

Amendment GC81 Fishermans Bend

Submitter 149

Planning and Urban Design Evidence

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1. Preamble

1.1 Introduction

The Fishermans Bend Framework (draft for consultation) 2017 that seeks to deliver the Vision for the Fishermans Bend renewal has much to recommend it.

However, Amendment GC81 (Am GC81) has significant flaws, in particular the funding arrangements and an effective governance regime have been decoupled from Am CG81 which underwrite the potential for success of the task for Australia’s largest renewal project and one of State Significance to Victoria.

The overnight rezoning of Fishermans Bend to the Capital City Zone in 2012 in the absence of any strategic plan, effective governance model, infrastructure funding plan or suite of purpose directed statutory controls including public acquisition overlays, was unfortunate planning to say the least. However this unfortunate starting point is not reason to continue the absence of the very delivery models that were wanting in 2012.

In making my assessment of the way in which the challenge of Fishermans Bend is to be met it puts to mind the somewhat apocryphal story where a traveller asks a local for directions on how to get to a particular destination. The local responds by saying..... “well if I wanted to get to that destination, I wouldn’t start from here”.

My conclusion is that Am GC 81 should not proceed as it is currently constructed for the reasons I will elaborate in this report. However, if the Review Panel is ultimately of a mind to recommend that Am GC81 proceed possibly subject to modifications, I have made recommendations about some modifications that should be made or where more detailed clarification work is required.

1.2 The task and instructions

I have been requested by Norton Rose Fulbright Lawyers on behalf of Goodman Property Services Pty Ltd (Goodman) to undertake a review of proposed Am GC81 to the Melbourne and Port Phillip Planning Schemes.

Am GC81 proposes to introduce new planning controls to implement the *Fishermans Bend Framework (draft for consultation) 2017* (the draft Framework) within both schemes through a combination of zone and overlay changes and changes to the local planning policy frameworks.

It proposes to amend planning provisions and policy across four of the five precincts which make up the Fisherman’s Bend Urban Renewal Area (FBURA). The fifth precinct, the Employment Precinct, is not included in the proposed amendment.

Goodman is a significant landholder in Fishermans Bend with holdings across the Wirraway, Sandridge, Lorimer and Employment Precincts comprising a total area of some 33 hectares.

Of this, approximately 26 hectares is contiguous across Wirraway and Sandridge, as shown at **Figure 1**.

Goodman has made a detailed submission in relation to the proposed Amendment, in the form of an urban design report prepared by Roberts Day consultants (*Draft Fishermans Bend Framework: Urban Design Analysis and Recommendations – December 2017 – The Roberts Day Report*). This submission outlined a series of perceived shortcomings with the draft Framework and proposed Amendment and suggested potential alternative approaches to the future planning of Fishermans Bend.

My evidence is based on a general review of the exhibited Amendment material and draft Framework, informed by a review of relevant background reports and evidence circulated on behalf of the Minister for Planning and Melbourne and Port Phillip Councils. I have also had regard to the matters raised in the Roberts Day report in assessing Am GC81 in reaching my conclusions.

Other experts have been tasked with considering the workability of the Floor Area Ratio (FAR) and Floor Area Uplift (FAU) provisions and the built form controls in detail. My focus and assessment is directed to the deliverability of the Vision and the potential for flexibility of implementation surrounding a large land owner like Goodman.

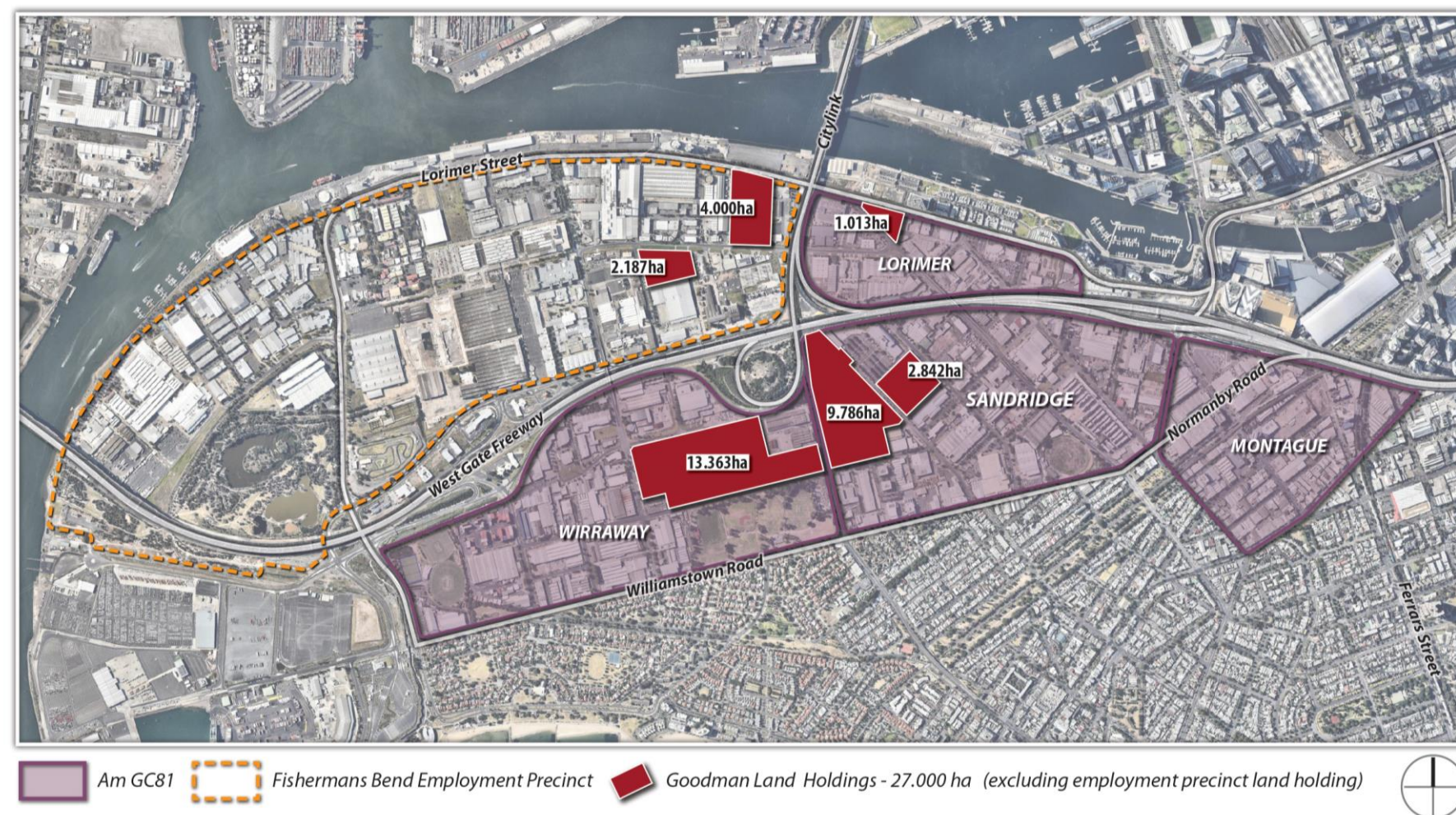


Figure 1 – Goodman land holdings

1.3 The context

By this stage in the process, the background to Am GC81 will be familiar to the Review Panel and submitters.

