achieve an identified preferred future character and amenity.
- Ensure a high level of on-site amenity for future occupants of new residential developments through the provision of access to daylight, sufficient solar access, privacy, outlook, acoustic amenity and open space, consistent with the Amenity Principles and Preferred Built Form Character relevant to the area.
- Ensure the overshadowing and privacy impacts of new development on surrounding properties is minimised, mindful of the context of the area, including the preferred neighbourhood character, lot size, lot orientation, existing site conditions, the existing level of amenity, built form expectations and reasonable development expectations.

Clause 21.08-3 for Southbank recognises that Southbank is one of the major residential growth areas within the City of Melbourne providing significant residential development opportunities for high density, medium to high rise dwellings.

6.2.2 Local Policies

The relevant local policies are summarised as follows:

Clause 22.02 ‘Sunlight to Public Spaces’ seeks to ensure that overshadowing from new buildings does not result in significant loss of sunlight and diminish the enjoyment of public spaces for pedestrians. Generally, developments should not
diminish the amenity of public spaces between 11.00am and 2.00pm on 22 September.

Clause 22.17 ‘Urban Design Outside the Capital City Zone’ recognises that in areas where built form change is substantial, a new and equally attractive environment must be created. Southbank is an area identified in the MSS where there is a desire for built form change and a preferred new built form character. The Design Objectives and Built Form Outcomes in the Design and Development Overlays also guide the scale and form of development in the creation of a new built form character.

7 PARTICULAR PROVISIONS
The following particular provisions would apply to an application:

- Schedule to Clause 52.06 ‘Car Parking’
- Clause 52.07 ‘Loading and Unloading of Vehicles’
- Clause 52.34 ‘Bicycle Facilities’
- Clause 52.35 ‘Urban Context Report and Design Response for Residential Development of Four or More Storeys’
- Clause 52.36 ‘Integrated Public Transport Planning’

8 GENERAL PROVISIONS
The following particular provisions apply to the application:

- Clause 65, Decision Guidelines, which includes the matters set out in Section 60 of the Planning and Environment Act 1987.
- Clause 66, Referral and Notice Provisions

9 PUBLIC NOTIFICATION
The Minister has power to amend a planning scheme, with exemption from notice requirement, or to expedite an amendment to a planning scheme under section 20(4) of the Planning and Environment Act 1987. In exercising this power, the Minister exempts him/herself from all requirements of section 17, 18 and 19 (notification requirements) of the Act and the Regulations.

Generally, the Minister can consider using these powers if, amongst other matters, the proposal is of State or regional significance.

10 REFERRALS
The application was referred internally to Local Policy, Traffic Engineers, Civil Engineers, Urban Services, Tree Planning, Land Survey and the Municipal Building Surveyor for specialist advice. The following is a summary of their advice.

Local Policy

Strategic justification for the amendment

While the MSS encourages higher building forms in Southbank, the Melbourne Planning Scheme and Amendment C171 provide guidance on what is meant by “high”. In the area in which the site is located this is 100m. In Amendment C171 the built form and proposed heights are based on an appropriate level of development across the whole suburb.
The panel reviewing Amendment C171 found that the level of development proposed by the Southbank Structure Plan is appropriate, stating: “While the Panel is satisfied in general terms that Southbank Structure Plan 2010 achieves an acceptable balance of development consistent with its policy settings……….”

The level of development proposed by the Structure Plan is consistent with the current planning regime, where a height of 100m is the preferred height. Buildings substantially higher will undermine this balance, with the outcome being overcrowded streets dominated by inhospitable built form. From a strategic planning perspective a building 3 times the height has not been substantiated by the applicant. How will this building enhance the liveability of Southbank?

The strategic intent of the Southbank Structure Plan and Amendment C171 is that Southbank becomes a pleasant place to live and work.

Under Amendment C171, in order to improve the liveability and amenity of Southbank the above contextual considerations take precedence over the merits of the building. The applicant has not demonstrated compliance with the above objectives.

Furthermore from a strategic perspective how many iconic buildings should there be in Southbank before it becomes an area dominated by skyscrapers?

ESD

Council has recently adopted Amendment C187 - Energy, Water and Waste efficiency. The Minister should not consider this application until it has been demonstrated that the requirements of this policy have been complied with.

Urban Design

- Height and Massing:

  The proposal exceeds the height limits for both podium (36m as opposed to 16-28m) and tower (388m as opposed to 100m), and the tower’s setbacks from all three streets are inadequate for such a tall structure – 2.9m from Fawker St, 3.3m from City Rd and varying between 1.6m and 19.2m from Southbank Boulevard. We consider that this represents an overdevelopment of the site – far in excess of what the planning scheme contemplates for this area. (As an index of this, the proposed plot ratio is about 46.6 – almost four times the design standard of 12 which applies to blocks in the CCZ; on this site, which is outside the CCZ, the plot ratio should be less – not more.)

  The podium height, tower bulk and limited tower setbacks would result in a lack of solar penetration at street level, which is one of the built form outcomes stipulated in DDO39. We are concerned that the proposal would exacerbate wind conditions for pedestrians in the vicinity, and recommend that approval not be given without first obtaining satisfactory wind tunnel test results.

  We note that the Eureka tower does not offer a precedent in support of this proposal, as the former is on a much larger site, enabling satisfactory tower setbacks and inhabited street frontages to be achieved.

- Building Design:

  We support the retention of the existing masonry façade and the projecting elements toward the top of the tower, which enhance the design. We recommend that human-scaled articulation be introduced to the lower levels of the tower.
- **Active Frontages:**
  
  We commend the placement of the substation in the basement, enabling increased ground level activation. We recommend that this be taken a step further by relocating bike storage which occupies a substantial proportion of “Little Fawkner Street” and replacing it with retail or similar space; without this and other measures, it will be difficult to make “Little Fawkner Street” a safe and attractive space. (See mark-up of Ground Floor Plan.) Significantly more active occupation (and passive surveillance) is warranted at podium levels above ground level; the complete lack of activation at Levels 3 to 11 (and probably at Level 2) would be an extremely poor outcome.

- **Carparking:**
  
  We do not support the provision of above-ground carparking, particularly without a buffer of active inhabitation abutting the street (except at 1st floor level to City Rd). If approved, the carpark should at least be reconfigured to provide flat floor plates and sufficient ceiling heights so that it could be converted to habitable space in the future.

- **Projections:**
  
  Substantial planters and structures are proposed over the footpath on the north corner of the site, presenting potential risk and inconvenience (eg dripping water, falling plant-material, maintenance equipment) for pedestrians. While we support the design approach, we recommend that these works be contained within the site. Similarly, while it necessary for the carpark screening to Fawkner St to have significant depth, this should be contained within the site.

