



6.3 6-8 BOUNDARY STREET, SOUTH MELBOURNE - PSA C204 PORT

LOCATION/ADDRESS: 6-8 BOUNDARY STREET, SOUTH MELBOURNE

EXECUTIVE MEMBER: KYLIE BENNETTS, GENERAL MANAGER, CITY GROWTH AND DEVELOPMENT

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

DONNA D'ALESSANDRO, MANAGER CITY DEVELOPMENT

1. PURPOSE

- 1.1 To provide a Council position on a request for a Planning Scheme Amendment Application to the Minister for Planning C/- Department of Environment Land, Water and Planning (the Department) for Planning Permit Application Number C204port, 6-8 Boundary Street, South Melbourne.

2. EXECUTIVE SUMMARY

WARD / FBURA PRECINCT:	Gateway / Montague
TRIGGER FOR DETERMINATION BY COMMITTEE	Accommodation (dwellings) in the Fishermans Bend Urban Renewal Area
ADDRESS:	6 - 8 Boundary Street, South Melbourne
APPLICATION NO.	DELWP Ref: PSA C204 port CoPP Ref: PDMR/00002/2022 and PSA C204 port
APPLICANT	SVT Constructions Pty Ltd c/o Glossop Town Planning
EXISTING USE:	Two single storey attached dwellings
ABUTTING USES:	Residential, retail and commercial
ZONING:	Capital City Zone (CCZ1)
OVERLAYS:	Design and Development Overlay (DDO30) Special Building Overlay (SBO2) Environmental Audit Overlay (EAO) Parking Overlay (PO1) Infrastructure Contributions Plan Overlay (ICO1)
ABORIGINAL CULTURAL HERITAGE	The land is in an 'area of Cultural Heritage Sensitivity' under the Aboriginal Heritage Regulations 2018.
STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL	29 April 2022

- 2.1 This report is to consider an application to the Minister for Planning, through the Department of Environment, Land, Water and Planning (DELWP) (the Department), to demolish the existing buildings and construct a four-storey apartment building at 6-8 Boundary Street, South Melbourne.



- 2.2 The application site is in the Montague precinct of the Fishermans Bend Urban Renewal Area (FBURA).
- 2.3 The Minister for Planning C/- Department of Environment Land, Water and Planning (the Department) is the responsible authority for the application.

Application Matters

- 2.4 The Minister for Planning has received a request to exercise his powers of intervention under Section 20(4) of the Planning and Environment, Act 1987 ('the Act') to prepare, adopt and approve draft planning scheme amendment C204port.
- 2.5 The Minister is yet to decide whether the proposed amendment is to be referred to the Fishermans Bend Standing Advisory Committee ('the Committee') for independent advice. Notwithstanding this, the Minister (via DELWP) has advised Council of the draft amendment and seeks Council's views in relation to the proposal pursuant to Section 20(5) of the Act to assist in identifying key issues for consideration and whether a referral to the Committee is warranted.
- 2.6 The application proposes to demolish the existing buildings on the approximately 233 square metres site and construct a four-storey building plus rooftop terrace. The building would be occupied by four apartments, one per level.
- 2.7 The apartment building would present to Boundary Street with a maximum building height of 14.9 metres with building services and the rooftop pergola extending to 16.3 metres. The front façade would feature a mixture of black brickwork (pressed concrete panels), concrete panels with vertical grooves, clear glazing and black aluminium window shrouds.
- 2.8 Each apartment would be provided with a minimum of 12 square metres of private open space accessed from the primary living area which would provide passive surveillance to Boundary Street. Secondary areas of private open space, generally with a northern orientation are proposed to activate the rear laneway.
- 2.9 The proposed scale and massing of the proposal would conform with the maximum mandatory building heights of 15.4 metres / 4 storeys for this area, noting Boundary Street forms the western boundary of the Fishermans Bend Urban Renewal Area south of Normanby Road. The proposed built form would suitably transition from the 30 metres / 8 storey height limits contemplated for sites immediately to the east of the subject site (in the Capital City Zone) and sites to the eastern side of Boundary Street (in the General Residential Zone) which have a height limit of 11 metres / three-storeys which for the most part has already been realised.
- 2.10 The proposal would sit comfortably within the wider streetscape which comprises a mixture of recently constructed four-storey townhouses immediately abutting the site and approvals for similar types of development immediately north of Thistlethwaite Street. The proposal would therefore provide a sense of continuity with other built forms in the immediate area.
- 2.11 The development would largely comply with the controls of the Design and Development Overlay (Schedule 30) but for minor variations to the street walls to Boundary Street and the rear laneway.
- 2.12 The proposal would present as a four-storey street wall to Boundary Street but would be setback to accommodate the sag and sway clearance distances of the adjacent



overhead powerlines in accordance with building regulations and advice of the power companies.

- 2.13 The proposed variations (0.4 metres to 0.7 metres) would be minor and are considered acceptable given the prevailing residential nature of Boundary Street and the existing variance in street setbacks up to a height of four storeys.
- 2.14 To the rear, the building would present a four-storey wall perpendicular to the slightly angled laneway, such that it would be built to the western rear boundary of the site / lane and setback approx. 400mm from the lane at its eastern rear corner. This is considered a satisfactory response to the angled lane.
- 2.15 The DDO30 controls direct that side and rear setbacks for a building of this height are constructed to the boundary or else setback from their respective boundaries by a preferred distance of 10 metres or a minimum distance of 5 metres. The applicant has proposed to construct the side walls to the boundary given the site constraints including the width of the site being 9.8m wide.
- 2.16 To the north-east, the four-storey townhouse development at 10-16 Boundary Street provides three south-east facing light wells at Levels 2 and 3 along the common boundary. The proposed construction of a four-storey wall on this boundary would therefore not replicate these on the subject site and would effectively enclose these light wells. The applicant has nominated an internal light court centrally to the site measuring 3.8 metres x 2.71 metres to provide internal daylight and ventilation to internal rooms.
- 2.17 The proposed design response is an anticipated outcome given the constraints of the DDO setback requirements. In determining the acceptability of this outcome consideration was given to any loss of amenity to the townhouses and the internal amenity of the proposed apartments on the subject site.
- 2.18 The rooms to which these light wells service at 10-16 Boundary Street are bathroom windows (non-habitable rooms) and / or secondary windows to a bedroom which benefits from a primary light source including a window clear to the sky. The application material included a daylight modelling report which indicates that the proposed wall on boundary would have minimal impact on the daylight received by these dwellings and reciprocating lightwells on the subject site would not provide a discernible improvement to the amenity of these properties.
- 2.19 The internal light court would deliver light and natural ventilation to the proposed dwellings. The proposed dimensions would be less than the 3 metres x 3 metres generally accepted as best practice for a building of this height however daylight modelling undertaken as part of the Sustainable Design Assessment confirmed acceptable levels of daylight would be received in each bedroom as a result of the floor to ceiling height of the windows fronting the light court.
- 2.20 The location of the subject site is proximate to public transport, pedestrian and bicycle networks and services. The provision of four (4) on-site car parking spaces (one for each dwelling) would be consistent with the Parking Overlay Schedule 1 statutory parking requirements and expected to meet the typical resident car parking demand generated by the proposed dwellings. The provision of six (6) on-site bicycle parking spaces within three horizontal bicycle parking rails would exceed the statutory requirements generated by the proposed development.



- 2.21 The proposal would also demonstrate environmentally sustainable design credentials which subject to recommended conditions would demonstrate an acceptable response for the site.
- 2.22 A number of other designs, operational and amenity concerns with the proposal could be addressed by conditions.
- 2.23 It is recommended that the Planning Committee resolve to advise the Minister for Planning through the Department of Environment, Land, Water and Planning that the Council supports the application subject to conditions to address the matters set out in Sections 9 and 12 of this report and recommended conditions set out at Attachment 6 of this report.

3. RECOMMENDATION

RECOMMENDATION – PART A

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

- 3.1.1. Supports the application subject to conditions to address areas of concern set out in Sections 9 and 12 of this report and recommended conditions set out at Attachment 6 of this report.

RECOMMENDATION – PART B

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

4. RELEVANT BACKGROUND

4.1 There is no relevant planning permit history for this site.

5. PROPOSAL

5.1 The application proposes to:

- Use the land for dwellings on land within 450m of the South Melbourne to Brooklyn pipeline in the Capital City Zone (Schedule 1).
- Demolish the existing buildings on the land in the Capital City Zone (Schedule 1).
- Construct a four-storey building (including a roof top terrace, pergola structure and plant) in the Capital City Zone (Schedule 1), Design and Development Overlay (Schedule 30) and Special Building Overlay (Schedule 2).

5.2 More specifically, the application proposes:

- Demolish the existing buildings, two single storey attached dwellings on the site including outbuildings and vegetation.
- Construct a four-storey building plus rooftop terrace. The building would generally be constructed to all four site boundaries and occupied by four apartments, one per level. The apartment building would present to Boundary Street with a maximum building height of 14.9 metres with building services and the rooftop pergola extending to 16.25 metres.