However, in setting the context for my review, I consider the following are worth re-stating:

- Fishermans Bend is the largest urban renewal area in Australia, with an area of some 480 hectares located close to the Melbourne CBD and existing urban renewal areas to the east (Southbank) and north (Docklands).
- It is an area of high strategic planning priority with Plan Melbourne 2017-2050 identifying the Lorimer, Montague, Sandridge and Wirraway precincts comprising a total of 250 hectares as ‘major urban renewal precincts’ playing an important role in accommodating future housing and employment growth.
- The fifth precinct, the Employment precinct comprising 230 hectares, is identified as a National Employment and Innovation Cluster and a place of State significance that will be a focus for investment and growth.
- The 2016 Vision for Fishermans Bend (the Vision), which the draft Framework seeks to implement, plans to accommodate some 80,000 residents and 80,000 jobs across the five precincts by 2050. Of these 40,000 jobs are to be accommodated in the Employment Precinct with the balance of jobs and residents to be accommodated across the other four precincts.

Whilst the substantial size of Fisherman’s Bend and its proximity to the central city provide a huge opportunity for positive and transformative renewal and sustainable mixed use development in an inner city location, the future planning of the area also involves significant challenges.

These opportunities and challenges for Fishermans Bend distinguish themselves from the other Plan Melbourne 2017-2050 nominated urban renewal areas on the fringe of the Hoddle Grid which are; E-Gate, Dynon, Arden-Macaulay, Southbank, Docklands and the Flinders Street to Richmond Station corridor.

A plan depicting these renewal areas as nominated by Plan Melbourne (page 26) and their proximity to the Hoddle Grid is included overleaf as **Figure 2**. All of these urban renewal areas are located wholly within the City of Melbourne municipal boundaries¹ except for Fisherman’s Bend which is bisected by the municipal boundaries of the Cities of Melbourne and Port Phillip. None of the other Plan Melbourne renewal areas is of a comparable scale or complexity to that of Fishermans Bend.

The particular Fishermans Bend challenges relate to, amongst other things:

- **Land ownership**
The majority of land (approximately 90%) is in private ownership with more than 300 individual landowners. The successful delivery of transformational renewal therefore rests on the development decisions of a range of individual property interests; a planning framework that is able to provide the right conditions to encourage beneficial development decisions; and acquisition of land from a series of individual interests to accommodate key infrastructure such as roads and public open spaces.
- **Accessibility**
Despite its proximity to the CBD and other nearby renewal areas, there are limited transport connections into the area, while the West Gate Freeway corridor also constrains movement between precincts within in Fishermans Bend. In addition, the internal road network, while capable of servicing the existing low density industrial and commercial uses, is not suited to a higher density mixed use extension to the Central City.
- **Infrastructure**
A wide range of infrastructure is required to support the renewal of the area at higher

densities and for a mix of uses as envisaged by the Framework. This includes utilities, public transport, community facilities and public open spaces. A degree of certainty over the delivery of these elements is necessary if landowners are to have the confidence to deliver the development to support the Vision.

- **Governance**

The fragmented land ownership of the area, the scale of Fishermans Bend and its location across two municipalities, as well as the task of providing services and infrastructure to support a substantial resident and working population, presents a significant governance challenge.

Delivering major renewal requiring extensive new infrastructure through a governance regime of 3 statutory authorities being the Minister/DELWP and the Cities of Melbourne and Port Phillip, is extremely challenging. Southbank is a living example. Even where there is a single purpose authority established the results are not always regarded as highly successful (as demonstrated by Docklands).

It is one thing to zone and apply statutory frameworks which in their own right may be creatively conceived, but it is another to deliver the infrastructure required to make successful communities largely through the private sector via yield incentives and other untested methods. Will this just be another precinct largely delivered and resolved by VCAT decisions?

As the opening paragraph to the Fishermans Bend Advisory Committee – Report to the Minister for Planning on Draft Fishermans Bend Framework (October 2017) states:

“Fishermans Bend is an area of unique potential and unique challenges. There are few cities of Melbourne’s size and level of development that have over 480 ha of developable land on the doorstep of the Central Business District. The area is more than twice the size of the Hoddle Grid and its renewal is nationally significant. At the same time, given that the area is largely privately owned by 320 different owners and that four of the five

precincts have been rezoned as Capital City Zone, its development cannot be planned and managed like other urban renewal areas. The realisation of the area’s latent potential for job growth and sustainable living requires a unique approach.”

There is nothing particularly unique about simply developing and delivering an amendment, no matter how creatively it is masterminded. For the job to be done at Fishermans Bend and largely by the private sector, there needs to be an agency that has longevity and singularity of purpose. Ministers come and go, governments change and the private sector needs to ride out these movements with a level of security for their own planning.