- **In Conclusion:**
  
  The proposal is considered to be a radical and negative departure from the Planning Scheme’s built form policy for the area. If it were to be supported there should be a corresponding requirement that the development provide benefits beyond what is required by the Planning Scheme – eg a substantial component of social housing and a six star Green Star rating. Without such exceptional requirements, this development would set a very poor precedent for the ongoing evolution of Southbank.

**Traffic Engineers**

- **Car parking numbers:** The total number of car parking spaces proposed is considered acceptable. Some spaces should be allocated to the hotel and office components of the site as well as to the residential component.

- **No traffic report was submitted.** The project would benefit from the services of a competent traffic engineer.

- **Car park access and layout:** the car parking levels and bicycle access have been poorly designed and the plans should not be approved in their current form.

- **Car park access from Fawkner Street** is an acceptable location.

- **The bicycle parking design would benefit from input by a competent traffic engineer.**
- No assessment has been provided about whether sufficient bicycle parking has been provided. Given the location of the site it is considered that generous bicycle parking should be provided.

- Inadequate room has been provided to cater for the number of bicycles shown on the plans.

- Swept path diagrams should be provided to ensure the accessibility of the loading area.

- Traffic generation and impact:

  No estimates of traffic generation have been provided. No assessment of the development’s traffic impact has been undertaken. This information is required in order to allow Engineering Services to assess the impact of the proposal, noting that some traffic mitigation measures may be required as a result of the development, and the developer should be responsible for the cost of any measures required.

  Vehicle trips generated by the site would impact on the surrounding road network, and in particular the intersection of Fawkner and Power Streets. Given that Power Street is an arterial road under the management of VicRoads it is recommended that this proposal be referred to VicRoads for comment.

- Conclusion

  Engineering Services has raised a number of significant issues with the proposal and it is considered that the application to have C194, a new Incorporated Document, introduced into the Melbourne Planning Scheme should be refused until these issues have been resolved. Engineering services is unable to make an informed assessment of this application until further information is provided.

Urban Services

- The plans show twin chutes for garbage and recycling. This is ideal.

- Increase the size of the waste Room in Basement 1.

- The plans show a goods hoist but it does not open at basement level one. If the waste is to be transported up to ground floor for collection this needs to be changed.

- A loading bay of good size is shown. It is big enough to accommodate MRVs and goods/bins at the same time. However this space will potentially be used for other activities such as moving furniture, good deliveries therefore a set waste bin holding area is required to be shown on ground floor plans. Minimum of 40m2 remembering that there is likely to be daily waste/recycle collections with over 20 large bins by up to 3 different trucks.

- The residential apartments and hotel room waste seem to be sharing the dual chute system. This is not ideal. Prefer that the residential waste and hotel waste is separated. However if they were to utilise the same chutes we would only collect the volume of waste generated by the residential entitlements. Any other volumes of waste would need to be collected privately at the hotels cost.

- Provided collection responsibilities and times

- Potentially this development may be better serviced through a static compactor types system that would require less frequent collection
(potentially weekly). This type of collection is unable to be carried out by Council and would be at the buildings cost.

- We would really like to meet with the developer as there are a myriad of issues and opportunities to ensure that this is a best practice building within our most liveable city – Melbourne!

Civil

- Object to the proposed projections over the street alignment.
- Object to the naming of Little Fawkner Street. The laneway must remain in private ownership.
- Object to the non-standard alignment of Bluestone paving, please refer to conditions relating to Bluestone footpaths.
- Pursuant to the Road Management Act 2004 any works within the road reserve of City Road, an Arterial Road, requires the written consent of VicRoads, the Coordinating Road Authority. Footpaths and nature strips of such roads fall under the City of Melbourne’s control although the Act specifically states that the Coordinating Road Authority gives conditions for works on these roads and the “road” is the reserve from building line to building line. Subsequently conditions relating to non-road works on footpaths and nature strips of Arterial Roads are recommended.
- Manager Engineering Services Branch is required to comment on only on drainage issues relating to projections over the street alignment.
- Standard Civil planning permit conditions and notes were provided.

The Municipal Building Surveyor

- The applicant should provide confirmation that the space allocated for the fire service booster connections is realistic given that they are likely to result in a significant penetration of the heritage façade.
- The upper level projections are not supported. I agree with the urban design comments in relation to the lower level projections. The artwork that is proposed to project over the street alignment is also not supported.

Urban Landscapes

Trees provide not only aesthetic and cultural value to our city but deliver many economic, environmental and health benefits. Urban trees are facing two extremely significant challenges; climate change and population growth, and more than ever, trees will play a vital role in maintaining the health and liveability of Melbourne.

- Urban Landscapes does not support the removal of any council tree to enable the construction of this development. Tree removal will only be considered if there are no practical and safe means for tree retention and all alternatives have been exhausted.
- An arboricultural impact assessment should be undertaken by a qualified arborist that identifies what impact the demolition, construction and proposed footprint of this development will have on adjacent street trees (above and below-ground).
- Any projections or canopies over the property boundary will not only impact on the canopies of existing trees but limit the provision of future street trees. Therefore the projections on Southbank Boulevard are not supported by Urban Landscapes.
- The addition of any crossover must be constructed by a method that is sympathetic to root systems and below-ground requirements of adjacent council trees.

- No council tree is to be pruned, root-pruned, damaged or removed without the prior written consent of the Urban Landscapes branch.

- The 16 trees adjacent to the site have a combined amenity and environmental value of approximately $440,500.

- A Tree Protection Management Plan (TPMP) to the satisfaction of the Urban Landscapes Branch is required to be submitted that outlines how council trees will be protected during construction. A bank guarantee equivalent to the combined environmental and amenity values of any council tree will be held against this TPMP for the duration of construction activities. Should any tree be adversely impacted on, the City Of Melbourne will be compensated for any loss of amenity, ecological services or amelioration works incurred.

Strategic Planning (developer contributions)

- The City of Melbourne is investigating the introduction of a Development Contributions Plan for Southbank. This will contribute to the delivery of public realm, drainage and community infrastructure. This would be introduced as an overlay into the Melbourne Planning Scheme.

- The new residents will be direct users of the proposed new infrastructure and it is reasonable that this development should provide a contribution to the delivery of this infrastructure. This could be through a cash contribution or works in kind.

- Early investigations indicate a potential development contribution in the range of $2,000 - $4,500 per dwelling for Southbank.