- A common pedestrian entry point is provided off Boundary Street with a 1:14 ramp from street level to the building entrance which is recessed behind the front wall. The 1:14 ramp would generally continue to the lift core located centrally on the south-east boundary wall.
 - The ground floor apartment features three bedrooms and an open plan living, kitchen and meals space all constructed to 3.0m AHD. Two areas of private open space would also be provided including:
 - A terrace area of 13 square metres fronting Boundary Street (2.65m AHD) and enclosed by a 2.1m high, open spaced (75% transparency), metal picket fence.
 - A light court is located centrally to the site (at grade) with a dimension of 2.7m x 3.3m. This area would provide a garden area for the ground floor apartment and features obscure glazing to the internal access corridor and would be open and directly accessible from two bedrooms.
 - Car and bicycle parking accessed off the rear laneway. Four car parking spaces would be provided within a car parking stacker and pit system. Six bicycle spaces, two underground 4,000 litre rainwater tanks with toilet connections and waste storage facilities are provided at grade.
 - Apartments at first, second and third floors each contain three bedrooms plus an open plan living, kitchen and meals space. Bedrooms 2 and 3 rely on the central light court for solar access. Private open space is provided in the form of a 12 square metre balcony plus planter box fronting Boundary Street and a 5 square metre balcony orientated to the rear laneway accessed from an entertainment room, a secondary living area.
 - The third-floor apartment is supplemented with a 50 square metres rooftop terrace area with a garden area wrapping around the perimeter of the terrace area.
 - Rooftop services include the access stairs, a 14.0 kw solar system and plant area.
 - The front façade would feature a mixture of black brickwork (pressed concrete panels), concrete panels with vertical grooves, clear glass and black aluminium window shrouds.
- 5.3 A copy of the proposed architectural plans and photomontages are included at Attachment 1 of this report.



Figure 1: Photomontage of the proposal from Boundary Street.

5.4 A summary of the application is set out in Table 1 below:

Table 1: Application Summary


Address	6-8 Boundary Street, South Melbourne
Planning Scheme Amendment (PSA) No.	C204port
Plans assessed	Architectural Plans prepared by 8SM / SVT Group, dated 1 December 2021 Sheet No: 1/7 to 7/7 and Shadow Diagrams prepared by Archtistic, Job No: 21026, Dwg No: TP21/10 TO1/4 to TP 4/4 all dated 10 December 2021.
Site area / Title particulars	233 square metres (0.0233 ha)
Minimum plot ratio not used for Dwelling (Core areas) - Clause 22.15-4.1	N/A Outside Montage Core Area
Non-residential floor area	N/A
CCZ1 Dwelling Density	Montague Non-core area @ 296 dw/ha x 0.0233ha = 6 (6.9) dwelling
No. dwellings (inc. Affordable Housing) / dwelling diversity	4
Affordable housing	N/A
Social housing	N/A
Building height	Four storeys: 14.8m (parapet), 16.25m (to top of plant)

Street wall Setbacks	Ground Floor: 0.4, 0.7, 0.9 and 2.6m Level 01-03: 0.0m, 0.4m, planter 0.4m-0.7m, balustrade 1.8m-2.1m and to the wall, 4.3m-4.5m
Setbacks	0.0m to both side boundaries and 0.0m and 0.4m from rear boundary.
Loading bay	Not shown. Refuse zone at ground level and Council curbside waste collection proposed.
Car parking	4 (1 per 3-bed dwelling) in a car stacker. Car share: Not proposed EV charging: 1
Bicycle parking	6 horizontal bicycle spaces shown.
Open space	Primary terrace balcony: Min: 12.0m ² Max: 13.0m ² Secondary area: GF lightwell: 9m ² , Balcony: 5m ² Roof terrace: 50m ²
Stores* <i>*Note: Excludes storage in Apartments per BADS.</i>	N/A
Communal facilities	N/A
New Roads / Laneways	N/A
Vehicle access	Via widened crossover to an existing laneway (Asset no: R2945 and R2919 South Melbourne)
Dwelling access	A common pedestrian entry point off Boundary Street with a 1:14 ramp from street level to the building entry and generally continues to the lift core.

6. SUBJECT SITE AND SURROUNDS

6.1 Existing conditions are as follows:

Site description and area	<p>The site is located to the eastern side of Boundary Street, South Melbourne, between City Road in the south and Thistlethwaite Street in the north.</p> <p>South of Normanby Road, Boundary Street is the western limit of the Montague Precinct (South) as defined in the Capital City Zone / Fishermans Bend Urban Renewal Area. The western side of Boundary Street is Located within the General and Neighbourhood Residential Zones. The properties fronting City Road are in a Mixed Use Zone</p> <p>The site is located within a 15.4m / four-storey mandatory maximum height limit area (Map 2 of DDO30 - Fishermans Bend Montague Precinct).</p> <p>The subject site comprises two (2) lots being:</p> <ul style="list-style-type: none"> • Lot 1 on Title Plan 178115Y (6 Boundary Street) and • Lot 1 on Plan of Subdivision 027264 (8 Boundary Street).
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	<p>No restrictive instruments are registered against either Certificate of Title. There are party wall easements between the lots and adjoining properties.</p> <p>The overall site is regular in shape with a Boundary Street frontage of 9.8 metres and a depth of approximately 23.9 metres providing for an area of 233 square metres.</p> <p>The land is generally flat with no discernible slope in any direction. Plans show only minor differences of 0.3 in the natural ground level (NGL) from the site frontage to the rear.</p>
<p>Existing building & site conditions</p>	<p>The land is developed with a pair of side-by-side single storey dwellings. All structures and vegetation on the site are intended to be removed to facilitate the proposed development.</p> <p>8 Boundary Street benefits from a car parking space in the rear setback while outbuildings occupy the rear setback of 6 Boundary Street.</p> <p>There is a power pole in the Boundary Street footpath and another located in the rear laneway which also features a streetlight. A street tree is also located in the Boundary Street footpath with its canopy impacted by the electrical lines. The applicant has requested to remove this street tree.</p>  <p>Figure 2: Site Context (Source NearMaps, October 2021)</p>
<p>Surrounds / neighbourhood character</p>	<p>Surrounding land to the south-east and south-west is mostly developed for one or two-storey commercial / industrial buildings, used for offices, car sales and repairs, light industry, warehousing etc. Land to the north and north-west primarily developed with residential uses of between three and four storeys.</p> <p>More particularly, land immediately surrounding the subject site is developed as follows:</p> <ul style="list-style-type: none"> • North-east: A bluestone laneway which connects to Boundary Street via a dog-leg profile and abuts the boundaries of 2, 4, 6 and 8 Boundary Street and 588 - 590, 592, 600, 602 and 604 City Road. The laneway generally ranges between 3.0 and 3.4 metres wide. There are several roller doors



	<p>and fences along the laneway. Diagonally opposite is the rear loading / car parking area associated with 592-598 City Road.</p> <ul style="list-style-type: none"> • South-east: 2 and 4 Boundary Street are occupied by single storey dwellings, beyond which is the bluestone laneway. • South-west: Boundary Street, beyond which are single and double storey warehouse buildings with high site coverage. 9-15 Boundary Street contains a three-storey residential building. 19 Boundary Street on the corner with Garton Street features a four-storey residential building. These developments are generally constructed to the boundary with minimal setbacks to allow for landscaping. This land is zoned General Residential Zone (Schedule 1) which has maximum building height of 11 metres / 3 storeys. • North-west: At 10-16 Boundary Street is a residential development containing 27 townhouses with basement parking approved under Planning Permit 293/2016 on 26 October 2016. This development is four storeys in height and includes five (5) townhouses along the shared side boundary with No. 8 Boundary Street. Levels 3 and 4 feature light wells of approximately 1.5m in depth providing daylight and ventilation to bathrooms (non-habitable rooms) or a secondary light source to bedrooms. This approval pre-dates the current planning controls in the Fishermans Bend area. <p>Beyond this is Thistlethwaite Street and at the north-east corner of the intersection of Boundary Street and Thistlethwaite Street, is 156-162 Thistlethwaite Street. This site benefits from the approval of Planning Permit 24/2018 approving the construction of 11 x four-storey townhouses. Development must commence before 4 October 2022.</p> <p>The subject site is located within close proximity of two light rail stops served by two separate tram routes to the CBD. The Montague Street light rail stop is 0.5km from the site. The 109 service stops here, connecting Port Melbourne to Box Hill via the CBD. The South Melbourne Market light rail stop is approx. 0.6km from the site. Route 96 services stops here, connecting St Kilda to East Brunswick via the CBD.</p> <p>The Bay Street Activity Centre is located within 0.25km of the site and the South Melbourne Market and the South Melbourne Central Activity Centre are located 0.65km away.</p>
<p>Fishermans Bend Framework October 2018</p>	<p>The Fishermans Bend Framework and the Planning Scheme propose:</p> <p>For the subject site:</p> <ul style="list-style-type: none"> • An area with low rise building typologies which is defined as development up to and including 6 storeys. • A 15.4m mandatory (4 storeys) height limit. • 450m South Melbourne to Brooklyn pipeline buffer. <p>For the surrounding area:</p> <ul style="list-style-type: none"> • Boundary Street – no crossovers permitted • Extension of the northern portion of the laneway abutting the site through to the existing laneway between 117-119 Thistlethwaite Street (nominated as new public open space) and 123 Thistlethwaite Street. The laneway location is nominated as indicative only and being 6m in width.