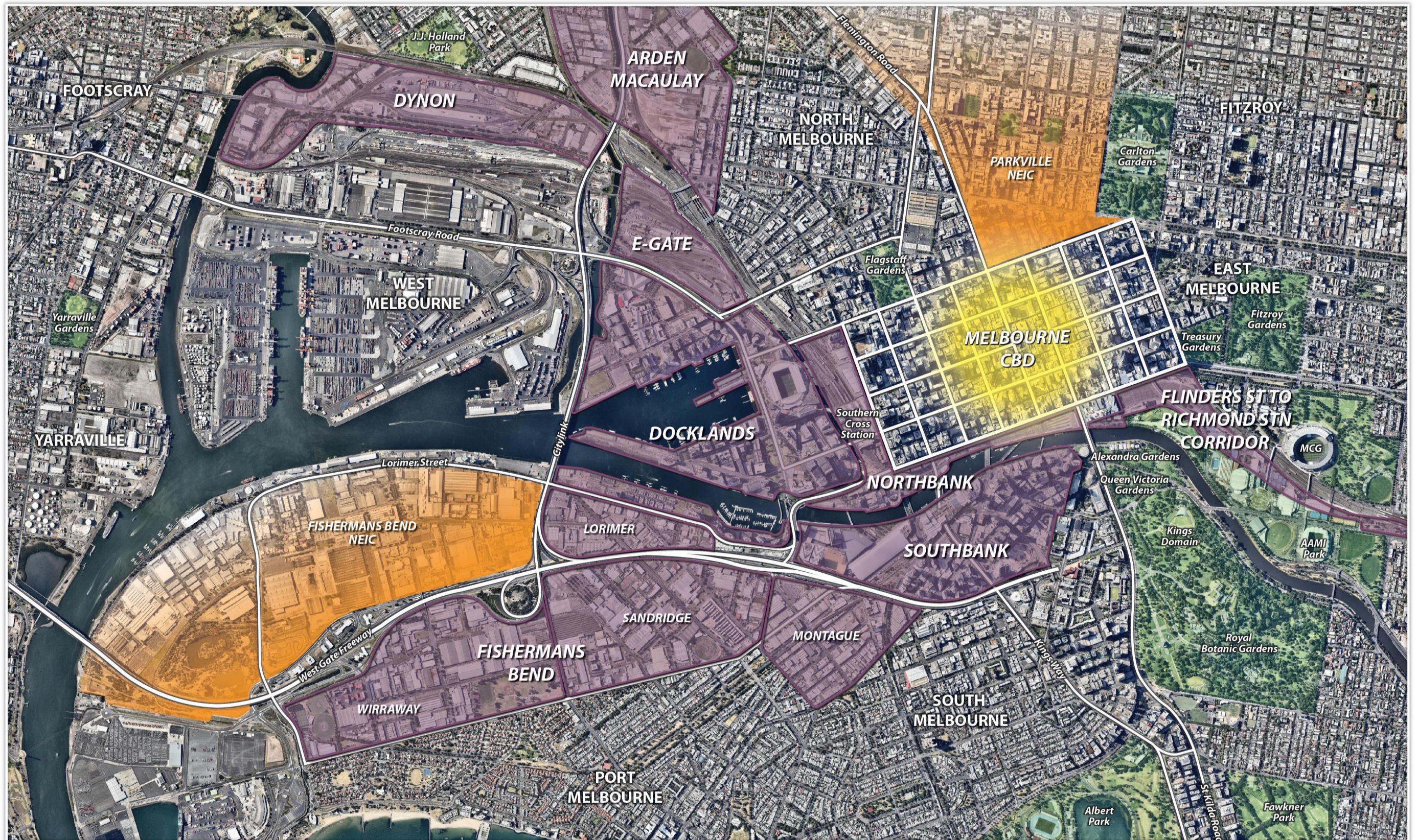
- **Statutory techniques**

The approach to securing new roads and public open space relies on the application of a nominated mandatory maximum floor space development density known as the Floor Area Ratio (FAR). The ‘stacking’ of this allowable development density over one portion of a parcel of land is intended to liberate another part of the site for a new road or road widening or a new public open space area.

The potential to increase the development yield above the maximum FAR for a particular site can be secured but only in exchange for a nominated public benefit. This development uplift is known as the Floor Area Uplift (FAU).

The issues surrounding the application of the FAU as a statutory tool have been well ventilated through the Panel process for Am C270 to the Melbourne Planning Scheme. I do not propose to repeat and summarise them here. However I consider there is a fundamental difference to the application of such a tool in an already existing central city area to which Am C270 applied, compared with that of the transformative heaving lifting that the FAR/FAU is required to undertake for the FBURA.

¹ The vast majority of the Flinders Street to Richmond Station corridor is located within the City of Melbourne although the railway station itself is located in the City of Yarra.



 Urban Renewal Precincts (Plan Melbourne - Page 26)

 National Employment and Innovation Cluster - NEIC (Plan Melbourne)



Figure 2 – Plan Melbourne renewal areas

The mandatory maximum FAR and the optional FAU formula is the touchstone around which Am GC81 is shaped.

The draft Framework and proposed planning controls are intended to provide the first permanent controls for Fishermans Bend since its 'overnight' rezoning to the Capital City Zone (CCZ) in 2012.

In doing so, they include a number of planning tools and techniques which are new or largely untested in the Victorian planning context.

While on one view these statutory tools can be seen as responding to a need for a unique approach to the unique opportunity of Fishermans Bend, it also raises questions as to their potential effectiveness in delivering the Vision.

The FAU technique combined with a FAR is a threshold matter because it fundamentally shifts the basis of Victoria's planning system from one where 'acceptable' outcomes including built form outcomes are sought and overlay controls are utilised for the public acquisition of privately owned land for the purposes of public infrastructure. Quantifiable and costed developer contributions are levied via a Development Contributions Plan or similar technique.

In essence, the Am GC81 material seeks to set a planning direction towards a desired development outcome in 2050. Whilst there is no doubt that planning controls and potentially the Vision itself are likely to be refined over that time, it is vital that the mechanisms marshalled to deliver the strategic plan for the area strikes a suitable balance between:

- Providing a level of **certainty** to allow landowners the confidence to make the informed investment decisions that are required to deliver the development and associated infrastructure to achieve the vision; and
- The need for **flexibility** to respond to the circumstances of particular sites and changes within the wider economy over time, and to allow innovative responses and approaches,

some of which may not currently be foreseen.

My conclusion is that there is just too many unknowns and lack of resolution to Am GC81 for it to proceed and this outcome cannot simply be dressed up as delivering "flexibility".

There are a number of important areas where the Amendment is currently lacking or where this balance has not been struck, as discussed in Section 2 of this witness report.

In part this relates to the fact that the Amendment provides an incomplete set of planning controls and mechanisms around matters such as delivery, funding and acquisition arrangements. It also relates to the detail of some of the controls themselves, the interactions between largely untested density and floorspace mechanisms and built form controls and a lack of clarity around the effects on development viability.

1.4 Scope of my assessment

Am GC81 is a complex amendment which raises a range of strategic planning and urban design issues alongside others.

My assessment firstly considers the draft Framework and its suitability as a strategic plan for the renewal of Fishermans Bend on a 'big picture' level, and then turns to the proposed planning controls and their ability to deliver positive change in the way intended.

In making these observations I have had regard to the specific issues raised in the Goodman submission regarding the way in which their land is treated as well as wider issues which flow from this given the extent of their landholdings.

1.5 Summary of conclusions

I consider the problems with Am GC81 can be summarised as follows;

- A starting point for the creation of new urban form should be an iterative process commencing with the formulation of building forms that support a liveable and sustainable mixed use extension of the central city. Instead

the draft Framework has taken as its starting point, a population target and then fashioned a building form management regime around it.