- Australia 108 (600 dwellings) would provide a contribution to Council in the range of $1.2 - $2.7 million.

- Southbank Structure Plan identifies needed improvements to City Road, including upgrade of the intersection of City Road and Southbank Boulevard to improve pedestrian safety (eg. removal of slip lanes). This will have immediate benefit to residents of Australia 108 and will also improve pedestrian access and safety to the proposed supermarket and hotel. As this development precedes the introduction of the Development Contributions Plan overlay this would be an appropriate contribution as works in kind.

11 ASSESSMENT

The key issues for consideration relate to the process being used to facilitate the development as well as built form issues including height, setbacks, tower separation and wind conditions.

11.1 State Significance

The amendment proponent has stated that approval of an Incorporated Document will facilitate a development of state significance as the proposed building will be the tallest building in the southern hemisphere and will be a high quality, iconic building.

The Melbourne Planning Scheme incorporating the planning approval process encourages high quality developments. A conventional planning application process can deliver this outcome in this instance: the proposal is not prohibited by the Planning Scheme and amendment of the Planning Scheme is not necessary. The
approval of the Eureka Tower was done through a planning application process rather than by a Planning Scheme Amendment process.

The proponent has used the intention to construct the proposed building with prefabrication technology as an argument in support of it being of state significance. This type of technology has been proposed for a number of buildings in Melbourne. It is acknowledged that this building would be the tallest building of this type in Australia. If this forms part of the basis for approving the building as one of State significance, then the construction method should be reflected in conditions of the Incorporated Document to ensure the unique construction method is used.

Melbourne Planning Scheme Amendment C 183 was gazetted on 8 September 2011. The Amendment rezoned land located on the north side of Flinders Street between Collins Street, Aurora Lane and the Rail Reserve, which was in a Road Zone and a Public Use Zone to the Docklands Zone. The Amendment also removed height controls over the land and removed the prohibition of overshadowing of the south bank of the Yarra River for the site. The Docklands Zone (DZ3) objectives and controls were amended. The objectives of the Docklands Zone (DZ3) now include an objective which seeks;

'To provide for the development of a landmark mixed use tower development of a scale of international significance.'

The objectives of Clause 16.01-3 for Strategic Redevelopment Sites encourages the identification of strategic redevelopment sites for large residential development in Metropolitan Melbourne. While the proposed development would be iconic, particularly in terms of its height, it is questioned whether the location of the development is consistent with what has already been identified within the Melbourne Planning Scheme as a site appropriate to such a development outcome.

The proponent has asserted that the proposal will demonstrate confidence that Melbourne is a city which is progressing and strengthening. There are continued high levels of development activity within Melbourne. It is considered that the ongoing confidence in Melbourne is not reliant on this development.

The proponent has highlighted the financial benefits of the proposal in terms of its contribution to employment through the building’s construction and after completion through the hotel and retail uses.

The benefits of such a proposal should also extend to net public benefits. The Southbank Structure Plan 2010 provides a 30 year vision for Southbank. Recommendations of this strategy identify the need for capital improvements to the Southbank area including upgrade of intersection of City Road and Southbank Boulevard to improve pedestrian safety (e.g. removal of slip lanes) and improvements to City Road and Southbank Boulevard adjacent to the site. If the proposed amendment is approved, conditions of the Incorporated Document should require a contribution be made to these improvements. These improvements would also benefit the development.

Strategic Planning has provided advice stating that there is a potential development contribution in the range of $2,000 - $4,500 per dwelling for Southbank and that the proposal (600 dwellings) would provide a contribution to Council in the range of $1.2 - $2.7 million. Strategic Planning recommends that a Section 173 could establish cash contribution or works in kind.

11.2 Height

The MSS identifies this area of Southbank as being one where significant residential growth can occur, supporting the overall urban consolidation objectives outlined in the State Planning Policy Framework. Local policies, together with the design objectives and built form outcomes in the Design and Development Overlays
(DDOs), guide the scale and form of development in the creation of a new built form character.

In areas where a desire for built form change has been identified, the scale and height of new development is encouraged to respond to the scale and height of the emerging preferred new built form. Schedule 39 of the DDO seeks to achieve buildings with a maximum height of 100 metres, with a podium height of between 16 and 28 metres, and tower setbacks of up to 6 metres from all major streets.

The objectives of Schedule 39 of the DDO include;

- To encourage high rise and high density residential development mixed with low density commercial development to complement and support the function of the city and service the local area.

The Built Form Outcomes which are sought from the 100 metres discretionary height control and setback requirements include;

- Higher tower building forms at street intersections and other landmark sites which improve legibility of the urban form.
- Higher development which ensures adequate solar penetration at street level by provision of upper level setbacks, tower spacing and orientation.

The height controls proposed in Planning Scheme Amendment C171 (Amendment C 171) are generally unchanged from the current controls currently applying in the planning scheme. The proposed Built Form Outcomes for Area 3, which includes the subject site are;

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

Section 60 of the Planning and Environment Act 1987 provides for the matters that the Responsible Authority must consider before making a decision on a planning application. One of the matters that Responsible Authority may consider is;

60. (1A) (h) any amendment to the planning scheme which has been adopted by the planning authority but not, as at the date on which the application is considered, approved by the Minister or a planning authority;

Amendment C 171 is a relevant matter to be considered as it has been adopted by the City of Melbourne, having gone through a rigorous planning scheme amendment process, but has not yet been approved by the Minister for Planning.

The height of the proposed building at 388m exceeds the recommended height for this site (100m) in both the current planning scheme and as proposed under Amendment C171. The amendment encourages a moderated transition of building height to and from adjacent areas, with higher built form of 160m envisaged to the north of the site in Area 2. The proposal is inconsistent with built form objectives seeking to ensure that buildings within the DDO area do not dominate buildings in adjoining areas.

The height of the proposed building would radically exceed the height of neighbouring towers, meaning it would not only be the highest building in the area but in the whole of Melbourne (and according to the application documentation the highest in the southern hemisphere). The height of the building cannot be supported in an area where predominantly mid-rise streetscapes are to be maintained. In this context and having regard to the relevant DDO’s, mid-rise means a 100 metres tall building.
Although the site is at a major street intersection and the proposal is promoted as a landmark building, the height does not respond to the emerging preferred new built form character like its neighbouring towers, being 126 and 130 metres to the south and lower scale buildings to the east and north. The height of the proposal together with the minimal setbacks will have an overwhelming impact on the built scale of the immediate environs.

