

A. STRATEGIC PLANNING MATTERS

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A. STRATEGIC PLANNING MATTERS

In February 2016, the Minister for Planning (the Minister) announced a review of the Strategy and Planning Controls for the Fishermans Bend Urban Renewal Area (FBURA). On 19 December 2017, and then on 21 February 2018, the Minister called in all 26 live Ministerial planning permit applications in the FBURA on the grounds that:

- The proposals involve significant development within the context of the area which is declared as an urban renewal project of State significance.
- The proposals may have a substantial effect on the development and achievement of the planning objectives in Fishermans Bend as it may result in development occurring which is inconsistent with the proposed Fishermans Bend Strategic Framework Plan having regard to development density, timing of development, timing and method of delivery of infrastructure and overall population levels to be achieved.
- Twenty-one of the called in applications are in the City of Port Phillip and five are in the City of Melbourne.

In October 2018, the Minister:

- Released a revised Fishermans Bend Framework;
- Approved Amendment GC81 to change the Planning Scheme controls for the FBURA; and
- Appointed the Fishermans Bend Standing Advisory Committee (the SAC) to advise on site specific planning controls to facilitate proposals within Fishermans Bend, prior to the introduction of an Infrastructure Contributions Plan for the called in applications and new proposals.
- In particular, Amendment GC81 deleted the Development Contributions Plan Overlay (DCPO) and introduced a new Infrastructure Contributions Overlay and Schedule (ICO1) which forbade (with a few minor exceptions) the grant of a permit to construct a building until an infrastructure contributions plan had been incorporated into the scheme. At the time of writing, the infrastructure contributions plan has not been finalised or incorporated into the scheme.

The Terms of Reference for the Advisory Committee sets out the process for consideration of Planning Scheme Amendment (PSA) applications. On 29 April 2020, the Terms of Reference were updated as follows:

- The Fishermans Bend Standing Advisory Committee (SAC) is now to advise the Minister on only unresolved issues between the Proponent and other parties.

- Before referral to the SAC, proponents must submit their proposal to the Office of the Victorian Government Architect (OVGA) for a Design Review. The OVGA will provide a response within 5-10 business days to all parties.
- The Proponent will respond to OVGA issues and provide a final application to DELWP who will distribute to all parties.
- All parties will meet to discuss the final application and prepare a short report that provides a statement of agreement and contentions', outlining the remaining issues in dispute.
- The Advisory Committee must commence a public hearing no later than two months after receipt of a Ministerial referral.
- Council would typically be allocated one day to present to the Advisory Committee but may be allowed additional time if calling evidence.
- The Advisory Committee must submit its report to the Minister no later than 20 business days from the completion of the round table or other forum.
- The Minister must then determine whether to approve the proposal and PSA.

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

- Amendment C9 for the St Kilda Station Redevelopment, July 1999;
- Amendment C110 for the Stokehouse, 30 Jacka Boulevard, St Kilda, July 2014; and
- Amendment Port C149 for the Victorian Pride Centre Incorporated Document 2018. 4.15 Developments could then proceed in accordance with plans and conditions referenced in the Incorporated Document.

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

B. PLANNING SCHEME PROVISIONS

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

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

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

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

C. RELEVANT PLANNING SCHEME AMENDMENT/S

Relevant Planning Scheme Amendment/s

Past and present Planning Scheme Amendments relevant to the subject site include:

05 July 2012: Amendment C102:

- Designates the Fishermans Bend Urban Renewal Area (FBURA). • Rezones the subject site and surrounding land from Industrial 1 Zone and Design and Development Overlay 9 (DDO9) to Capital City Zone (CCZ1), deletes DDO2, 8 and 9, and introduces the Development Contributions Plan Overlay (DCPO2) and the Parking Overlay (PO1). Heritage Overlay carries over.

07 August 2014: Amendment GC7:

- Clause 52.01 (Open Space) changed to require 8% open space contribution in FBURA. FBSFP July 2014 made an Incorporated Document.

17 April 2015: Amendment GC29:

- Changed the CCZ1 to introduce interim mandatory height limits for two years (inc. transition provisions for apps lodged before GC29), expands the FBURA to include the Fishermans Bend Employment Precinct (in the City of Melbourne), and updates the FBSFP July 2014 (amended April 2015) Incorporated Document.

14 November 2016: Amendment GC50:

- Introduced new Local Planning Policy (Clause 22.15) Employment and Dwelling Diversity within the Fishermans Bend Urban Renewal Area, which specifies discretionary targets for dwelling diversity (a percentage of apartments with three or more bedrooms), affordable housing, and minimum floor areas for employment uses; • Moved interim height controls from the CCZ1 to a new Design and Development Overlay (DDO30), which specifies mandatory maximum street wall and tower heights, and mandatory minimum tower street, side and rear boundary setbacks and tower separation distances. The height and setback controls apply on an interim basis until 31 March 2019, and updates the Fishermans Bend Strategic Framework Plan, July 2014 (Amended September 2016) and incorporated document provisions.

05 October 2018: Amendment GC81:

- Amends MSS at Clauses 21.01 (Vision and Approach), 21.02 (Municipal Context and Profile), 21.03 (Ecologically Sustainable Development), 21.04 (Land Use), 21.05 (Built Form), 21.06 (Neighbourhoods) to update references to FB and include a refined vision for Montague, Sandridge and Wirraway precincts.
- Introduces new local planning policy at Clause 22.15 (Fishermans Bend) to provide guidance and assist with the exercise of discretion in the assessment of planning permit applications in FB. Includes Fishermans Bend Framework October 2018 as a Reference Document.
- Introduces a new Schedule 1 to Clause 37.04 (CCZ) to ensure land use and development outcomes implement the FB Vision, September 2016 and FB Framework, September 2018.

- Introduces new precinct specific Schedules 30, 32 and 33 to Clause 42.03 (Design and Development Overlay) to align built form controls with preferred character and vision for Montague, Sandridge and Wirraway precincts, respectively.
- Introduces new Schedule 1 to Clause 45.09 (Parking Overlay) to encourage sustainable transport patterns and the provision of alternative forms of parking.
- Deletes Schedule 2 to Clause 45.06 (Development Contributions Plan Overlay).
- Inserts Clause 45.11 (Infrastructure Contributions Overlay) and Schedule 1 (ICO1) and applies it to land to enable implementation of an Infrastructure Contributions Plan when prepared.
- Applies Environmental Audit Overlay (EAO) to Montague, Sandridge and Wirraway precincts.
- Applies Environmental Significance Overlay - Schedule 1 (ESO1) to Wirraway precinct near Port of Melbourne.
- Amends Schedule to Clause 66.04 to include the Port Phillip City Council and Melbourne Water as a recommending referral authority for planning permit applications where the Minister for Planning is the responsible authority and makes minor corrections to existing provisions.
- Amends Schedule to Clause 66.06 to require notice of certain permit applications to be given to the relevant pipeline licensee and Transport for Victoria.
- Amends Schedule to Clause 72.03 to reflect the deletion of Planning Scheme Map 1DCPO and insertion of new Planning Scheme Maps 1EAO, 1ICO, 2ICO and 3ICO.
- Amends Schedule to Clause 72.04 to delete the Fishermans Bend Strategic Framework, July 2016 (amended September 2016).

20 June 2019: Amendment GC118:

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