- An intrinsic element of the draft Framework is the envisaged but as yet unprepared Infrastructure Funding Plan. Am GC81 decouples this Infrastructure Funding Plan from the renewal plan. A funding model, if not an Infrastructure Funding Plan, should be at the very least, available for scrutiny and review.
- An appropriate integrated governance model is required in order to successfully coordinate and deliver the renewal programme of a project of State Significance. An overarching body such as a 'Fishermans Bend Renewal Authority' should be established to complete the detailed planning, co-ordinate and implement the agreed Infrastructure Funding Plan and infrastructure roll out including land acquisition as well as undertake the necessary monitoring and review of implementation. It needs to be an organisation that can negotiate effectively with the development sector upon which so much of the success of this amendment relies.
- The FAU technique combined with a FAR is a threshold matter because it fundamentally shifts the basis of Victoria's planning system from one where 'acceptable' outcomes including built form outcomes are sought and overlay controls are utilised for the public acquisition of privately owned land for the purposes of public infrastructure. Quantifiable and costed developer contributions are levied via a Development Contributions Plan or similar technique.

In terms of the more detailed issues surrounding the drafting of the statutory controls themselves and their ambit, I note the following;

- There is a lack of clarity about the statutory status of the Precinct Plans and what impact they may have on approved Development Plans prepared under a DPO. Moreover the DPO schedules as currently drafted are vague.
- The DPO schedules should be more specific

about the issues a Development Plan is intended to address on each site (i.e. be made site-specific). As well, flexibility should be incorporated to allow a permit to be granted before a Development Plan is prepared and approved. Furthermore exemptions should be written into the Capital City Zone (CCZ) schedules to allow development that accords with an approved Development Plan.

- There are potential benefits to allow a rebalancing or redistribution of FAU across a large landholding in exchange for an exemplary master planned outcome.
- There are potential benefits in providing greater flexibility to a significant landowner such as Goodman that warrant a different approach to that envisaged in the current Am GC81 statutory controls. My preference is to capture this different approach on the basis of a redistribution of allowable FAU within or across neighbourhoods. Moreover the capacity for managing the timing of the rollout of road and potential community infrastructure is greatly improved because the Goodman landholding directly addresses and therefore can influence a number of the key roads in the Fishermans Bend transport network.
- The utilisation of a Development Plan approach prepared as part of a DPO should be adopted for qualifying landholdings such as Goodman's but only if the necessary exemptions are written into the CCZ schedules. I consider this technique to be a superior one to a non-statutory master planning approach, at least for the contiguous Goodman land in Wirraway and Sandridge.

A non-statutory master planning approach will not allow the capacity to redistribute the FAR or FAU across or within the four neighbourhoods.

My detailed reasons for these conclusions are set down in the following sections of this report.

My witness statement in accordance with Planning Panels Victoria's guide to expert evidence is included at **Appendix A**.

2 Assessment

2.1 Do the draft Framework and proposed planning provisions establish a sound strategic plan for Fishermans Bend?

In broad terms there is much to commend the draft Framework for Fishermans Bend in its spatial layout and urban structure which in summary comprises;

- New roads and public transport infrastructure with an emphasis on sustainable transport modes,
- A new network of open space provision,
- New flexible multipurpose community hubs (although their precise locations have not yet been nominated),
- Four mixed use neighbourhoods each with a different theme and sense of place, with each neighbourhood containing a core of more intense development creating a focus and the balance of the neighbourhood comprising a non-core area, and
- An employment precinct, nominated as a National Employment Cluster by Plan Melbourne but which is not encompassed by Am GC81, its delivery being the subject of a separate and subsequent planning scheme amendment.

Despite this approach however, significant 'unknowns' exist which have the potential to undermine the achievement of the Vision if not resolved early in the piece such as which of two potential heavy rail alignments will be chosen.

Whilst the elements of the draft Framework listed above provide the essential warp and weft of a new urban fabric, without appropriate weaving and the delivery mechanisms to fashion this fabric so that it is fit for purpose, the potential of the draft Framework and the Vision upon which it is based will remain unrealised.

The planning challenge in Fishermans Bend is not akin to the development of a structure plan and built form controls for the intensification and evolution of an established activity centre. The challenge here is much greater and requires the creation of a completely new or re-imagined 'place' (or series of places) in a manner more akin to a growth area scenario, but with the added complexity of fragmented land ownership, the need to overlay a new physical framework of roads, public open space and community infrastructure on top of an established array of occupiers and functioning businesses and little government-owned land.

However the capacity to realise even the most strategically sound spatial framework for a large renewal area such as Fisherman's Bend is dependent on an:

- Appropriate governance model;
- Infrastructure Funding Plan and 'roll out' programme; and an
- Appropriate suite of statutory controls that underpin the delivery of the Vision.

Whilst the Minister's Part B submission suggests that issues of governance and funding extend beyond the scope of the Amendment *per se*, it is clear that some level of clarity and certainty is necessary around these key aspects of a State Significant renewal project in order to reach a view as to whether the draft Framework statutory controls are sound.

The key statutory elements around much of which the physical outcomes are fashioned relate to built form and the density of site occupation. These techniques are known as the Floor Area Ratio (FAR) and the Floor Area Uplift (FAR). Whilst they are separate techniques they interact with each other to create new urban form.

A mandatory FAR is utilised in conjunction with height and setback provisions to deliver strategic planning objectives for the varying of building form and the provision of road and public open space infrastructure.

Separately, a FAU incentive is available, should a landowner elect to utilise this opportunity, to deliver a nominated public benefit.

An inventory of potential public benefits includes; the delivery of affordable housing, additional public open space and education or community hubs.

There are a range of issues and shortcomings in the material under consideration around these issues, as discussed in the following sections of my evidence.

In addition there are broader concerns regarding the starting point for the draft Framework as discussed in Section 2.1.1 below.

2.1.1 Strategic context and the population challenge

The scale of the strategic opportunity and influence of the potential redevelopment at Fishermans Bend has implications well beyond the area itself.

In this regard, it is important to recognise the scale of the population challenge that Melbourne faces over the coming decades.

This is laid bare in the recent Infrastructure Australia report *Future Cities: Planning for our growing population February 2018*. This report sets out the profound changes which will affect the nation's largest cities over the next 30 years or so and highlights ABS projections that the Melbourne population will grow by 2.8 million between 2016 and 2046.

This is generally consistent with the scale of change anticipated in the metropolitan strategy, Plan Melbourne 2017-250, which translates to a need for around 1.6 million new homes over a similar period. This strategy includes specific directions to accommodate the majority of this growth within established urban areas and directs new housing towards defined change locations such as urban renewal areas.