As described above, it is considered that the Melbourne Planning Scheme controls already anticipate a development of this significant scale and identify an appropriate site for this to occur. The approved development for the subject site already exceeds the discretionary height, but at least is of a scale which has some relationship to existing and approved built form within the Southbank precinct.

11.3 Setbacks

The proposal exceeds the height limits for both podium (36m as opposed to 16-28m) and tower (388m as opposed to 100m). The tower’s setbacks from all three streets are inadequate for such a tall structure – 2.9m from Fawkner St, 3.3m from City Rd and varying between 1.6m and 19.2m from Southbank Boulevard.

The podium height, tower bulk and limited tower setbacks would result in a lack of solar penetration at street level, which is one of the built form outcomes stipulated in DDO39. Concern is also raised that the proposal would exacerbate wind conditions for pedestrians in the vicinity, and recommend that approval not be given without first obtaining satisfactory wind tunnel test results.

The Schedule 39 to the DDO includes a discretionary 24 metres tower separation. It states that ‘side, rear and tower separation setbacks may be reduced where it can be demonstrated that towers are offset and habitable room windows do not directly face one another’.

Schedule 59 to the DDDO proposed under Amendment C 171 requires a discretionary minimum 20 metres separation between towers unless ‘it can be demonstrated that sunlight, good daylight and privacy, and an outlook from habitable rooms for both existing and proposed development can be provided’. A mandatory minimum 10 metres tower separation is proposed. A discretionary 10 metres boundary setback is proposed.

Objective 2.5 of the Higher Density Residential Guidelines (HDRG) seek ‘to ensure building separation supports private amenity and reinforces neighbourhood character’.

Design Suggestion 2.5.3 describes a way in this objective can be achieved as follows:

- Use side setbacks where they are important for private amenity, e.g. for solar access, access to the rear of the lot, or to avoid unreasonable impacts on neighbouring properties and public spaces.

Objective 2.6 of the HDRG seeks ‘to ensure areas can develop with an equitable access to outlook and sunlight’.

The plans show the tower’s relationship with the adjoining WRAP building, southwest of the site and currently under construction at 133-137 City Road. No other buildings have been noted in the documentation provided. According to the plans submitted the proposed tower has a separation to the WRAP building in the order of 17 metres to 25 metres. This separation allows for equitable access to outlook and sunlight for both the subject site and the WRAP building. The proposed tower appears to be sufficiently setback and offset from the adjoining residential tower (Southbank Condos) to the east at 88 Southbank Boulevard.
11.4 Projecting trellis

The application proposes vertical garden/trellis elements to City Road and Southbank Boulevard on the podium levels to screen car parking levels. The trellis elements include large plantings which project beyond the title boundaries to form 'pocket gardens' of useable space, accessible through carpark areas.

These are not supported for the following reasons:
- The trellis will adversely impact existing and future street trees.
- The structures encroach into the public realm, are contrary to the City of Melbourne Road Encroachment Guidelines and do not provide a net public benefit.
- Present potential risk and inconvenience (e.g., dripping water, falling plant material, maintenance equipment) for pedestrians.

Support is given for the design approach however it is recommended that the trellis be contained within the site boundaries. It should not be assumed that these structures will be approved by the Municipal Building Surveyor.

11.5 Plot Ratio

There have been comparisons made between the development under consideration and the Eureka Tower. The Eureka Tower complex includes the land bounded by City Road, Southgate Avenue, Riverside Quay and Cook Street and has a land area of 9223 square metres. When considering the proposal for the now completed tower, office and car parking building and hotel (Travelodge) the whole site was considered and the City of Melbourne was generally supportive of the proposal. This proposal incorporated the provision of an area of public open space in its original design which is now owned by the City of Melbourne. This was, in part, possible because of the generous site area.

The subject site a total land area of 2,640 sqm which is substantially smaller than the Eureka site. The proposal represents an overdevelopment of the site and as an indication of this, the proposed plot ratio is about 46.6: almost four times the design standard of 12 which applies to blocks in the Capital City Zone and more than twice that of Eureka which has a plot ratio of 20. On this site, which is presently outside the CCZ, the plot ratio should be less than 12, not four times as great. The Eureka Tower therefore does not offer a precedent in support of this proposal in terms of plot ratio, as the former is on a much larger site. This has enabled the provision of satisfactory tower setbacks, active street frontages and an area of public open space.

11.6 Wind Conditions

Setting back towers from all streets at the podium level generally assists in deflecting wind downdrafts from penetrating street level. No wind assessment or tunnel tests have been included with the referral documentation. Inadequate tower setbacks can have adverse impact on the pedestrian environment through unacceptable wind conditions. There is a strong likelihood that the small setbacks proposed from the streets will be insufficient to avoid an adverse wind impact on the pedestrian environment.

Amendment C171 nominates a wind speed for developments on land proposed to be rezoned to Capital City Zone 3. To ensure a comfortable and tolerable wind comfort level for Southbank’s streets, the amendment proposes a wind speed limit of less than 10 m/s, a level suitable for long term stationary comfort such as outdoor dining, rather than 13 m/s which is only suitable for transient street activity, or 16 m/s which is suitable only for walking. For the building not to adversely the pedestrian environment through unacceptable wind conditions it is strongly recommended that a condition requiring the development to achieve stationary comfort along Southbank Boulevard and City Road be imposed and walking comfort along ‘Little Fawkner
Street’ and also assess wind impacts on balconies and recreation areas in the adjoining WRAP development.

11.7 Open Space Contribution

On 10 July 2012 the Future Melbourne Committee endorsed the final City of Melbourne Open Space Strategy, the Open Space Strategy Technical Report and Open Space Contributions Framework. The strategies and framework recommend rates of five per cent and eight per cent to be established in the planning scheme.

Melbourne Planning Scheme Amendment C209 – Public Open Space Contributions will be on public exhibition from Thursday 21 February 2013 until Thursday 28 March 2013. The Amendment proposes to introduce a public open space contribution requirement on developers towards the cost of new and upgraded public open space under the schedule to clause 52.01 Public Open Space Contributions and Subdivisions, and a new local policy at clause 22.26 – Public Open Space Contributions. A contribution of 8% will be required, either as a cash amount based on a percentage of the site value, a land contribution or combination of both. The amendment applies to land across the municipality with the exception of areas within Docklands that are subject to Development Agreements.

The new local policy at clause 22 is based on the City of Melbourne Open Space Strategy 2012 which was endorsed by Council on 31 July 2012. The local policy identifies areas where a land contribution is preferred over a cash contribution. It also requires development proposals in the areas with an identified open space shortfall to give early consideration to the policy so that if the land or any part of it is suitable for public open space according to the criteria identified in the policy, early provision can be made for that contribution if future subdivision of the development occurs.

