

15 December 2017

Fishermans Bend Taskforce and Planning Review Panel

1 Spring Street
Melbourne VIC 3000

Via submissions portal: <https://engage.vic.gov.au/fishermans-bend-draft-framework>

Fisherman's Bend Draft Framework Consultation

Thank you for the opportunity to provide input on the above issue. The Property Council applauds the Taskforce for its extensive research to date, as well as seeking input from a wide range of stakeholders. This project is of state significance and will require an innovative approach to ensure its success.

This submission outlines three priorities for urgent consideration and completion:

1. Clarity on dates of delivery of essential transport infrastructure;
2. The governance arrangements for the precinct; and
3. Development economics for project viability.

The Property Council's advocacy committees have assisted in the preparation of the following submission. However, the timing of the consultation process, at the end of the calendar year has stretched the industry's capacity to provide detailed feedback at this point.

In addition, the scheduling of planning panel hearings in February 2017 is too soon for industry to be adequately prepared. The success of the framework and the planning controls are contingent on collaborative partnerships, as identified in the framework. The timing of the panel process early next year will make it very difficult for owners and the development industry to have adequate preparation time for submissions and presentations.

The Property Council is committed to continue our constructive dialogue on this transformational project beyond this consultation round, and to develop innovative solutions to the challenges outlined in this submission.

If you require further information, please contact my office on 9650 8300 or scapp@propertycouncil.com.au.

Yours sincerely



Sally Capp
Victorian Executive Director
Property Council of Australia

Policy Context

The Property Council of Australia applauds the extensive and rigorous work undertaken by the Fishermans Bend Taskforce (the Taskforce) to develop the Draft Framework. We share the Government's view that this urban renewal project is an unprecedented opportunity to provide a new commercial and residential community on the doorstep of Melbourne's CBD.

We recognise that this is a long-term undertaking which requires the right vision and commitment to succeed.

The Property Council welcomes the focus on sustainability measures, including the adoption of the Greenstar Community rating tool. We support the aspirations of a sustainable, liveable precinct.

The Property Council also acknowledges the steps taken by the Taskforce to attempt to balance the community needs with commercial imperatives, and the effort to provide planning mechanisms that are suitable for this precinct, rather than adopting a standard solution, or merely replicating the C270 controls. The C270 controls remain a concern for industry, and we will continue to monitor the affect these controls have on the CBD, particularly for commercial office development. Correctly, the Government sees Employment uses as critical for Fishermans Bend and accordingly it should adopt conducive controls and incentives.

In balancing the needs for residential amenity, open space, environmental sustainability, and the other aspirations of the whole precinct, it is also important to understand the development economics of urban renewal areas, and the need to create early momentum to attract more investment and development to the area. This involves creating some flexibility and incentive to help the development economics, creating compelling viability capable of being funded, for early investors who are clearly carrying more risk.

Early feedback from industry suggests that the planning mechanisms may not allow for enough flexibility to help drive early development. This will be further discussed in later sections.

The Precinct Success is Dependent on Certainty

The Property Council and its members welcome the policy to create 80,000 jobs and to accommodate 80,000 residents in this precinct. While economic modelling suggests this is feasible, the industry sees this as an ambitious policy. For commercial scale development to take place at Fishermans Bend, the industry needs certainty on a number of key matters. These include the transport infrastructure plans, infrastructure funding models, the governance arrangements, and confidence that the locations of open space and other land use plans are now confirmed. Until there is confidence in these matters, it will be difficult for developers and investors to make a

viable case for some sites. The catalyst for commercial development at scale to take place at Fishermans Bend will be the Melbourne Metro 2. Until this occurs, it is difficult for the industry to envisage major development taking place (see below).

In addition, the multiple changes to planning controls over recent years creates an increased risk for developers. Former planning controls (or lack thereof) and then interim controls and now new proposed limits have dramatically impacted on the viability of many sites. In some instances, controls around sites have gone from 40 levels to 20 levels. Not only has the economics of the sites dramatically changed, the multiple changes of controls is a costly exercise for prospective developers. The cost of land in the precinct could render many sites under 20 levels uneconomic unless more height and density can be achieved on the site. The likelihood that some existing permits will expire, and then be subject to the new planning controls, also places more uncertainty on the industry.

Priorities

The Property Council considers three fundamental elements of the Draft Framework require urgent consideration and completion;

1. Clarity on dates of delivery of essential transport infrastructure;
2. The governance arrangements for the precinct; and
3. Development economics for project viability, particularly the impacts of the floor area ratios, levies and charges and also notional FSR bonus regimes – to ensure development is viable and the economics are compelling.

1. Transport Infrastructure Planning and Funding

The Property Council acknowledges the current planning undertaken for public transport in the Fishermans Bend precinct. We also acknowledge the Framework's ambitious plan to reduce car reliance by reducing car parking ratios, and taking into consideration the impact of autonomous vehicles and a possible decline in car ownership in the future.

However, there are some practical realities associated with encouraging new development, both residential and commercial to the precinct.

In discussions with industry about Fishermans Bend, a common theme has emerged, being the requirement for heavy rail into the precinct – upfront, or in concert with major development. Put simply, commercial development requires anchor tenants, and anchor tenants that employ many hundreds of employees will not commit to an area that cannot effectively transport workers in and out of an office location.