The redevelopment of Fishermans Bend for a mixture of residential and employment uses is clearly aligned with this strategic approach and offers the potential to accommodate a significant new residential population as well as new jobs within an extensive underutilised tract of industrial land close to the centre of the city.

A key question, however, is whether the best use is being made of this unique opportunity on the doorstep of the CBD.

Both the draft Framework and the background reports that underpin it, including the Fishermans Bend Urban Design Strategy (FBUDS) are predicated on a 'target' residential population of 80,000 in 2050. The density/FAR controls, and to an extent the built form approach, advanced in the draft Framework are essentially configured to accommodate this population number (leaving aside the potential for a higher residential if FAU opportunities are utilised), based on a 75% development take-up by 2050.

It is of course true that a key tenet of responsible strategic planning for comprehensive redevelopment or renewal is to have a clear idea as to the likely size of the future population that is being planned for.

I also recognise that the 80,000 population figure has appeared in a number of strategic documents in relation to Fisherman's Bend over recent years, including the 2016 Fishermans Bend Vision. However, it is not clear from these documents or from the amendment material how the number was arrived at.

It is beyond the scope of my instructions to define what an alternative population target should be. However, it is important that the huge potential of Fishermans Bend to contribute to meeting the broader metropolitan population challenge is not underplayed.

I support the proposition that the potential population capacity of the area should be determined by, in an iterative manner:

- testing the potential built form outcomes that would support a liveable and sustainable mixed use extension to the Central City;
- determining the residential population that this scale of development may accommodate;
- assessing the infrastructure requirements that such a population would generate across transport, services, open space, community facilities; and
- adjusting the target population figure if any specific constraints are identified that would prevent the realistic delivery of the necessary infrastructure.

It appears however that this was not the approach taken to determine the 80,000 population target.

It is not clear from the draft Framework or background documents whether any alternative population scenarios were tested. However, it appears to me that it would potentially be possible to accommodate a higher population while achieving a liveable and sustainable built form outcome and still delivering a new piece of city that is recognisably distinct from the CBD.

A higher population is of course implicit in the flexibility allowed for FAU in exchange for the delivery of non-dwelling floorspace (in core areas of individual precincts) or public benefits.

Notwithstanding this, I consider that an overarching objective of the planning for Fishermans Bend ought to be about ensuring the nature of the opportunity is not underplayed and that this land is re-used in a highly efficient and effective manner.

If the Amendment is to proceed, it is important that a rigorous and transparent process for reviewing progress is established from the outset of the operation of the new statutory framework. This should include ongoing work to consider the place of Fishermans Bend in the wider strategic context and acknowledge that population targets and density controls will be reviewed.

This process should ideally be a responsibility of the dedicated body recommended in Section 2.1.2.

2.1.2 The challenge of governance

The importance and strategic challenge of the renewal of Fishermans Bend is reflected in its designation as a Project of State Significance pursuant to Part 9A of the Planning and Environment Act 1987.

The delivery of the Vision and the draft Framework, including any public benefit contribution, in a coordinated and orderly manner is reliant on an individual landowner's appetite to come on board at the same time or sequentially to allow the efficient roll out of transport and other infrastructure. The timing of a particular landowner's engagement with the roll out process may not integrate with aspirations of other landowners or that of either the City of Melbourne or that of the City of Port Phillip. Investment uncertainly for either public or private sector funding in this context is unlikely to result in orderly and proper planning. An outcome that is hardly reflective of a project of State Significance.

In this regard I consider that a 'business as usual' model where individual and separate Council led (or Ministerial) decision making is relied upon to implement a project of State Significance with enormous infrastructure coordination and delivery obligations, to be naive.

To this end I endorse the notion of the establishment of a statutory authority with specific responsibility for the delivery of the Fishermans Bend renewal. Such a governance body would reflect the State Significance of the project.

The overarching governance body would have the requisite statutory powers to prepare the Infrastructure Funding Plan, the coordination and management of the timely roll-out of

infrastructure projects and the monitoring and review of the plan implementation amongst other responsibilities. I consider the establishment of say a "Fishermans Bend Urban Renewal Authority" to be a fundamental plank of the successful delivery of the Fishermans Bend programme.

2.1.3 The challenge of delivery

A key element of proper and orderly plan making is to ensure that the plan is deliverable.

In the context of an extensive new piece of the city such as Fishermans Bend where delivery is dependent on the provision of a whole range of infrastructure and services deliverability is of paramount importance, especially when the realisation of the Vision is dependent on the development decisions and their timing of multiple landowners.

In this regard I agree with the analysis of Mr Milner in his evidence prepared for Melbourne City Council which identifies (paragraph 23) that:

The community, stakeholders, interested and affected parties are asked to support or comment upon parts of a 'package' of proposed strategic and statutory measures without the benefit of key and in some cases essential parts of the 'package'.

The proposed Amendment comprises a suite of policy guidance and controls over land use, density and built form outcomes which are clearly key components of a strategic plan for transformational urban renewal. However, similarly important to the overall delivery are items such as 'precinct plans' which are flagged in the draft Framework as having a key role in translating the general approach to the individual precincts; the funding models that are proposed to deliver key enabling works, the provision of infrastructure and community facilities; the intended approach to collecting and deploying developer contributions; and certainty over the location and timing of key public transport initiatives.

The elements are either lacking or are not sufficiently developed at this stage to provide comfort that the framework can be delivered.

In this context it is not sufficient to advance a set of statutory planning controls and policy provisions to guide private sector development without the associated work on funding, contributions, and commitments to enabling works the method having been subject to scrutiny and a review process.

(i) Funding models

The draft Framework addresses the preparation of the proposed funding model for the delivery of infrastructure in the section headed "Next steps – completing the planning" at page 67 and states that:

"A comprehensive precinct based investment funding plan is being developed to deliver Fishermans Bend and realise the vision by 2050. This plan will consider a mix of funding sources, including direct developer pays systems such as an Infrastructure Contributions Plan."

This approach as envisaged in the draft Framework amounts to "catch up" planning and is in contrast to the Ministerial Advisory Committee's statement to this review panel which at page 29 headed "Funding and Finance – MAC Recommendations" includes the following:

- *"Finalise the Funding and Finance Plan and governance at the **same time as the planning controls**" (emphasis added); and*
- *In consultation with local government authorities, establish a properly constructed Developer and/or Infrastructure Contribution"*

A funding plan is an intrinsic element to enable the delivery of the very Vision the draft Framework seeks to create. This is particularly pertinent where the success of the renewal task is critically reliant on not just adequate financial funding but also importantly the sequencing of the roll out of infrastructure that is to be funded via a range of sources

This renewal task is no mere activity centre structure plan – it has at its very heart the funding and timely delivery of appropriate infrastructure utilising a largely untested model for a State Significant renewal project of an unparalleled scale.