11.8 Land Use

The proposed accommodation and level retail uses are fully supported by policy and do not require a planning permit. The uses especially the supermarket will support the residential community of Southbank.

11.9 Traffic and Engineering

Engineering Services has raised a number of significant issues with the proposal and recommends that the application be refused until these issues have been resolved. Engineering services is unable to make an informed assessment of this application until further information is provided.

12 RECOMMENDATION

That the City of Melbourne advises the Minister that the proposed development is not supported and that it is inappropriate and unnecessary for the Minister to invoke Section 20(4) of the Planning and Environment Act 1987, as the proposal is not prohibited by the Melbourne Planning Scheme and the proposal is not considered to be of State significance.
Should the Minister see fit to approve the development it is recommended that:

- a development contribution be paid to Council for improvement works within the area, such as City Road improvements and the upgrading of the intersection of City Road & Southbank Boulevard etc.

- the conditions below be included in any approval granted.

Kate Yuncken
Principal Planning Officer

13 CONDITIONS

Amended Plans
1  Prior to the commencement of the use and development, amended plans to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority in consultation with the City of Melbourne. When approved, the plans will be endorsed and will then form part of the incorporated document. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must generally be in accordance with the plans prepared by Fender Katsalidis Architects but modified to show:

Urban Design
(a) The vertical green wall to be within the title boundary and provision of structures (such as screens or permanent netting) to prevent vegetation debris falling to ground level from the vertical green wall.
(b) Relocation of the bike storage from adjacent to “Little Fawkner Street” and replacement of it with retail or similar space.
(c) Human-scaled articulation introduced to the lower levels of the tower.
(d) Relocation of above-ground carparking to basements and increased active occupation (and passive surveillance) at podium levels above ground level. If above-ground carparking is approved, carparking levels shall provide flat floor plates and sufficient ceiling heights so that they may be converted to habitable spaces in the future.

Engineering
(e) Remove reference to the internal access way as Fawkner Lane notate the access way as a private road.
(f) Modifications required to vehicle access/egress, ramps, car parking and bicycle parking layout required by the traffic engineering assessment and the Car and Bicycle Parking, Traffic and Access conditions
(g) Modifications, if required as a result of the endorsed wind test modelling report required, wind mitigation treatments are to be incorporated into the amended plans.
(h) Modifications, if required as a result of the Waste Management Plan are to be incorporated into the amended plans.
Previous requirements.

(i) The design details of the ground level treatments along City Road, Southbank Boulevard Street and Fawkner Street at a scale of 1:50.

(j) The design details of the car park screening and the vertical garden at a scale of 1:50.

(k) An alternative podium treatment to the car park levels to Southbank Boulevard and City Road in the event of the vertical garden failing, at a scale of 1:50.

(l) A demolition plan.

Layout Not Altered and Satisfactory Completion

2 The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority in consultation with the City of Melbourne.

3 Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

Developer Contributions

4 Prior to the commencement of the development (including demolition), the owner of the land must enter into an agreement pursuant to Section 173 of the Planning and Environment Act 1987 with the City of Melbourne and VicRoads, which controls the land immediately abutting the subject site (City Road and Southbank Boulevard). This agreement shall be prepared by the owner at no cost to the Responsible Authority, the City of Melbourne or VicRoads and provide for a commitment towards the upgrading of the intersection of City Road and Southbank Boulevard to City of Melbourne and VicRoads standards. The applicant must liaise with the City of Melbourne and VicRoads in respect to this work and which shall not be altered without further consent of the City of Melbourne and VicRoads.

Demolition Management Plan

5 Prior to the commencement of demolition, a Demolition Management Plan (DMP) must be submitted to and be approved by the Responsible Authority in consultation with the City of Melbourne. The objective of the DMP is to minimise the impact of works associated with the demolition on neighbouring properties and activities conducted in the area generally. The DMP must address demolition, bulk excavation, site preparation and retention works, soil remediation, piling, footings, ground beams and ground slabs, management of the construction sites and land disturbance, hours of operation, noise, dust, traffic management, soiling of roadways, discharge of polluted waters, disposal of waste material/contaminated soil/asbestos and pollution of ground water. The use of driven piles will not be permitted. If required, the DMP may be submitted and approved in stages.

Construction Management Plan

6 Prior to the commencement of the development (including demolition) hereby permitted, temporary sheds or structures for construction purposes, bulk excavation, site preparation and retention works, soil remediation, piling, footings, ground beams and ground slabs, a detailed Construction Management Plan (CMP) must be prepared to the satisfaction of the City of Melbourne, and approved by the City of Melbourne. The CMP must describe how the occupier of the subject land will manage the environmental,
construction and amenity impacts associated with the construction of the development. The CMP must address the following:

- Staging of construction;
- Management of public access and linkages around the site during construction;
- Site access and traffic management (including any disruptions to adjoining vehicular and pedestrian access ways);
- Any works within the adjoining street network road reserves;
- Sediment control and site drainage;
- Hours of construction;
- Control of noise, dust and soiling of roadways;
- Discharge of polluted waters;
- Collection and disposal of building and construction waste.
- Reasonable measures to ensure that disruption to adjacent public transport services are kept to a minimum.
- Street Tree Protection (as outlined in the endorsed Tree Protection Management Plan (TPMP))

If required, the CMP may be submitted and approved in stages
All development must be carried out in accordance with the approved Construction Management Plan to the satisfaction of the responsible authority and the City of Melbourne

**Structural Report**

7 Prior to the commencement of the development, including demolition, a report prepared by a suitably qualified Structural Engineer, or equivalent, must be submitted to the Responsible Authority and the City of Melbourne, demonstrating the means by which the retained portions of building will be supported during demolition and construction works to ensure their retention, to the satisfaction of the Responsible Authority. The recommendations contained within this report must be implemented at no cost to Responsible Authority and the City of Melbourne and be to the satisfaction of the Responsible Authority and the City of Melbourne.

**Potentially Contaminated Land**

8 Prior to the commencement of the development (excluding demolition), the applicant must carry out a Preliminary Environmental Assessment (PEA) of the site to determine if it is suitable for the intended uses. This PEA must be submitted to, and be approved by the Responsible Authority prior to the commencement of the development (excluding demolition). The PEA should include:

- Details of the nature of the land uses previously occupying the site and the activities associated with these land uses. This should include details of how long the uses occupied the site.
- A review of any previous assessments of the site and surrounding sites including details of the anticipated sources of any contaminated materials.