6.2 Refer to **Attachment 2** for the site location and **Attachment 3** for photographs of the site and surrounds.

7. PERMIT TRIGGERS

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

Planning Scheme Provision	Why is a planning permit required?
<p>Clause 37.04: Capital City Zone (CCZ1)</p>	<p>Pursuant to Section 2 of the Table of uses at Clause 37.04-1, a planning permit is required to use land for a use not in Section 1 or 3 of the Schedule to the zone. This includes:</p> <ul style="list-style-type: none"> • A Dwelling is a Section 1 use (no permit required) conditional on following: <ul style="list-style-type: none"> ○ Must be in a non-core area. ○ Must not be within an Amenity buffer shown on Map 4. ○ Must not be within 450m of the South Melbourne to Brooklyn or Dandenong to West Melbourne pipeline as shown on Map 5. ○ Must not be within 100m of the Port Melbourne to Symex Holdings pipeline as shown on Map 5. <p>The land is in in a non-core Area but is within 450m of the South Melbourne to Brooklyn pipeline. A permit would be required to use the land for a dwelling.</p> <p>Pursuant to Clause 37.04-4 of the CCZ1 and Clause 4.0 of the Schedule to the CCZ1, a permit would be required to construct a building or construct or carry out works in the Capital City Zone, with the exception of an addition of, or modification to a veranda, awning, sunblind or canopy of an existing dwelling.</p> <p>Pursuant to Clause 37.04-4, an apartment development must meet the requirements of Clause 58.</p> <p>Pursuant to Clause 37.04-4 of the CCZ1 and Clause 4.1 of Schedule 1 to the CCZ1, a permit is required to demolish or remove a building or works, except for:</p> <ul style="list-style-type: none"> • The demolition or removal of temporary structures; • The demolition ordered or undertaken by the responsible authority in accordance with the relevant legislation or local law. <p>An application for the use of land, subdivision, demolish or remove a building, construct a building or construct or carry out works, or construct and display a sign is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act. This does not apply to an application to use land for a nightclub, tavern, hotel or adult sex product shop.</p> <p>A planning permit would be required under this clause.</p>
<p>Clause 43.02: Design and</p>	<p>The land is in Precinct Area M6 of DDO30 which encourages low-rise development that responds to the context and character of the</p>



<p>Development Overlay - Schedule 30 - Fishermans Bend -Montague Precinct (DDO30)</p>	<p>adjacent low-rise neighbourhoods and a maximum building height of 15.4 metres (four-storeys) mandatory.</p> <p>Pursuant to Clause 43.02-2 of the DDO and Clause 2.0 of Schedule 30 to the DDO, a permit is required to construct a building or construct or carry out works in the Design and Development Overlay.</p> <p>An application to construct a building or construct or carry out works or subdivide land in DDO30, 32 and 33 is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.</p> <p>A planning permit would be required under this clause.</p>
<p>Clause 44.05: Special Building Overlay - Schedule 2 (SBO2)</p>	<p>Pursuant to Clause 44.05-2, a permit is required to construct a building or construct or carry our works.</p> <p>A planning permit would be required under this clause.</p>
<p>Clause 45.03: Environmental Audit Overlay (EAO)</p>	<p>Pursuant to Clause 45.03-1 of the EAO, before a sensitive use (residential use, childcare centre, pre-school centre, primary school, secondary school or children's playground) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences:</p> <ul style="list-style-type: none"> • A preliminary risk screen assessment statement in accordance with the <i>Environment Protection Act 2017</i> must be issued stating that an environmental audit is not required for the use or the proposed use; or • An environmental audit statement under Part 8.3 of the <i>Environment Protection Act 2017</i> must be issued stating that the land is suitable for the use or proposed use. <p>A planning permit would not be required under this clause.</p> <p>The residential use would be a continuation of the existing use of the site. The proposal would lead to significant soil disturbance and therefore any approval would require compliance with the above EPA requirements.</p>
<p>Clause 45.09: Parking Overlay (P01)</p>	<p>Pursuant to Clause 45.09-1, the Parking Overlay operates in conjunction with the requirements of Clause 52.06.</p> <p>Table 1 of Schedule 1 to the Parking Overlay specifies maximum rather than minimum parking rates for dwelling.</p> <p>A planning permit is required to provide car parking spaces in excess of the rates specified in Table 1. It is not proposed to provide car parking for dwellings in excess of the Parking Overlay rates.</p> <p>A planning permit would not be required under this clause as the maximum car parking is provided.</p>
<p>Clause 45.11: Infrastructure Contribution Overlay (IC01)</p>	<p>Pursuant to Clause 45.11-2, a permit must not be granted to subdivide land, construct a building or construct or carry out works until an infrastructure contributions plan has been incorporated into the Planning Scheme.</p>



	<p>Pursuant to Clause 45.11-6, land or development of land is exempt from the ICO if it is for:</p> <ul style="list-style-type: none"> • A non-government school; • Housing provided by or on behalf of the Department of Health and Human Services; • Any other land or development of land specified in a Schedule to the ICO. <p>Pursuant to Schedule 1 to the ICO, a permit may be granted to subdivide land, construct a building or construct or carry out works before an infrastructure contributions plan has been incorporated into the scheme for:</p> <ul style="list-style-type: none"> • An existing use of land provided the site coverage is not increased. • A sign. • Consolidation of land or a boundary realignment. • Subdivision of buildings and works approved by a permit granted before the approval date of Amendment GC81. • Subdivision of an existing building used for non-residential purposes provided each lot contains part of the building and each lot is not intended for a residential purpose <p>A planning permit cannot be granted for the proposal.</p> <p>The application for a Planning Scheme Amendment allows consideration of the application by an alternative process whilst the Infrastructure Contributions Plan is being prepared.</p>
<p>Clause 52.06: Car Parking</p>	<p>Pursuant to Clause 45.09-1 (Parking Overlay), the Parking Overlay operates in conjunction with the requirements of Clause 52.06. Car parking plans must meet the design requirements of Clause 52.06-9 unless the responsible authority agrees otherwise.</p> <p>A permit is not required under this clause.</p>
<p>Clause 52.34: Bicycle Facilities</p>	<p>A new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities have been provided on the land pursuant to Clause 52.34-1.</p> <p>A planning permit is required to vary, reduce or waive any bicycle facilities requirement of Clause 52.34-3 and Clause 52.34-4.</p> <p>A planning permit would not be required under this clause.</p>

8. PLANNING SCHEME PROVISIONS

8.1 Planning Policy Frameworks (PPF)

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

Clause 11: Settlement, including:

Clause 11.01-1R1: Settlement - Metropolitan Melbourne

Clause 11.02: Managing Growth

Clause 13: Environmental Risks and Amenity, including:

Clause 13.01: Climate Change Impacts



Clause 13.03: Floodplains

Clause 13.07: Amenity

Clause 15: Built Environment and Heritage, including:

15.01-1: Built Environment

15.01-1R: Urban design - Metropolitan Melbourne

15.01-2S: Building Design

15.01-4R: Healthy neighbourhoods - Metropolitan Melbourne

15.01-5S: Neighbourhood character

15.02-1: Sustainable development

15.02-2S: Aboriginal cultural heritage

Clause 16: Housing, including:

Clause 16.01: Residential development

Clause 16.01-3R: Housing diversity - Metropolitan Melbourne

Clause 18: Transport, including:

Clause 18.02-4S: Car parking

Clause 19: Infrastructure, including:

Clause 19.01: Energy

Clause 19.01-1S: Energy supply

Clause 19.01-2R: Renewable energy - Metropolitan Melbourne

Clause 19.01-3S: Pipeline infrastructure

Clause 19.03-1S: Development and infrastructure contributions plans

Clause 19.03-4S: Stormwater

8.2 Local Planning Policy Framework (LPPF)

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

Clause 21: Municipal Strategic Statement

Clause 21.01: Vision and Approach

Clause 21.02: Municipal Context and Profile

Clause 21.03: Ecologically Sustainable Development

Clause 21.04: Land Use, including

21.04-1: Housing and Accommodation

Clause 21.05: Built Form, including:

21.05-2: Urban Structure and Character

Clause 21.06: Neighbourhoods, including

21.06-8: Fishermans Bend Urban Renewal Area



8.3 Local Planning Policy Framework (LPPF)

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

- Clause 22.12: Stormwater Management (Water Sensitive Urban Design)
- Clause 22.13: Environmentally Sustainable Development
- Clause 22.15: Fishermans Bend Urban Renewal Area Policy

8.4 Other relevant provisions

- Clause 58: Apartment Developments
- Clause 59.05: Buildings and Works in an Overlay
- Clause 59.10: Car Parking
- Clause 65: Decision Guidelines, including:
 - Clause 65.01: Approval of an Application or Plan

9. REFERRALS

9.1 External referrals

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

9.2 Internal referrals

The application was internally referred for comment.