In this regard I concur with the submission made on behalf of the City of Port Phillip which identifies the key issues arising from the absence of a clear funding model at paragraph 176 as follows;

- *The lack of an overarching funding strategy.*
- *The inadequacy of the current development contribution rates.*
- *The interaction between the [existing] DCPO, Clause 52.01 [Public Open Space] and [proposed] FAR.*
- *The lack of a comprehensive list of required public infrastructure.*
- *The practicality and desirability of facilitating community hubs through [proposed] FAU.*
- *The lack of rigour behind the investigation areas and the absence of a specific target site for community hubs”.*

The Port Phillip submission goes on to recommend that;

“An infrastructure funding strategy should be prepared urgently. The strategy should explain the interaction between the DCPO, Clause 52.01 and the FAR scheme.”

In my view to decouple the proposed funding model and delivery sequencing from Am GC81 is at odds with the status of Fishermans Bend as a project of State Significance.

The absence of an Infrastructure Funding Plan with clearly identified funding streams (not necessarily detailed costings) as foreshadowed in the Ministerial Advisory Committee’s statement is a failure of this aspect of the Fishermans Bend renewal project.

(ii) Role of Precinct Plans and Development Plans

The draft Framework says (at page 67, Next Steps) that:

The Framework will be complemented by precinct plans for the four capital city zoned precincts. All precincts will have their own plan that will reflect the finegrain detail of what has been outlined in this draft Framework.

It further states that the precinct plans aim to:

- *elaborate the unique and distinct character and vision of each precinct*
- *undertake a place making approach that spatially integrates the objectives and strategies in this draft Framework through a set of detailed design responses*
- *identify a range of priority detailed actions and initiatives to guide the delivery of key projects identified in this draft Framework.*

The intent of these plans is to provide greater detail on the role and design of streets and movement networks, public spaces, community facilities and the role and function of activity cores.

Clearly the Precinct Plans are intended to have an important role in translating the overall spatial framework to individual precincts, as well setting out the path to delivery at the local level. However there are four areas of concern regarding the lack of clarity presently available about the Precinct Plans

- Firstly, it is unclear how the content of the plans is intended to be implemented within the planning controls.

The draft Framework itself is intended to be a reference document that provides guidance rather than taking the status of an Incorporated Document.

It is not clear whether the Precinct Plans will be incorporated into the Planning Scheme with the associated expectation that development be ‘generally in accordance’ with these plans.

While it is logical that the overall Framework for Fishermans Bend be considered and resolved before Precinct Plans are completed, the proposed amendment should in my view be clear about the status that the Precinct Plans are intended to have and the way in which they will be implemented through the planning scheme.

- Secondly, the detailed work undertaken at a precinct level may mean that changes to assumptions or specified outcomes outlined in the draft Framework and statutory controls are logical and necessary. This might include matters such as the precise configuration and extent of new public open spaces, secondary roads or laneways, or even matters such as the appropriate density or building form that is appropriate in certain areas, which are currently intended to be governed by a range of mandatory and discretionary requirements.
- Thirdly, it is unclear how matters dealt within the draft Framework and reflected in the proposed CCZ and DDO schedules, may be varied if required once detailed Precinct Planning work is complete.
- Fourthly, it is unclear how the Precinct Plans are intended to work alongside or intersect with any Development Plans prepared for areas where the DPO is proposed to be applied under the Amendment.

In terms of the proposed application of the DPO within the Amendment, I agree that Development Plans approved under DPO schedules can be a useful tool in providing an integrated ‘masterplanning’ approach for large sites or groups of sites in key locations.

As I discuss later in my report, there would be benefit in facilitating and encouraging a masterplanning approach to large landholdings, such as Goodman’s land which extends across precinct boundaries and Precinct Plans should be approached in a way which does not close off this possibility.

However I observe, in line with some of the concerns raised by Mr Glossop in his evidence, that the DPO schedules as drafted are vague. I also have a concern that the preparation and approval of Development Plans for these sites is mandatory and that a permit cannot be granted until this has occurred. This approach raises questions of fairness where there are different landowners within a DPO area who may have a different appetite for contributing to the preparation of a Development Plan in a timely manner.

I therefore recommend that the DPO schedules should be amended to be more specific about the issues a Development Plan is intended to address on each site (i.e. be made site-specific) and that flexibility be incorporated to allow a permit to be granted before a Development Plan is prepared and approved.

In relation to the extensive Goodman landholdings, the Development Plan Overlay also offers one way in which these sites could be planned or masterplanned in a co-ordinated way as demonstrated by the Roberts Day plan.

The Stage 1 submission for the City of Port Phillip notes at page 19 paragraphs 112 and 113, that there may be an ability to use the DPO as a means to provide added flexibility for large landholdings in exchange for exemplary masterplanned development outcomes.

Such an approach could potentially allow for some rebalancing or redistribution of FUA and associated benefits across the landholding, or refinements in the location of community infrastructure or public open space.

However, this approach would also require some exemptions to be written into the Capital City Zone (CCZ) schedules to enable variations to mandatory requirements and allow FAU to be taken up on a different site from that where the benefit is earned provided it is done so in accordance with an approved Development Plan.

Another way in which a masterplanning approach could be utilised for the Goodman land could be for a more informal process to be undertaken where a plan is prepared by the landowner in consultation with relevant bodies (a future renewal authority or DELWP and Council) and approved by the responsible authority in the absence of a DPO. However, such plans are unlikely to have the statutory weight of an approved Development Plan and would need to be referenced (where prepared) within the CCZ and potentially the DPO if they are to have an influence in decision-making on subsequent permit applications.

In summary then,

- There is a lack of clarity about the statutory status of the Precinct Plans and what impact

they may have on approved Development Plans prepared under a DPO. Moreover the DPO schedules as currently drafted are vague.

- The DPO schedules should be more specific about the issues a Development Plan is intended to address on each site (i.e. be made site-specific) and that flexibility be incorporated to allow a permit to be granted before a Development Plan is prepared and approved. Furthermore exemptions should be written into the Capital City Zone (CCZ) schedules to allow development that accords with an approved Development Plan.
- There are potential benefits to allow a rebalancing or redistribution of FAU across a large landholding in exchange for an exemplary master planned outcome.