Should the PEA reveal that further investigative or remedial work is required to accommodate the intended uses, then prior to the commencement of the development (excluding demolition), the applicant must carry out a Comprehensive Environmental Assessment (CEA) of the site to determine if it is suitable for the intended uses.
This CEA must be carried out by a suitably qualified environmental professional who is a member of the Australian Contaminated Land Consultants Association or a person who is acceptable to the Responsible Authority. This CEA must be submitted to, and be approved by the Responsible Authority prior to the commencement of the development (excluding demolition). The CEA should include:

- Details of the nature of the land uses previously occupying the site and the activities associated with these land uses. This includes details of how long the uses occupied the site.
- A review of any previous assessments of the site and surrounding sites, including details of any on-site or off-site sources of contaminated materials. This includes a review of any previous Environmental Audits of the site and surrounding sites.
- Intrusive soil sampling in accordance with the requirements of Australian Standard (AS) 44582.1. This includes minimum sampling densities to ensure the condition of the site is accurately characterised.
- An appraisal of the data obtained following soil sampling in accordance with ecological, health-based and waste disposal guidelines.
- Recommendations regarding what further investigation and remediation work, if any, may be necessary to ensure the site is suitable for the intended use(s).

Prior to the occupation of the building, the applicant must submit to the Responsible Authority a letter confirming compliance with any findings, requirements, recommendations and conditions of the CEA.

Should the CEA recommend that an Environmental Audit of the site is necessary then prior to the occupation of the building the applicant must provide either:

a) A Certificate of Environmental Audit in accordance with Section 53Y of the Environment Protection Act 1970; or
b) A Statement of Environmental Audit in accordance with Section 53Z of the Environment Protection Act 1970. This Statement must confirm that the site is suitable for the intended use(s).

Where a Statement of Environmental Audit is provided, all the conditions of this Statement must be complied with to the satisfaction of the Responsible Authority and prior to the occupation of the building. Written confirmation of compliance must be provided by a suitably qualified environmental professional who is a member of the Australian Contaminated Land Consultants Association or other person acceptable to the Responsible Authority. In addition, the signing off of the Statement must be in accordance with any requirements in it regarding the verification of works.

If there are conditions on the Statement that the Responsible Authority consider requires significant ongoing maintenance and/or monitoring, the applicant must enter into a legal agreement in accordance with Section 173 of the Planning and Environment Act 1987 with the Responsible Authority. This Agreement must be executed on title prior to the occupation of the building. The owner of the site must meet all costs associated with the drafting and execution of this agreement including those incurred by the Responsible Authority.

**Reflective Assessment**

9 Prior to the commencement of the development a reflectivity assessment of external glazing area that reflects more than 20% of visible light when
measured at an angle of incidence normal to the glass surface must be provided to the satisfaction of the Responsible Authority.

Demolition
10 Demolition must not commence unless the Responsible Authority is satisfied that the permit holder has made substantial progress towards obtaining the necessary building permits for the development of the land generally in accordance with the development proposed under this permit and the permit holder has entered into a bona fide contract for the construction of the development, or otherwise as agreed with the Responsible Authority.

Materials and Finishes
11 Prior to the commencement of the development, excluding demolition, bulk excavation, site preparation, soil removal, site remediation, retention works, footings, ground beams and ground slab, a sample board including a colour rendered and notated plan /elevation that illustrates the location and details of all external materials and finishes must be submitted to and be to the satisfaction of the Responsible Authority. All finishes and surfaces of all external buildings and works, including materials and colours must be in conformity with the approved schedule to the satisfaction of the Responsible Authority.

12 Prior to the commencement of the development, a facade and materials strategy must be submitted to the Responsible Authority and the City of Melbourne for consideration. The facade strategy for the development must be generally in accordance with plans prepared by Fender Katsalidis Architects and detail a schedule of materials, finishes and details including but not limited to the colour, type of materials (and quality), construction and appearance. The strategy must illustrate the legibility of the proposal from short and distant views, including the extent of facade pattern, landscaping, level of colours and the ability to provide richness, saturation and depth as contained within the architect's studies. It must illustrate the design intent at the lower levels including the vertical gardens, green wall, articulation of the facade bio frame and other key sculptural elements fundamental to the design intent. It must provide details of the facade should the landscape scheme fail. This can be provided through montages from various vantage points and/or a built model. The facade strategy must be submitted to and be to the satisfaction of the Responsible Authority in consultation with the City of Melbourne and when approved will form part of the endorsed plans.

Wind test modelling
13 Prior to the commencement of the development (including demolition) wind tests carried out by a suitably qualified consultant, must be carried out on a model of the approved building. A report detailing the outcome of the testing must be submitted to and be to the satisfaction of the Responsible Authority in consultation with the City Of Melbourne. The report must also recommend any modifications which must be made to the massing or design of the building to reduce any adverse wind conditions in areas used by pedestrians including achieving a stationary criteria in pedestrian areas adjacent to active frontages and on the south east corner of Southbank Boulevard and City Road, to the satisfaction of the Responsible Authority in consultation with the City Of Melbourne. The recommendations of the report must be implemented at no cost to the Responsible Authority and must not include reliance on street trees.

Environmentally Sustainable Design (ESD)
14 Prior to the commencement of the development, excluding demolition, bulk excavation, site preparation, soil removal, site remediation, retention works,
footings, ground beams and ground slab, a report by an accredited professional must be submitted to the satisfaction of the Responsible Authority documenting the energy efficiency measures introduced into the building design. The performance outcomes specified in the report must be implemented prior to the occupation of the development to the satisfaction of the Responsible Authority.

**Site Consolidation**

15 Prior to the commencement of the development, excluding demolition, bulk excavation, site preparation, soil removal, site remediation, retention works, footings, ground beams and ground slab, a plan of consolidation into one title for the whole of the land must be registered at Land Victoria.

**Landscaping**

16 Prior to commencement the development, or as may otherwise be agreed with the Responsible Authority, a qualified landscape architect is to produce a scaled and dimensioned detailed landscape plan that must be submitted to and be to the satisfaction of the Responsible Authority in consultation with the City of Melbourne. The plan must include a schedule of all soft and hard landscape materials and treatments including street trees, automatic irrigation, planting schedule, details of how the vertical garden will be constructed and operated, measures to prevent vegetation debris from falling to ground level, urban design elements including, but not limited to, paving, lighting, seating, and public art, and clear demarcation of public realm and private spaces including arrangements for pedestrian, bicycle, vehicular circulation in the development. The landscape plan must demonstrate how the project responds to water sensitive urban design principles including how storm water will be mitigated, captured, cleaned and stored for on site irrigation purposes. The City of Melbourne technical notes should form the basis for all public realm works.