A summary of responses is as follows:

Internal Department / Referral Officer	Internal Referral Comments
<p>Asset Management and Property</p>	<ul style="list-style-type: none"> • The designated flood level at the above property is 2.669m AHD. The SBO2 encroaches from the front and rear boundary of the property as shown below. • The minimum required finished floor level for the habitable area is 2.969m AHD (2.669 AHD +300mm) and non-habitable area is 2.819m AHD (2.669 AHD + 150mm) • The proposed works as the level requirement meets the required FFL for habitable area and the installation of flood barrier at the rear for non-habitable area. <p>Other:</p> <p>Window shrouds encroach over the laneway:</p> <ul style="list-style-type: none"> • From a safety perspective, these features can fail and fall onto a pedestrian. In addition, from the drainage perspective, water can drip on the pedestrians which can be a nuisance, therefore any water from these



	<p>features will need to be captured and conveyed to the Legal Point of Discharge.</p> <ul style="list-style-type: none"> • There are no council's drainage pipe in the laneway for the stormwater drainage. Hence, the LPD needs to be discharged to the kerb and channel at the front of the property.
Traffic Engineers	<ul style="list-style-type: none"> • Swept path diagrams should be provided for a B99 vehicle demonstrating satisfactory access/egress to all parking bays. • The plans should be updated to include all dimensions including dimensions of the laneway • Vertical clearance provided within the stacker has been reviewed and is considered adequate – the stacker can accommodate at least 50% of spaces for 1.8m • A minimum clear platform width of 5.5m should be adopted given all vehicles are parking adjacent to walls. The stacker length should also be increased to ensure a B99 vehicle can be accommodated with adequate clearance from walls at the front and rear of the vehicle • The applicant should confirm the grades leading up to the stacker satisfy the requirements specified by the manufacturer to ensure vehicles can adequately access the stackers.
Waste Management	<ul style="list-style-type: none"> • Regarding adding feature to council bins – modifications to council bins are not allowed. • Dragging bins two blocks away and to the front might cause an OH&S issue and would also damage the bins quickly. A council waste collection can occur if the bins can be brought out the front from within the building. • Shared bins will be provided for shared bin areas (2x240L waste and 2x240L recycling bins) – this will also help take less space in the bin area and at the collection point. • Please allocate storage space for hard/e-waste – hard waste items must be booked for collection before being left out for collection. • Please note that the placement of hard waste for collection would be the front of the building.
Open Space and Recreation (Arborist)	<ul style="list-style-type: none"> • The street tree needs to be retained and protected as per AS4970-2009. A Tree Protection and Management Plan is what comes after a satisfactory Arboricultural Impact Assessment and so the permit should not be issued (and plans not approved) until we are satisfied that it will not compromise the longevity or structural integrity of the street tree. • Please request an Arboricultural Impact Assessment report.

10. PUBLIC NOTIFICATION / REFERRAL

10.1 The Department is responsible for giving notice of the proposal to relevant persons including landowners and occupiers, and referral authorities.



- 10.2 The application has been referred to Council as a recommending referral authority pursuant to Section 55 of the Planning and Environment Act and the Schedule to Clause 66.04 of the Planning Scheme.
- 10.3 The Council had 20 business days from the date of receiving notice to provide a written response (i.e. 17 March 2022). Council requested and was granted an extension of time to 29 April 2022 to accommodate the next available Planning Committee meeting.

11. FISHERMANS BEND STANDING ADVISORY COMMITTEE

- 11.1 The Minister has appointed the Fishermans Bend Standing Advisory Committee (the SAC) to advise on site specific planning controls to facilitate proposals to redevelop land within Fishermans Bend prior to the introduction of the Infrastructure Contributions Plan.
- 11.2 The Minister has prepared Terms of Reference for the SAC.
- 11.3 The Minister is yet to decide whether the proposed amendment is to be referred to the SAC for independent advice. Notwithstanding this, Council must form a view on the draft amendment which will assist DELWP identifying key issues for consideration and whether a referral to the Committee is warranted.
- 11.4 A summary of the SAC Assessment and Hearing provisions of the Terms of Reference and a copy of the Terms of Reference are included at Attachment 4 of this report.

12. OFFICER'S ASSESSMENT

Fishermans Bend Standing Advisory Committee Terms of Reference

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

12.1 Responding to Local Policy

Clause 22.15: Fishermans Bend Urban Renewal Area Policy

Clause 22.15 Fishermans Bend Urban Renewal Area Policy	Officer Assessment
<p>22.15-4.1 Providing for employment floor area Development in a Core area <u>should</u> provide a minimum floor area ratio not used for dwelling of: Montague: 1.6:1; Sandridge 3.7:1; Wirraway 1.9:1. Exceptions apply.</p>	<p>Not applicable The site is not in a core area.</p>
<p>22.15-4.2 Community and diversity. Proposals of > 100 dwellings <u>should</u> provide 3BR dwellings: Montague: 25%; Sandridge: 20%; Wirraway: 30%.</p>	<p>Not applicable Four (3 bedroom) dwellings are proposed.</p>
<p>22.15-4.3 Providing for Affordable housing Affordable housing Developments <u>should</u> provide at least 6% of dwellings permitted under the dwelling</p>	<p>Not applicable Four (3 bedroom) dwellings are proposed. The provision of Affordable Housing is not required.</p>



<p>density requirements in CCZ (excluding any Social housing uplift dwellings) as Affordable housing, unless:</p> <ul style="list-style-type: none"> • The site makes it impractical to do so; • It can be demonstrated the policy objectives can be met by a lesser provision; or • It can be demonstrated meeting the objective would render the proposal economically unviable 	
<p>Social housing <u>Encourage</u> Social housing in addition to 6% Affordable housing – Social housing uplift: allow 8 additional private dwellings of equivalent size for each Social housing unit provided.</p>	<p>Not applicable Four (3 bedroom) dwellings are proposed. The provision of Social Housing is not required.</p>
<p>22.15-4.4 Design Excellence <u>Encourage</u> varied built form that aligns with precinct character areas in DDO.</p>	<p>Satisfied Recommended: Precinct character area M6 encourages an area with low rise building typologies which is defined as development up to and including 6 storeys. The site has a 15.4m mandatory (4 storeys) height limit. Proposed: a 4-storey building with a maximum height of 14.8m (parapet) is proposed. The proposal would respond to the fine grain and pedestrian scale of the environment and appropriately transition to the lower scales to the west side of Boundary Street being 2-storeys / 9m and 3-storeys / 11m.</p>
<p>22.15-4.5 Achieving a climate adept, water sensitive, low carbon, low waste community <u>Energy:</u> Assess against:</p> <ul style="list-style-type: none"> • <u>Should</u> achieve a 20% improvement on current National Construction Code energy efficiency standards including for building envelopes, lighting and building services. 	<p>Not achieved: The Sustainable Design Assessment provides for a 64% BESS Score. 'Best practice' is defined within BESS as an overall score of 50% or higher. 'Excellence' is defined within BESS as an overall score of 70% or higher. To achieve a 20% improvement on current National Construction Code a minimum score of 70% would need to be achieved. A condition of any approval should require a minimum score of 70%. It is considered this can be achieved.</p>
<ul style="list-style-type: none"> • Residential development <u>should</u> achieve an average 7 star NatHERS rating for each building. 	<p>Achieved:</p>



	<p>A commitment has been made to 7.0 stars with no dwellings achieving less than 6.4 stars.</p> <p>A 7.0 star average the proposed development meets the standard that is considered best practice for energy efficiency.</p> <p>A condition of any approval would require a material schedule in accordance with the specifications outlined on Page 18 of the Eco Results Sustainable Design Assessment Report No: 2021-2695-SDA</p>
<ul style="list-style-type: none"> • Developments <u>should</u> incorporate renewable energy generation, on-site energy storage and opportunities to connect to a future precinct wide or locally distributed low-carbon energy supply. 	<p>Achieved:</p> <p>Solar PV panels totalling 14kW are proposed on the roof.</p>
<p><u>Urban heat island: Assess against:</u></p> <ul style="list-style-type: none"> • At least 70% of total site <u>should</u> comprise building or landscape elements that reduce impact of urban heat island effect including: <ul style="list-style-type: none"> - Vegetation, green roofs and water bodies; - Roof materials, shade structures, solar panels or hard scaping materials with high solar reflectivity index. 	<p>Achieved in part – condition required.</p> <p>The SDA commits to reducing the urban heat island (UHI) effect through a combination of vegetation and solar panels.</p> <p>Approximately 43 square metres of the roof would be covered in a garden area which would equate to 18% of the roof. An additional 25 square metres is given over to solar panels equating to a total of 29% of the roof area.</p> <p>It is considered a missed opportunity to include a roofing material that is specified as a high solar reflectance index (SRI) material. A site plan should be provided demonstrating how at least 70% of the site area would consist of vegetation or appropriate materials to reduce UHI to achieve this requirement.</p>
<ul style="list-style-type: none"> • Non-glazed façade materials exposed to summer sun <u>should</u> have a low solar absorptance. 	<p>Achieved in part – condition required:</p> <p>No details provided of the reflective index of façade materials including non-glazed façade materials exposed to summer sun.</p>
<p><u>Sea level rise, flooding and water recycling and management:</u></p> <p>Raise internal floor levels above street level as a last resort, except where other measures and evidence / risk management necessitates it.</p>	<p>Achieved:</p> <p>The design proposes to raise internal floor levels above street level to a minimum FFL of 3.0m AHD.</p> <p>Note: a 1:14 access gradient ramp is acceptable, but a transition space should be provided to the access door of the ground floor apartment</p>