2.2 What are the implications for the Goodman landholding?

The extent of the Goodman landholding as described in the Roberts Day report is extensive and I agree with the proposition advanced in that document that its scale provides a unique opportunity to contribute to the delivery of positive urban renewal as envisaged in the Vision and draft Framework.

In total, at approximately 33 hectares, the Goodman sites comprise the largest landholding under single ownership within Fishermans Bend. Of this holding, approximately 26 hectares form a contiguous parcel which extends through the Sandridge and Wirraway precincts.

As an illustration of its scale, this parcel is shown in the Roberts Day work overlaid on the Hoddle Grid where it extends for the equivalent of five city blocks from King Street to Russell Street (see **Figure 3**), along the key Plummer Street 'spine'.

This landholding is unlike any other in Fishermans Bend and the issue that then arises is how best to approach its planning in a co-ordinated fashion to 'curate' exemplary outcomes.

What is outlined in the Roberts Day Report is a series of ways in which the opportunity presented by a large integrated landholding could be harnessed to deliver many of the things sought by the draft Framework. However, what is also apparent is that greater benefit could be delivered if the draft Framework and statutory controls had more flexibility built in to allow the redistribution of FAR and FAR potential across the Goodman landholding.

This leads to two questions:

- Firstly, do the potential benefits in providing greater flexibility across the Goodman land warrant consideration of a different approach; and,
- Secondly, if they do, what would be an appropriate mechanism to deliver this?

2.2.1 Is flexibility warranted?

On the first question it is useful to note the density and built form regime that is envisaged across the Goodman properties. As depicted in **Figure 1**, Goodman's land holdings extend across:

- Wirraway (core and non-core) - envisaged as a 'family friendly inner city neighbourhood';
- Sandridge (core and non-core) – envisaged as a 'premium office and commercial centre'; and
- Lorimer (core) – envisaged as a 'vibrant mixed use precinct'.

Different FARs apply across and within the three different precincts as well as different preferred building heights.



Melbourne's Hoddle grid analysis **Figure 15** extract from Roberts Day report

Figure 3 – Roberts Day Hoddle Grid Analysis



The distribution of proposed district, precinct and neighbourhood parks through these areas shape built form outcomes by way of controlling shadow impacts between either 21 June to 22 September for district and precinct parks or on 22 September for neighbourhood parks.

The interplay between FAR, additional commercial floorspace aspirations, the preferred and mandatory building setbacks and preferred height dimensions, together with the influence of shadow impact controls has its greatest consequence for the Goodman land in the Wirraway precinct, most particularly for those land parcels that extend along Plummer Street to the north of the JL Murphy Reserve – a nominated district park. In this location it is envisaged that new buildings not create additional shadow on the open space between 11am and 2pm on any day between 21 June to 22 September².

Figure 4 shows a section depicting the relevant built form controls and the sun angle at 2pm on 21 June (the worst case scenario given the orientation of the park and Goodman parcels) demonstrates the maximum building profile that is possible opposite the park.

The capacity to apply an FAU and deliver a public benefit in the core area is significantly constrained if not removed by the shadow control.

This analysis suggests that in order to secure a meaningful public benefit through an FAU on an extensive portion of the overall Goodman holding, either:

- The mandatory shadow control needs to be relaxed, although this approach will be self-limiting. As an aside I question whether a mandatory prohibition on any additional shadow between nominated hours during the winter period on a large recreation reserve or indeed any of the district parks is warranted. The JL

² Control as expressed in the combined DDO referred to as document '66F' tabled at the Review Panel.

Murphy Reserve is not a park or gardens of heritage significance or a civic space in the same way as the Flagstaff or Fitzroy Gardens are which do have mandatory winter shadow protection.

- In certain circumstances the potential for redistribution of available FAR and/or FAU to secure a public benefit could be warranted.

Whilst both options deserve examination, the second would allow a significant landowner such as Goodman to deliver significant public benefits (and possibly earlier in the renewal process) in a preferred location in exchange for the accrued development potential elsewhere in the same precinct or in a suitable location in another precinct.

The large landholding of Goodman would allow this redistribution to occur selectively and judiciously so that the “weighting” of the

redistribution does not distort the intended scale of built form outcomes in particular neighbourhoods. For example greater redistribution could occur in the Sandridge precinct rather than in the Wirraway precinct.

In summary, I consider that there are potential benefits in providing greater flexibility to a significant landowner such as Goodman that warrant a different approach to that envisaged in the current Am GC81 statutory controls. My preference is to capture this different approach on the basis of a redistribution of allowable FAU within or across neighbourhoods.

2.2.2 What are the mechanisms for flexibility?

The potential statutory techniques that could be utilised for the Goodman land in order to allow the redistribution of development potential and at the

same time, maximise the FAU opportunity (as well as its potential for early delivery) have been discussed in Section 2.1.3 (ii) of my evidence.

My preference would be the utilisation of a Development Plan approach prepared as part of a DPO but only if the necessary exemptions are written into the CCZ schedules. I consider this technique to be a superior one to a non-statutory master planning approach, at least for the Goodman land. A non-statutory master planning approach will not allow the capacity to redistribute the FAU across or within the four neighbourhoods.

The contiguous Goodman land parcels in the Wirraway and Sandridge precincts offer the greatest potential for a DPO rather than the stand alone parcels in Lorimer and the employment precincts.