17 Prior to the commencement of all landscaping works associated with the vertical garden a landscape management plan detailing the ownership, maintenance regime and management responsibilities of the vertical garden associated with the development must be prepared and submitted to the satisfaction of the Responsible Authority, in consultation with the City of Melbourne, prior to the commencement of all landscaping works associated with the vertical garden.

18 Landscaping works as shown on the endorsed Landscaping plans must be completed within 6 months of the overall development to the satisfaction of the responsible authority and subsequently maintained to the satisfaction of the responsible authority.

19 Provision of communal open space as shown on the endorsed plans must be completed within 6 months of the overall development to the satisfaction of the responsible authority and subsequently maintained to the satisfaction of the responsible authority.

20 Should the vertical garden fail the alternative podium treatment is to be undertaken to the satisfaction of the Responsible Authority, in consultation with the City of Melbourne.

**Landscaping - Street Trees**

21 Prior to commencement the development an arboricultural impact assessment must be undertaken by a qualified arborist that identifies what impact the demolition, construction and proposed footprint of this development will have on adjacent street trees (above and below-ground) and must be submitted to the satisfaction of the City of Melbourne - Urban Landscapes Branch.
22 Any projections or canopies over the property boundary must not impact the canopies of existing trees or limit the provision of future street trees to the satisfaction of the City of Melbourne - Urban Landscapes Branch.

23 No council tree is to be pruned, root-pruned, damaged or removed without the prior written consent of the City of Melbourne - Urban Landscapes Branch.

24 All crossovers must be constructed by a method that is sympathetic to tree root systems and below-ground requirements of adjacent council trees to the satisfaction of the City of Melbourne - Urban Landscapes Branch.

25 Prior to commencement of the works a Tree Protection Management Plan (TPMP) must be submitted to the satisfaction of the City of Melbourne - Urban Landscapes Branch. The TPMP must outline how council trees will be protected during demolition and construction activities. A bank guarantee equivalent to the combined environmental and amenity values of any council tree will be held against this TPMP for the duration of the works. The 16 trees adjacent to the site have a combined amenity and environmental value of approximately $440,500. Should any tree be adversely impacted on, the City Of Melbourne will be compensated for any loss of amenity, ecological services or amelioration works incurred.

Building appurtenances / appearance etc.

26 All building plant and equipment on the roofs are to be concealed to the satisfaction of the Responsible Authority. The construction of any additional plant machinery and equipment, including but not limited to all air-conditioning equipment, ducts, flues, all exhausts including car parking and communications equipment must be to the satisfaction of the Responsible Authority.

27 No architectural features and services other than those shown on the endorsed plans must be permitted above the roof line without the permission of the Responsible Authority.

28 Except with the consent of the Responsible Authority, all external glazing must be of a type that does not reflect more than 20% of visible light when measured at an angle of incidence normal to the glass surface.

29 No building or works must be constructed over any easement without the written consent of the relevant authorities.

30 Not more than one telecommunications receivers/television aerial is to be erected without the consent of the Responsible Authority.

31 Satellite dishes must not be erected without the prior permission of the Responsible Authority.

32 There must be no air conditioning units, canopies or other permanent structures located on the balconies without the prior written consent of the Responsible Authority.

33 All service pipes, apart from roof downpipes must be concealed from the view of a person at ground levels within common areas, public thoroughfares and adjoining properties.

34 No advertising signs must be erected, painted or displayed on the land without the permission of the Responsible Authority unless in accordance with the provisions of the Melbourne Planning Scheme.

Outdoor Lighting

35 All public lighting should conform to AS1158, AS3771 and the Public Lighting Code September 2001 and must be designed, baffled and located to the satisfaction of the Responsible Authority and the City of Melbourne.
36 Any requirement to temporarily relocate street lighting without first obtaining the written approval of the City of Melbourne - Engineering Services.

Car and Bicycle Parking, Traffic and Access

37 Prior to the commencement of each stage of development (including demolition) a traffic engineering assessment including functional layout plans and other supporting information as appropriate be prepared to the satisfaction of the Responsible Authority in consultation with the City of Melbourne – Engineering Services. The assessment must detail satisfactory resolution of:

- Motor cycle parking provision in accordance with planning scheme rates.
- Bicycle parking spaces to be provided in accordance with planning scheme rates and bicycle racks have a minimum aisle with of 1.5 metres.
- Swept path plans demonstrating appropriate access arrangements to the site including all internal parking areas, and loading and servicing requirements.
- Traffic management arrangements consistent with the requirements of Public Transport Victoria.
- The car parking layout to be generally in accordance with the Australian and New Zealand Standard 2890.1-2004

38 The areas set aside for car parking and access of vehicles and access ways must be constructed, delineated and clearly line marked to indicate each car space, the access ways and the direction in which vehicles must proceed along the access ways, in conformity with the endorsed plans. Parking areas and access ways must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.

39 The internal design of the car park and loading docks, the positioning of boom gates, card readers, control equipment, including car park control points must be generally in accordance with the Australian and New Zealand Standard 2890.1-2004 to the satisfaction of the Responsible Authority.

40 The areas for the parking of vehicles must be clearly indicated on the floor and the boundaries of all car parking spaces and access lanes and the direction in which vehicles should proceed along the access lanes must be in conformity with the endorsed plans. The car parking spaces must not be used for any other purpose and all access aisles must be kept clear. There must be no vehicular reversing out of the development's loading dock.

41 A warning device/sign should be installed at the car park entry alerting pedestrians when vehicles are exiting the building, to the satisfaction of the Responsible Authority.

42 The areas set aside for the parking of vehicles within the site must not be operated as a public car parking facility.

43 The car parking area must be lit to the satisfaction of the Responsible Authority, if in use during hours of darkness and all lights must be designed, fitted suitable baffles and located to prevent any adverse effect on adjoining land.

Disability Audit

44 Prior to commencement of each stage of development, excluding site preparation works, demolition, temporary sheds or structures for construction purposes, bulk excavation, site preparation and retention works, soil
remediation, piling, footings, ground beams and ground slabs, the applicant
must commission a Disability Audit of the development and undertake any
modifications to the development as required by the audit to the satisfaction of
the Responsible Authority.

Loading & Unloading
45 After the completion of the development the loading or unloading of vehicles of
goods, plant and materials or other items delivered to or despatched from the
land must take place within the boundary of the land and be accessed from
Fawkner Street.