<p>Assess proposals in flood prone areas against:</p> <ul style="list-style-type: none"> • Design elements and materials <u>should</u> be resilient including water proof doors and windows, elevated power outlets and the like. 	<p>Achieved:</p> <p>The application documentation details the minimum required finished floor levels. Details of flood resilient materials have not been provided but this is considered sulphurous when the required FFL's are achieved.</p>
<ul style="list-style-type: none"> • Land uses at ground level <u>should</u> be able to easily recover from temporary flooding. 	<p>Achieved:</p> <p>The plan and elevation drawings generally show ground floor levels above the designated flood levels for the site.</p>
<ul style="list-style-type: none"> • Any level changes required between street level and internal ground floor <u>should</u> be integrated into the building design to maintain good physical and visual connection between street and interior. 	<p>Achieved:</p> <p>The proposed ground floor interface with the street is considered acceptable whereby an open front fence profile facilitates passive surveillance of the public realm.</p>
<ul style="list-style-type: none"> • Essential services such as power connections, switchboards and other critical services <u>should</u> be located to address flooding impacts. 	<p>Achieved:</p> <p>The plan and elevations detail the discrete placement of the fire hydrate within the front setback, this is generally well resolved with the proposed architecture of the building.</p>
<ul style="list-style-type: none"> • Developments and public realm layout and design <u>should</u> integrate best practice WSUD. 	<p>Achieved in part:</p> <p>It is proposed to capture stormwater from non-trafficable areas and store it on site for reuse. Council's Sustainable Design officer requested details to confirm the proposal would collect stormwater from all podium and tower roofs, and tank sizes be increased to meet FBURA requirements.</p>
<p>22.15-4.6 Communal open spaces</p> <p><u>Encourage</u> developments to landscape all public, communal and private open space.</p>	<p>Achieved in part:</p> <p>The proposal does not include any communal open space areas. Private balconies fronting Boundary Street include planters and the rooftop terrace would include a 43m² garden area.</p> <p>Note: the garden area is noted as 33m² on sheet 4 and 43m² on sheet 5. The dimensions have been checked and the larger area of 43m² is correct.</p>
<p>Landscape areas <u>should</u>:</p> <ul style="list-style-type: none"> • Contribute to creation of sense of place and identity and preferred character for the precinct. 	<p>Achieved in part – Condition required:</p> <p>Applicable flood mitigation, stormwater run-off, and best practice WSUD is achieved but information provided does not include any innovative approaches sought by this policy. The landscaped elements of this proposal</p>



	would not appreciably contribute to any sense of particular place or identity or the preferred character for the precinct noting that most sites within this streetscape borrow amenity from the street tree assets.
<ul style="list-style-type: none"> • Incorporate innovative approaches to flood mitigation and stormwater run-off, and best practice WSUD. 	<p>Not achieved: The SDA does not propose innovative approaches to flood mitigation and stormwater run-off, and best practice WSUD for the landscaped areas.</p>
<ul style="list-style-type: none"> • Incorporate opportunities for community gardens. 	<p>Not achieved: No community garden is proposed. The site constraints would not easily lend itself to this use.</p>
<ul style="list-style-type: none"> • For POS, interpret and celebrate heritage and culture inc. Aboriginal cultural heritage. 	<p>Not applicable: No public open space is proposed.</p>
<p>Plant selection <u>should:</u></p> <ul style="list-style-type: none"> • Support complex and biodiverse habitat including native and indigenous flora and fauna. 	<p>Not achieved: A landscape plan has not been submitted in support of this application. A condition of any approval issued should require a mixture of native and indigenous flora and fauna that are tolerant to the environmental conditions of the area.</p>
<ul style="list-style-type: none"> • Balance provision of native and indigenous plants with exotic climate resilient plants that provide opportunity for biodiversity. 	<p>Not achieved - Condition required: As per the above comments.</p>
<ul style="list-style-type: none"> • Support creation of vegetation links within FB to surrounding areas of biodiversity, plant selection design. 	<p>Not applicable: The site is not proximate to an area of biodiversity and the existing and proposed buildings have a high site coverage limiting the ability to achieve this objective.</p>
<p>Buildings <u>should:</u></p> <ul style="list-style-type: none"> • Include deep soil zones of at least 1.5m or planter pits for canopy trees. 	<p>Not achieved: There are no canopy trees proposed within the site and there are limited opportunities to do so. Any requirement canopy trees would need to be carefully managed with the canopies of existing street trees and the overhead power lines. The proposal seeks to remove the street tree. The tree removal is not something that is currently supported by Council's Arborist. The area is undergoing substantial change, including potential changes to the street profiles. On this basis it is recommended the street tree is retained.</p>



<ul style="list-style-type: none"> • Incorporate green facades, rooftop, podium or terrace planting that is water efficient, located and designed to be sustainable, viable and resilient and appropriate to micro-climate conditions. 	<p>Achieved in part - Condition required:</p> <p>The landscape plan proposes a partial green roof. The plans do not detail whether the landscape areas are water efficient, or located and designed to be sustainable, viable and resilient and appropriate to micro-climate conditions.</p>
<p>22.15-4.8 New streets, laneways and pedestrian connections</p> <p>New streets, laneways and pedestrian connections <u>should</u> be spaced:</p> <ul style="list-style-type: none"> • Core areas: not more than 50-70m apart in preferred direction and 100m apart in the other direction in a block. • Non-core areas: not more than 100m apart and orientated in the preferred direction. <p>The preferred direction for new pedestrian connections and laneways is north-south.</p>	<p>Not applicable:</p> <p>The proposed alteration of the existing crossover from the rear laneway would not impact on the vision of the extension of the northern portion of the laneway.</p>
<p>Sites >3000m² <u>should</u> provide new streets, laneways or paths to create mid-block through links and define and separate buildings.</p>	<p>Not applicable</p>
<p>New streets, laneways and pedestrian connections <u>should</u>:</p> <ul style="list-style-type: none"> • Be aligned with and connected to existing and proposed streets as per relevant Maps in CCZ1. 	<p>Not applicable</p>
<ul style="list-style-type: none"> • Provide direct access to existing or proposed public transport stations and routes, and existing or proposed public open space. 	<p>Not applicable</p>
<p>New shared streets or lanes <u>should</u> prioritise pedestrian movement and safety.</p>	<p>Not applicable</p>
<p>New streets and lanes <u>should</u> be designed to: Enable views through the street block; Have active frontages in a core area; Be open to the sky; Allow for canopy tree planting.</p>	<p>Not applicable</p>
<p>22.15-4.9 Sustainable transport</p> <p>Ensure development does not compromise the delivery of future PT inc, new tram, train and bus routes.</p>	<p>Achieved:</p> <p>The development would not compromise the delivery of future PT including new tram, train and bus routes.</p>
<p>Reduce impacts of new vehicle access points on pedestrian, PT and bicycle priority routes.</p>	<p>Achieved:</p> <p>The site does not abut a pedestrian, PT or bicycle priority route.</p>



	The proposal would widen an existing crossover from the rear laneway. The additional traffic generated by the development would not unreasonably impact the existing operation of the laneway.
Design internal connections to give priority to pedestrians and bicycles.	Not applicable
Provide high levels of and easy access to bicycle parking facilities, inc. change rooms, showers and lockers.	Not applicable Bicycle parking facilities are detailed on the ground floor plan however the development is not of a scale that would require visitor or end of trip facilities. Note: there are inconsistencies between the bicycle parking layout between sheets 3 and 5.
Encourage developments to provide less than preferred max. no. car spaces.	Achieved: Proposal would provide the maximum number of car spaces for the dwellings allowed under the Parking Overlay (Schedule 1) before triggering a planning permit.
Encourage developments to provide for future conversion of car parking to alternative uses.	Achieved: The car stackers and associated pit could be easily removed to accommodate an alternative use within the nominated parking area.
22.15-4.10 Land use transition Ensure new uses and expansion of existing uses with potential adverse amenity impacts do not prejudice the urban renewal of Fishermans Bend.	Achieved: The proposed use would not prejudice the urban renewal of Fishermans Bend.
Applications that may be affected by adverse amenity impacts, require the preparation of an Amenity Impact Plan that includes measure to mitigate adverse amenity impacts.	Not applicable The subject site is not located in an area where unreasonable amenity impacts current exist or are expected to occur in the future.