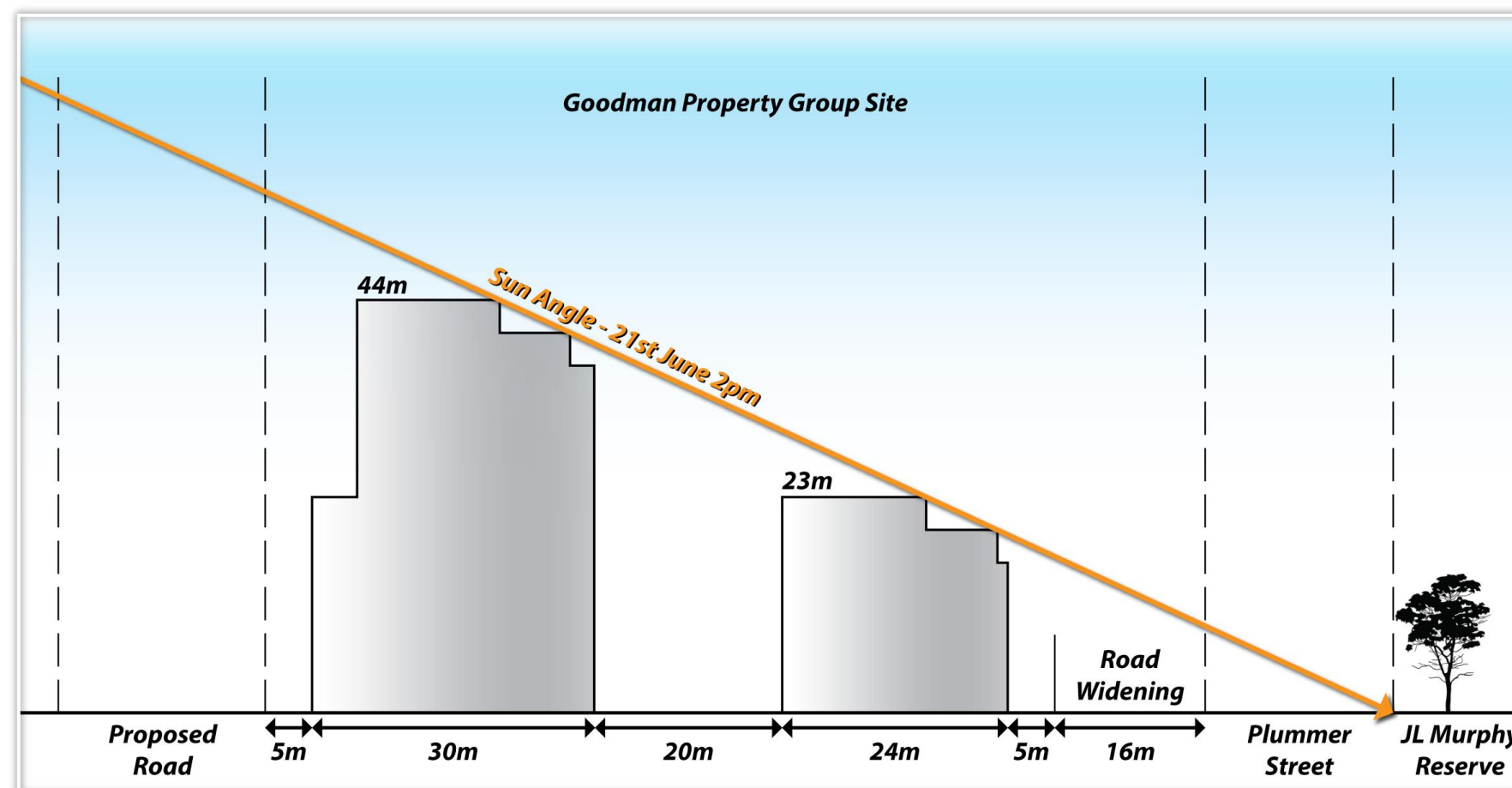



Figure 4 - Sun Shadow Analysis

3 Conclusion

The draft Framework which seeks to deliver the Vision for the Fishermans Bend renewal has much to recommend it.

However, the funding arrangements and an effective governance regime have been decoupled from Am CG81 which underwrite the potential for success of the task for Australia's largest renewal project and one of State Significance to Victoria.

My conclusion is that Am GC 81 should not proceed as it is currently constructed for the reasons I have described in my report. However, if the Review Panel is ultimately of a mind to recommend that Am GC81 proceed possibly subject to modifications, I have made recommendations about some modifications that should be made or where more detailed clarification work is required in Section 1.7 of this witness report.

A handwritten signature in black ink, appearing to read "C A Heggen".

C A Heggen
BTRP FPIA

Appendix A: Witness statement

Name and Address

Catherine Anne Heggen
 Message Consultants Australia Pty Ltd
 2/398 Smith Street, Collingwood 3066

Qualifications

- Bachelor of Town and Regional Planning, Melbourne University 1982
- Fellow, Planning Institute of Australia
- Fellow, Victorian Planning and Environmental Law Association

Professional experience

- Current Position: Director, Message Consultants Australia Pty Ltd
- 1985 – Current: Town Planning Consultant
- 1982 – 1985: Town Planner in local government and regional authorities (Australia & overseas)

Professional appointments

- 1996 – 2002: Member, Victoria's Heritage Council
- 1998 – 2002: Chair, Victoria's Heritage Council
- 1998 – 2002: Trustee, Melbourne Heritage Restoration Fund
- 2001 & 2002: Jury Member, Stonnington Urban Design Awards
- 2001: Jury Member, Australian Institute of Landscape Architects (Vic Chapter) Awards
- 2003: Jury Member, Planning Institute of Australia (Vic Division) Awards
- 2004 – ongoing: Member, Heritage Committee to the Building and Estates Committee – University of Melbourne
- 2005 – 2012: Member, Building Committee – Queen Victoria Women's Centre
- 2011 Member, Ministerial Advisory Committee on Planning System Reform

Areas of expertise

- Extensive urban design advice to architects and project managers involved in medium and high density housing and other built form projects.
- Strategic and statutory planning advice to commercial and institutional clients as well as government and alpine management authorities on a range of residential, environmental, tourism, cultural heritage and urban character issues.
- Consulting advice to a wide range of private sector and government clients addressing the management of urban development and rural land use.
- Project planning and coordination of Institutional Master Plans.
- Experience in the preparation of environmental management plans and Environment Effects Statements for extractive industry.
- Preparation and presentation of evidence before VCAT, and various government appointed independent panels and advisory committees.

Expertise to prepare this report

Professional qualifications and expertise in urban design and town planning, including:

- Urban design and building form impact assessment.
- Ongoing involvement in a range of residential, mixed use, institutional, commercial and extractive industry development proposals.
- Ongoing involvement in cultural heritage, urban character and visual and landscape impact issues.
- Experience in new community development, greenfield subdivision projects and institutional Master Plans.

- Specialist experience in medium and high density housing issues.

Investigations and research

In preparing this evidence I have:

- Inspected the Goodman land holdings and Fishermans Bend more generally;
- Reviewed the exhibited Amendment documentation;
- Reviewed relevant submissions to the amendment;
- Reviewed the directions of the Fishermans Bend Review Panel;
- Reviewed relevant statements of evidence prepared on behalf of the Minister for Planning, City of Melbourne Council and City of Port Phillip Council.

My involvement in this matter commenced in December 2017.

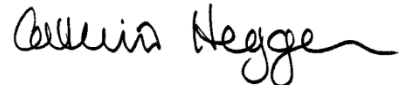
Summary of opinions

My conclusions are summarised in the preamble and conclusion of this report.

Declaration

I declare that I have made all the inquiries that I believe are desirable and appropriate and that no matters of significance which I regard as relevant have to my knowledge been withheld from the Review Panel.

I prepared this report with assistance from Mathew Furness, Senior Planner and Gokhan Karpat, Senior Urban Designer at Message Consultants Australia Pty Ltd.



C A Heggen
BTRP FPIA