46 The headroom in the area located between the building lobbies must be
sufficient to accommodate waste collection and delivery/furniture vehicles off-
street. Headroom must be to the satisfaction of the City of Melbourne -
Engineering Services.

Street Levels and Crossovers
47 The owner of the subject land must not alter the existing footpath/road levels in
City Road, Southbank Boulevard or Fawkner Street without first obtaining the
written approval of the City of Melbourne - Engineering Services.

48 The owner of the subject land must reconstruct the footways in City Road,
Southbank Boulevard & Fawkner Street adjacent the subject land in sawn
bluestone paving together with associated works including the renewal and/or
relocation of kerb and channel and the relocation of all service pits and covers
as necessary at the cost of the Owner/Developer in accordance with plans and
specifications first approved by the City of Melbourne - Engineering Services.

49 The owner of the subject land must construct all necessary vehicle crossings
and demolish all unnecessary vehicle crossings adjacent to the subject land in
accordance with plans and specifications first approved by the City of
Melbourne - Engineering Services.

Drainage
50 The owner of the subject land must construct a drainage system within the
development and make provision to connect this system to Council’s
underground stormwater drainage system in accordance with plans and
specifications first approved by the City of Melbourne - Engineering Services.

51 Details engineering drawings, including plan, long section and cross sectional
information 1:200 horizontal and 1:20 vertical scales should be submitted a
minimum of 21 days before works are due to commence for approval by the
City of Melbourne - Engineering Services.

52 All projections must be drained to legal points of discharge in accordance with
plans and specifications first approved by the City of Melbourne - Engineering
Services.

Projection
53 The owner of the property must seek a tenure/authorisation under the Land Act
from the Department of Sustainability and Environment for the building
projections over Crown Land. That tenure/authorisation must indemnify the City
of Melbourne against any claims regarding the projections. Should the owner of
the property seek to commence works prior to the issue of this
tenure/authorisation, the owner must enter into a legal agreement under
Section 173 of the Planning and Environment Act, 1987, concerning the liability
of those parts of the development projecting into airspace or sub-soil of land
under the care and management of the City of Melbourne. The owner of the
property to be developed must pay all of City of Melbourne’s reasonable legal
costs and expenses of this agreement, including preparation, execution and registration on title.

54 Prior to the commencement of the use and/or development (excluding any demolition, bulk excavation, construction or carrying out of works) on the land, the owner of the land must enter into an agreement pursuant to Section 173 of the Planning and Environment Act 1987. The agreement must provide the following:

a) Liability and maintenance of those parts of the development projecting into airspace or sub-soil of land under the care and management of Council (‘Projections’).

b) Payment of a lump sum licence premium (payable at the outset rather than an annual fee) in respect to the Projections.

c) A disclaimer of any right or intention to make or cause to be made at any time any claim or application relating to adverse possession of the land occupied by the Projections.

The owner of the land must pay all of the City of Melbourne’s reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title.

**Waste Management**

55 Prior to the commencement of development (including demolition), a Waste Management Plan (WMP) must be prepared and submitted to the City of Melbourne – Engineering Services. The WMP must detail waste storage and collection arrangements and comply with the City of Melbourne Guidelines for Preparing a Waste Management Plan. Waste storage and collection arrangements must not be altered without prior consent of the City of Melbourne – Engineering Services.

56 Sufficient garbage storage facilities must be provided within the property boundary. Bins must be stored and collected within the property boundary (no bins out on the streets) and garbage facilities must be to the satisfaction of the City of Melbourne - Engineering Services.

57 The waste collection arrangements must be to the satisfaction of the City of Melbourne – Engineering Services.

58 The area shown on the endorsed plans as garbage storage must contain a floor waste tap and the area must only be used for garbage storage.

**Noise Attenuation**

59 Prior to the commencement of the development, excluding demolition, bulk excavation, site preparation, soil removal, site remediation, retention works, footings, ground beams and ground slab, a report from a qualified acoustic engineer, must be submitted to the satisfaction of the Responsible Authority certifying that the residential components of the development will achieve a maximum noise level of 45dB(A) in habitable rooms with windows closed.

**Department of Transport**

60 Prior to the occupation of the residential component of the development a Green Travel Plan must be prepared by a suitably qualified person to the satisfaction of the Director of Public Transport. The GTP must:

(a) Describe the location of the development site in the context of alternative modes of transport and objectives of the GTP.

(b) Outline GTP measures for the development including, but not limited to:
(i) Household welcome packs for dwellings;
(ii) Possible incentives (e.g. provision of Metcards through rental/ownership of a dwelling);
(iii) Cycle parking and facilities included; and
(iv) GTP management responsibilities, including ongoing monitoring and review.

61 Once approved the GTP must form part of the planning permit or any ongoing Management Plan for the site to ensure the plan continues to be implemented by residents/owners to the satisfaction of the Responsible Authority.

Time Limit / Amended Plans

62 Notwithstanding other provisions of these conditions, the use and development permitted by this incorporated document will expire if one of the following circumstances applies:

(a) The development and use are not commenced within four years of the date of the approval of the amendment.

(b) The development is not completed within seven years of the date of the approval of the amendment.

The Responsible Authority may extend the periods referred to if a request is made in writing before these controls expires, or within three months afterwards.

NOTES

- The City of Melbourne only collects waste and recycling Monday to Friday (no weekend collections). If a weekend collection is required it would be at the buildings cost. The City of Melbourne recommends this due to the large volumes and types of waste generated.

- Commercial waste from the retail and market would require a separate waste room and private collection contractor. The City of Melbourne will not collect this waste/recycling but can assist with needs/requirements.

- All necessary approvals and permits for works in the public realm including, but not limited to: temporarily relocate street lighting and their reinstatement, to temporarily relocate and/or remove street furniture, all street furniture such as street letter bins, recycling bins, seats and existing public street lighting must not be altered without the prior consent, and obtained and completed to the satisfaction of the City of Melbourne (Engineering Services).

- Residents of this development will not be eligible for a resident parking permit. In addition the City of Melbourne will not necessarily alter on street parking facilities to cater for any visitor parking requirements or servicing / delivery. Therefore, any issues that arise in this regard will be for the applicant to resolve.

- The permitted development has not been assessed against the Building Regulations 2006, Part 5, Division 2 – Projections. It is the responsibility of the Relevant Building Surveyor to make such an assessment prior to the issuing a Building Permit. Matters that do not meet the requirements of the Regulations require the Report and Consent of the City of Melbourne prior to a Building Permit being issued.