12.2 Clause 37.04: Capital City Zone (CCZ1)

12.2.1 Use of Land

A planning permit is required for use for a dwelling within 450m of the South Melbourne to Brooklyn gas pipeline. The proposed use is considered satisfactory for the site, and whilst the proposal is entirely residential it will not undermine the realisation of employment targets which are more broadly expected to be clustered within the core areas of the precinct.



It is further noted the site is well serviced by public transport options including both bus and tram services. The proposal would also encourage sustainable transport options through the provision of six bicycle spaces.

The residential use would be acceptable subject to conditions for any protection measures required for the gas pipelines (as required).

12.2.2 Dwelling Density

The four (4) dwelling scale of the proposal is below the threshold for housing diversity and affordable housing of the Fishermans Bend Urban Renewal Area Policy.

12.2.3 Buildings and Works

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

Map 1: Urban Structure

The Application Site is not within a core area but will nevertheless contribute towards an active frontage through habitable room windows and a terrace addressing the street at ground level with the privacy fence provided having a transparency of 75 per cent and upper level balconies also providing activation to the frontage.

Map 1 directs no crossovers off Boundary Street. The proposal does not seek a crossover to Boundary Street and instead relies on an existing lane at the rear for vehicle access. A new 6.0m wide extension of the existing lane is proposed to the north (rear) of No. 8 Boundary Street, to run parallel to City Road and Thistlethwaite Street, with returns to City Road and Thistlethwaite Street. The proposed development would not compromise the delivery of this laneway extension.

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

Map 6: Transport Infrastructure shows the site is within 250m of the Route 109 tram corridor and would not adversely impact on any proposed future transport infrastructure.

With regard to the decision guidelines of the zone the following is noted:

- the demolition of the existing dwellings is acceptable on the basis they hold no heritage significance, are not identified within the relevant Fishermans Bend heritage studies or as contributory heritage places outside the HO on the City of Port Phillip Neighbourhood Character Map.

12.2.4 Conditions on Permits

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

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

- Development near gas transmission pipelines.

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

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

12.3.1 Building Typologies and Building Height

The land is in Precinct Area M6 of DDO30 which encourages low-rise development that responds to the context and character of the adjacent low-rise neighbourhoods. Low rise building typologies are defined as development up to and including 6 storeys. The site has a 15.4m mandatory (4 storeys) height limit.

Assessment

The proposal achieves the preferred precinct character of predominantly low-rise buildings. The proposal meets the definition of low-rise in the scheme and is responsive to its context and character. At four-storeys and a height of 14.8m to the parapet, the proposal would not exceed the maximum mandatory height. Non-habitable structures less than 3 metres in height would extend beyond the parapet. This would accord with height allowances in the DDO for such structures. Building services and the rooftop terrace would be setback at least 3.0 metres behind the Boundary Street façade also in compliance with the DDO30 controls.

The proposed built form is indicative of its location on the boundary of Fishermans Bend Urban Renewal Area and its interface with lower scale residential areas. As noted in *Section 6 - Site and Surrounds*, the development would sit adjacent to four-storey buildings and opposite part three and part four-storey buildings on the opposite south-western side of Boundary Street. The proposed scale and massing would therefore sit comfortably with the prevailing building forms and suitably respond to the finer grain development pattern of the area while presenting a well-articulated façade to the streetscape.

The material palette would also draw on the existing materiality of the area including pre-cast concrete panels and dark brickwork at 10-16 Boundary Street. The fenestration pattern would adopt a horizontal emphasis to contrast with its neighbour while the distinction in brick and concrete on the vertical plane would assist in maintain the street rhythm along this portion of Boundary Street.

12.3.2 Overshadowing

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

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

Assessment

Due to the location and orientation of the site and the proposed building height, no overshadowing of existing residential zoned land or existing/ future public open space would occur. Additional overshadowing would occur to the residential properties to the south-east at 2 and 4 Boundary Street, this is an outcome envisaged by the DDO30 height controls of the area, where development of up to 15.4m in height are anticipated.

12.3.3 Street Wall Height and Street Wall Setbacks

The preferred street wall height for the land is four storeys (built to the boundary) to both Boundary Street and the laneway.

A uniform four storey street wall is proposed to both frontages however this would not be constructed to the title boundaries.

Assessment

The proposal would be four-storeys high facing Boundary Street but would be setback between 0.4, 0.7-2.6 metres from the frontage at ground floor and between 0.4 metres, 2.1 metre (planter edge) and a maximum of 4.5 metres to the living room wall for the upper levels (planter boxes generally encroach 1.4m into this setback).

These variations are proposed to accommodate the sag and swag clearance distances of existing powerlines to meet the requirements of the Buildings Regulations and the relevant utility companies.

The applicant advises that this is an acceptable design outcome given the prevailing residential nature of Boundary Street and the existing variance in street setbacks up to a height of four-storeys. This justification is generally accepted, and it is further noted the proposed fence line with a terrace area behind would facilitate an area of defensible space for the occupants of the ground floor apartment and clear delineations of public and semi-private space. Notably the approved development at 10-16 Boundary Street, 156-162 Thistlethwaite Street and on the opposite side of Boundary Street at 9-17 also feature partial setbacks with landscaping elements.

A variation to the build-to-the-boundary objective is also supported facing Boundary Street in deference to Melbourne Water requirements and the minimum finished floor levels and equitable ramped accesses to the site were setbacks to the street walls and primary pedestrian access would facilitate appropriate transitions from street level.

To the rear laneway, a setback of 0.0metres to approx. 0.4 metres is proposed at all levels with balconies rebated 1.6metres at levels 1, 2 and 3.

The proposed variations to the setbacks are considered minor in nature and would not undermine the interface with the laneway or its primary service functionality.

Overall, the proposed street wall heights and setbacks would present a human scale to the streetscape and offer an appropriate level of enclosure and definition relative to the street width.

12.3.4 Side and Rear Setbacks

That part of a new building below the Maximum street wall height should be built on or within 300 millimetres of a side boundary.

A new building not on or within 300 millimetres of a boundary:

- Should be setback at least the preferred setback of 10 metres from the side or rear boundary
- Must be setback at least the Minimum setback of 5 metres from the side or rear boundary.

Assessment

To the north-east, the development at nos. 10-16 Boundary Street provides three light courts at Levels 2 and 3 along the common boundary. The proposed development does not seek to replicate these and would construct a wall on the adjacent boundary.

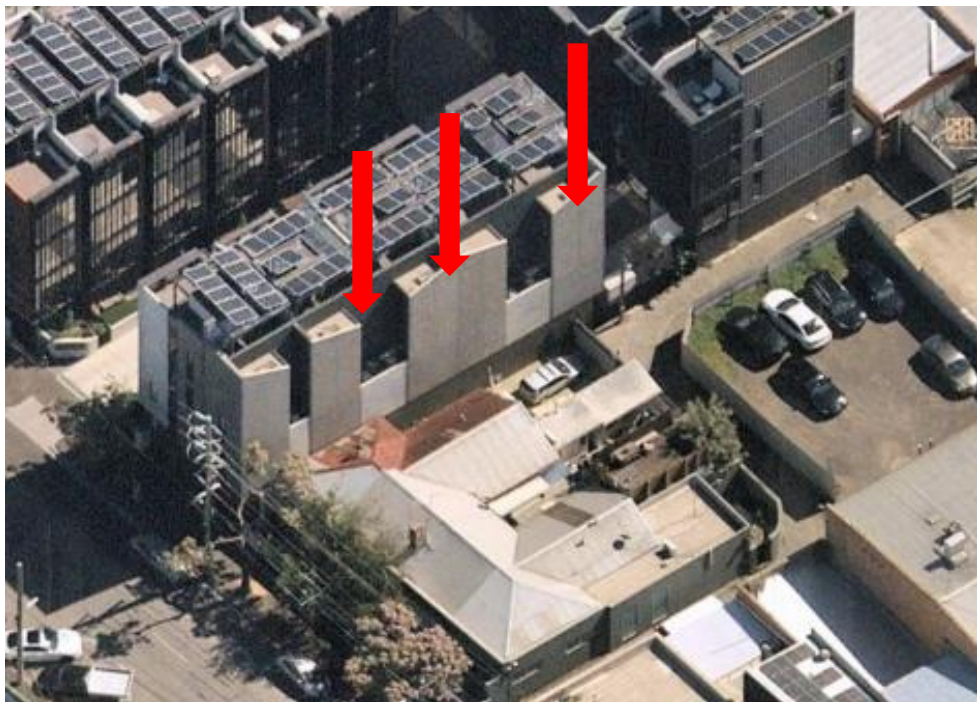


Figure 3: Light courts at 10-16 Boundary Street



Figure 4: Proposed Floor Plans at Levels 2 and 3

Pre-application plans sought to provide 1.5m setbacks to the lightwells. These however would not comply with the requirements of DDO30. Council officers advised they generally supported a variation to accommodate a 1.5m setback in this instance.

Council further advised that if a 1.5m setback is not supported by the Minister as responsible authority, Council would support construction to the common boundary but only on the basis where the application material was able to demonstrate that the internal daylight access and appropriate cross ventilation could be achieved for the proposed development and the walls on the boundary would not unreasonably impact daylight access to the adjoining development at 10-16 Boundary Street.

Council officers also noted that a 5m side setback could be provided on site where the dwelling typology was amended to duplexes for the upper floor levels. The latter option would allow for the location of an access core and lobby area centrally to the site and would remove the requirement for a long corridor at ground floor level. A centralised core would also allow appropriate ramping to provide DDA compliant access from both Boundary Street and the rear laneway.

Notwithstanding the above pre-application advice, the applicant has sought to provide a design response which would be fully compliant with the side setback requirements of the DDO. In this regard, consideration must be given to the resultant amenity impacts to the affected rooms along the boundary at 10-16 Boundary Street and whether an appropriate level of internal amenity would be provided for the future residents of the proposed development.

The applicant relies on the following justification to achieve compliance via the proposed construction of a wall on the boundary in lieu of a minimum 5 metre rear setback.



- *The southern orientation of the light courts at 10-16 Boundary Street mean that the accompanying windows / skylights do not receive direct solar access.*
- *At first floor level, a skylight provides some solar access to the kitchens of these adjoining dwellings. These kitchens form part of an open plan living/dining/kitchen area and the depth of these open plan areas would be compliant with Standard D25 (Room depth objective) being less than 9 metres. The skylight is not required to achieve Standard D25.*
- *At second floor level, three of the four windows to the lightwell are bathroom windows provided with fluted obscure glazing. The fourth window is to a bedroom and is a secondary window to this room which also has a window facing Boundary Street. This secondary window is also provided with fluted obscure glazing. The extent of light into these rooms is therefore already heavily compromised because of the fluted obscure glazing, while three of the windows are to non-habitable rooms and the fourth is a secondary window.*
- *At third floor level, six fluted obscure glazed windows are provided to this lightwell. In each instance, each adjacent room is provided with a sizeable skylight above which represents the main source of daylight into each respective room.*
- *Daylight modelling undertaken for Townhouse 25, which is likely the townhouse most affected, indicates that the proposed wall on boundary has minimal impact on the daylight received by this dwelling. Scenario modelling of the proposed on-boundary wall versus a matching lightwell indicate that the Level 1 living area has a small reduction in the daylight factor from 56 per cent to 53 per cent. In either scenario Bedroom 3 has a daylight factor of 100 per cent. This minor change in the daylight factor to the Level 1 living area will be immaterial to the amenity of these adjoining residents.*

The above justification is generally accepted and it is further noted that in providing a zero side setback to the south-east boundary this will ensure the future development of 2 and 4 Boundary Street can respond in an equitable manner.

In summary, the proposal is considered appropriate in this instance and would incorporate a site responsive design by incorporating an internal light court of dimensions that would occupy nearly a third of the site width without burdening the adjoining development site to replicate the same design response. The proposed apartments would rely on this internal light court for natural light and ventilation, ensuring that if adjoining sites are re-developed in future the internal amenity of these apartments would be protected. For this reason, the proposed design response is considered acceptable, subject to recommended conditions.

12.3.5 Wind effects on the public realm

The overall height of the development including architectural features is less than 40 metres and therefore a wind report is not required.

12.3.6 Active Street Frontages



The proposed apartments address both Boundary Street through the presentation of private open space and habitable room windows.

At ground level to Boundary Street, the entrance to the street is recessed in response to flooding and accessibility requirements. Notwithstanding this the entry would remain legible as the primary access point and is flanked by mailboxes to identify this as a transitional space between public and private land and would benefit from weather protection as a result of this design response.

The rear elevation, to a service laneway, is defined by a roller shutter door which replicates the existing arrangement but would allow for the future security of residents. Upper levels as previously discussed would facilitate passive surveillance of the laneway which is supported.

12.3.7 Adaptable Buildings

Adaptable buildings should incorporate elements as follows:

Building element	Adaptability opportunity	Compliance
Lower levels up to the height of the street wall	<p>At least 4.0m floor-to-floor height at ground level</p> <p>At least 3.8m floor-to-floor height for other lower levels</p>	<p>Non-compliant:</p> <p>Ground level floor-to-floor height: 3.6m</p> <p>Upper levels floor-to-floor height: 3.1m</p> <p>The minimum finished floor level requirement and mandatory height controls results makes any sites within this area inherently difficult to achieve the adaptability requirements.</p> <p>It is further noted that the overall scale of development and site area is of a nature that it would be unreasonable to require a development to respond to these requirements when any conversion into an employment generating land use would likely require a more substantive redevelopment.</p> <p>The proposed variation to the floor to floor heights are therefore considered acceptable.</p>
Car parking areas	<ul style="list-style-type: none"> • In areas not in a basement: Level floors. • A floor-to-floor height at least 3.8m. <p>Mechanical parking systems to reduce the area required for car parking</p>	<p>Achieved:</p> <p>A clearance height of 3.9m would be achieved and the area could be adapted for a future alternative use. It is however unlikely to expect that the car parking area will become redundant, given one car per three-bedroom apartment is typical for the area. Mechanical car parking system proposed.</p>
Dwelling layout	The ability for one and two-bedroom	Achieved:



	<p>dwellings to be combined or adapted into three or more bedroom dwellings</p>	<p>Plans detail one x three-bedroom apartment per floor. The proposed layouts are such that it would allow for a central lobby area and the respective sides of the apartments amended to form two x one-bedroom apartment per floor.</p>
<p>Internal layout</p>	<p>Minimal load bearing walls to maximise flexibility for retail or commercial refits.</p>	<p>Achieved</p> <p>The principle load bearing elements would be the building floors and beams and the perimeter columns, allowing internal spaces back to the service cores to be altered and adapted.</p>

12.3.8 Building Finishes

The front and rear façades would feature a mixture of black brickwork (pressed concrete panels), concrete panels with vertical grooves, clear glass and black aluminium window shrouds.

The proposed materiality is generally acceptable subject to conditions of permit discussed as sections 12.1 and 12.4.1 of the report relating to demonstrating compliance with:

- specifications outlined on Page 18 of the Eco Results Sustainable Design Assessment Report No: 2021-2695-SDA and
- a roofing material that is specified as a high solar reflectance index (SRI) material

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

(Note: See also assessment at 12.2.3 of this report).

12.4.1 Car Parking

Pursuant to Clause 3.0 a maximum car parking rate of one car space per three or more-bedroom dwelling applies. The proposal provides for four three-bedroom apartments each provided with one car space. Accordingly, the maximum car parking requirement is met, and no permit is required under this clause.

12.4.2 Design standards for Access and Car Parking

Design Standard 1 of Clause 52.06-9 relates to the design of accessways.

Vehicular access to the site is proposed via the existing rear laneway to the northeast of the site. The Traffic Impact Assessment prepared by Ratio Consultants has been prepared and reviewed by Council's Traffic Engineers who generally raised no issues with the findings acknowledging this laneway is currently utilised by several properties with an abuttal. The crossover is of a width that would facilitate acceptability visibility splays.



Figure 5: Existing laneway and accesses

Design Standard 2 of Clause 52.06-9 relates to the design of car spaces. These requirements have been generally satisfied but Council's Traffic Engineer has raised concerns that a minimum clear platform width of 5.5m should be adopted given all vehicles are parking adjacent to walls. They also noted that the car stacker length should also be increased to ensure a B99 vehicle can be accommodated with adequate clearance from walls at the front and rear of the vehicle.

An assessment of the accessibility to/from the site and critical car parking spaces was conducted as part of the Ratio Traffic Impact Assessment submitted in support of this application. The assessment was undertaken using a B99 and a B85 design vehicle (99th and 85th percentile car), and it was found that the site and each of the critical parking bays could be accessed (ingress and egress) in a satisfactory manner.

It is proposed for car stacker access gates to be installed along the frontage of the two stackers with the rear laneway to provide security for the parked cars.

Residents would be provided with a fob (or similar) in order to access their vehicles from within the secure car stackers.

12.4.3 Bicycle facilities

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

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

For this assessment, officers have elected to use Clause 52.34 because the provisions set out in the Capital City Zone relate to development of 50 or more dwellings or 10,000 square metres + of non-residential floor space.

Application of these rates to the proposed development would result in a requirement to provide 1 bicycle space, however, the development proposes to exceed this requirement by providing 6 on-site bicycle parking spaces located



on the ground floor adjacent to the rear entry/exit access. These bicycle spaces are proposed to be provided within 3 x horizontal bicycle rails (CORA CBR2 design). This layout is appropriated detailed on sheet 3 of 7 of the architectural plans but proposed in an altered formation at sheet 5 of 7. It is recommended a condition should require consistency between these plans.

12.4.4 Cumulative traffic impacts

The Traffic Impact Assessment considered the traffic generation and accumulative impacts assessment and noted that given the size of apartments and their location to nearby public transport availability, it is estimated that the proposed development would generate 4 vehicle movements per dwelling per day and peak hour rates of 0.4 movements per dwelling which is considered to represent a conservative assessment on the high side.

It is considered that Boundary Street and the surrounding road network have the ability to accommodate this very low increase in traffic generated by the development.

As such, the traffic generated by the development is not expected to have an adverse impact on road network operations on Boundary Street, the laneway or the surrounding road network.

12.4.5 Pedestrian connectivity

The proposal would not alter the existing pedestrian connectivity within the area.

12.5 Waste Management

Proposed waste collection for the subject site is to be via Council's Kerbside waste collection service.

Bins are anticipated to be wheeled out of the subject site from the ground floor bin enclosure area at the rear of the site and into the laneway. The bins will then be taken through the laneway and out onto the site's frontage with Boundary Street to be collected by Council's waste collection services.

The Waste Management Plan (WMP) notes:

- The apartments will generate a combined 480L of general waste and 480L of recycled waste weekly
- Each apartment will have 1 x 120L general waste bin and 1 x 120L recycling bin (Total bins 8 x 120L bins)
- A 4.5 square metre bin enclosure has been provided on ground level at the rear of the building for the storage of all bins and is noted on the plans. There is sufficient space in the bin enclosure for future additional bins e.g. food and green waste and/or glass recycling bins.
- Bin users are responsible for sorting their own waste streams and place within the correct bins
- All general waste and recycling will be collected weekly by council kerbside collection. Wheeled bins are to feature rubber castors to minimize noise during transfers.



- Hard waste/e-waste collections will be arranged by the Operator as needed

Council's Waste Management Officer has noted that modification of the bins is not acceptable and operational health and safety issues may arise due to the distance of relocating the bins to the site frontage via the laneway. Council's Waste Management Officer has also recommended the use of shared bins within the development being two x 240L waste and two x240L recycling bins which would occupy less space within the street for collection.

It is considered reasonable to use the front entry to facilitate the relocation of waste bins from the rear of the building to the streetscape for a maximum of four bins per week. The internal circulation spaces have a minimum width of 1metre and doorways a minimum width of 0.88 metres which would accommodate the width of a 240-litre bin (0.58 metres wide bin). The ground floor layout however includes steps between the lobby and the bin storage area. The use of a wheelie bin ramp or bin lift trolley or similiar can be used to negotiate the level differences in accordance with health and safety requirements. It is recommended this form a recommended condition wit the design detail to the satisfaction of Council's Waste Management and Building Departments.

12.6 Sustainable design

A Sustainability Design Assessment (SDA) was submitted with the application. The report notes the proposal would achieve a BESS Score of a 64%.

To achieve a 20% improvement on current National Construction Code as required by Clause 22.15-4.5, a minimum score of 70% would need to be achieved. A condition of any approval should require a minimum score of 70%. It is considered this can be achieved.

It is recommended that an amended SDA and plans be revised to demonstrate how the proposals sustainable design measures would align with the Fishermans Bend Framework and provide further evidence how the requirements would be effectively integrated into the design.

It is considered that key changes would include,

- The need to include the majority of the rooftop in the rainwater catchment area and increase the rainwater tank size to achieve 0.5m² per 10m² of catchment for flood mitigation.
- Demonstrate on the plans how the UHI reduction commitments in the SMP would be achieved (70% of total site area).

These matters could be provided for by conditions of any Incorporated Document that may be approved for the proposal.

Please also refer to discussion at *Section 12.1 Response to Local Policy* of this report.

12.7 Environmental Audit Overlay

An environmental audit has not been undertaken for the land.

Pursuant to Clause 45.03-1 of the Environmental Audit Overlay:

Before a sensitive use (residential use, child care centre, pre-school centre, primary school, secondary school or children's playground) commences or before the



construction or carrying out of buildings and works in association with a sensitive use commences:

- *A preliminary risk screen assessment statement in accordance with the Environment Protection Act 2017 must be issued stating that an environmental audit is not required for the use or the proposed use; or*
- *An environmental audit statement under Part 8.3 of the Environment Protection Act 2017 must be issued stating that the land is suitable for the use or proposed use.*

This could be provided for by a condition of any Incorporated Document that may be approved for the proposal.

12.8 Special Building Overlay (SBO2)

A small part of the front and rear of the site is affected by SBO3 which relates to flooding from the 'Port Phillip City Council Local Drain' and indicates that the City of Port Phillip is the responsible authority.

The flood level for the site is 2.669 metres to AHD. The finished floor levels of the building (excluding car park and building entry) would be set at 3.0 metres which would be 300mm above the applicable nominated flood level and would provide an acceptable freeboard of 300mm. It is acknowledged that DELWP will undertake mandatory referrals to Melbourne Water who may nominate further requirements regarding the flood barrier system nominated along the rear vehicular entry to the site.

Council's Development Engineer notes that the window shrouds to the rear elevation would cantilever over the laneway. A recommended condition would require these to be recessed to within the title boundary and consequential design changes to retain the architectural integrity, visual interest and depth to the window profiles.

12.9 Infrastructure Contribution Overlay (ICO1)

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

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

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

Pursuant to the FBSAC Terms of Reference, the provision of appropriate development contributions is a matter for the Committee to determine.

Other Matters

12.10 Clause 58 – Better Apartments Design Standards

An application for the provision of apartment buildings within the Capital City Zone is required to be assessed against the objectives, standards and decision guidelines of Clause 58.

A development must meet all of the objectives of Clause 58 and should meet all of the standards of Clause 58.



A Clause 58 Assessment forms is included at Attachment 5 of this report. The assessment determines that the proposal would be largely compliant with internal amenity requirements relating to the functional layout of bedrooms and living rooms subject to conditions largely confirming annotations on the architectural plans

12.11 Aboriginal Cultural Heritage

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

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

If a significant land use change is proposed (for example, a subdivision into 3 or more lots), a cultural heritage management plan may be triggered. Exemptions are afforded to land which has an area of less than 0.11 hectares and is more than 200 metres from coastal waters of Victoria, any sea within the limits of Victoria or the Murray River. The proposal would meet these exemptions and there is no requirement to prepare a Cultural Heritage Management Plan pursuant to Regulation 10 of the Aboriginal Heritage Regulations 2018.

13. OFFICER DIRECT OR INDIRECT INTEREST

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

14. OPTIONS

14.1 Provide comments to the Advisory Committee c/- the Department as recommended.

14.2 Provide changed or additional comments to the Advisory Committee c/- the Department to those recommended.

14.3 Refuse to provide comments.

15. CONCLUSION

15.1 The proposal is consistent with the relevant policy provisions of the Port Phillip Planning Policy Framework and would provide for an acceptable urban design outcome which is respectful of its location in an area transitioning to lower scale residential areas.







15.2 The proposed development demonstrates compliance with the mandatory controls contained within the Capital City Zone and the Design and Development Overlay that affects the site. It is acknowledged that the development would seek minor variations to the street wall setbacks however these elements are considered acceptable and would provide for setbacks that would achieve compliance with building and safety regulations while facilitating improved activation along Boundary Street and the rear laneway.

15.3 The proposed development is also considered to be to an acceptable scale within this location and would not cause excessive bulk or unreasonable amenity impacts beyond those anticipated by the built form controls of DDO30, including the construction of a wall opposite the existing light wells at 10-16 Boundary Street.



- 15.4 The proposed dwellings offer a high standard of internal amenity and each apartment would be provided with areas of private open space and functional layout, consistent with the purpose of Clause 58.
- 15.5 The proposal would increase traffic generation where additional car parking would be provided for the development. Council's Traffic and Parking Unit have confirmed that the increase in traffic during peak hours are a low volume that could be safely accommodated within the existing capacity of the laneway, Boundary Street and the adjoining road network.
- 15.6 A number of other design, operational and amenity concerns with the proposals could be addressed by conditions.
- 15.7 It is recommended that the Statutory Planning Committee resolve that a letter be sent to the Department of Environment, Land, Water and Planning advising that the Council supports the application for an amendment under Section 20(4) of the *Planning and Environment, Act 1987* to prepare, adopt and approve draft planning scheme amendment C204port subject to amendments based on the matters set out in Sections 9 and 12 of this report and the recommended conditions set out at Attachment 6 of this report.

ATTACHMENTS

1. Architectural Plans  [↓](#)
2. Site Location  [↓](#)
3. Photographs of Site and Surrounds  [↓](#)
4. Fishermans Bend Standing Advisory Committee - Terms of Reference  [↓](#)
5. Clause 58 (Apartment Development) Assessment  [↓](#)
6. Draft Incorporated Document  [↓](#)