Industry is concerned that the tram routes and their tram stops are not finalised, nor is there a clear funding model for this infrastructure. The lack of a final train route, number of stations, the funding model and the timeframes for this major infrastructure piece is a major barrier to development.

Further, the location of tram stops and train stations can have a significant impact on where particular developments are most ideally suited, and land valuations can be affected if tram stops and stations are added or moved adjacent to a site. Developers are reluctant to commit to projects, when important amenity such as proximity to a station is uncertain.

It is also important to signal to the market how this major infrastructure will be funded. The Property Council notes that there are already many contributions and levies earmarked for the development industry. If a major part of funding of major infrastructure is to be borne by the development community, it is another factor in project viability. The current uncertainty around funding models and mechanisms to implement infrastructure makes it difficult to define costs and for owners to make informed decisions about development options, for example:

- how will private land identified for roads and parks be acquired and paid for?
- how will road construction across multiple private land ownerships be co-ordinated and funded?
- Will arterial and collector roads be delivered via Development Contribution Plans (DCPs) and local roads paid for separately by individual land owners?

The Property Council would welcome the opportunity to work with Government to explore innovative funding opportunities for major infrastructure.

The Property Council acknowledges that the Victorian Government is investing in transport infrastructure at an unprecedented level, and also recognises the challenges associated with planning for multiple major infrastructure projects simultaneously. However, for Fishermans Bend to be a viable proposition for both residential and commercial projects, this issue must be addressed as a matter of urgency.

2. Governance model

The Property Council is concerned that as yet, there is no governance plan for Fishermans Bend. We note that the Taskforce is likely to be wound up in the near future. The lack of governance arrangements is very concerning for the industry as it adds to a sentiment of uncertainty.

The Property Council believes a project of this scale and importance to the community requires a standalone authority, similar to the former Docklands Authority. We would welcome the

opportunity to work further with the Government to determine the parameters of a Fishermans Bend Authority, however we note that key elements should include:

- A clear purpose and scope and mandate
- Clear powers for planning controls, infrastructure and services provision and public land acquisition
- Senior leadership who have proven experience in delivering major urban renewal projects
- Resourced to appropriate levels
- A Board comprising experienced and capable people from government, industry and community.

The lack of a governance model for Fishermans Bend is also problematic with the current planned panel hearings for the proposed planning controls. The Property Council is concerned that the scheduling of the panels hearings for February 2018 is too early for industry to adequately consider the proposed controls. Further, the planning controls should not be finalised without the governance arrangements finalised.

3. Understanding the Development Economics

The Property Council notes that the Taskforce has not released any development economics for the Framework. The success of Fishermans Bend is predicated on the development community delivering economically viable commercial and residential buildings.

Feedback from members has consistently cast doubt on whether the mandatory controls, particularly the FARs, provide enough design flexibility to allow for viable projects in the current market. The Property Council would welcome testing of the development economics, particularly in relation to the FARs.

The Property Council would encourage peer review of current financial modelling on the FAR and urban design modelling that has been proposed for the different precincts.

This would be valuable to assess the viability of redevelopment of sites compared with the commercial return available with current site uses- ie: a simple feasibility could be run for sample sites/ precincts based on the Taskforce modelling.

Industry has also raised the following issues relating to development economics and would like to see modelling that addresses:

- The impact of the various levies;
- Whether the FSR bonus incentives give compelling reason to take on more risk;
- Whether projects be viable and fundable with mandatory commercial floor space; and

- The cost Impost of ESD requirements.

Each of these elements in isolation has economic impact that should be modelled and understood. In addition, the cumulative impact is important in development economics.

4. Other matters

Mandatory Controls impacting on design

The use of mandatory controls such as side and rear setbacks is quite extensive and complex to interpret.

While an FAR tool allows design flexibility while controlling density, mandatory controls do not allow for site specific responses, for example, where sites are irregular in shape, may have specific constraints such as heritage fabric or need to respond to demanding technical constraints such as high wind conditions.

This is particularly problematic in precincts where the vision is to preserve a finer grain development pattern such as Montague South which the framework highlights as being ‘distinguished by its laneways and heritage buildings...with a network of gritty streets.’

Preliminary modelling suggests that the proposed side and rear setbacks for mid-rise development in Montague south will promote site consolidation of smaller sites (<20m frontage), particularly where the discretionary heights seem to encourage podium tower typologies (i.e: 12L preferred).

Other recently adopted policies have approached this issue differently as follows:

- C270 -Table 3 to Schedule 10 allows discretion to modify floor plates within a site to respond to individual site conditions provided that a 5m mandatory side, rear and upper setback to street and the preferred overall footprint is not exceeded
- Clause 58 does not stipulate mandatory separations due to the difficulty in applying a ‘one size fits all’ solution to a range of site sizes and contexts.
- Use of the FAR controls and the application of Clause 58 should be sufficient to protect internal amenity outcomes while providing greater flexibility.

There are detailed setback requirements related to habitable and non-habitable spaces.

There is a large step change between non-habitable vs habitable setbacks for mid-rise development for example: 9m side setbacks for 7-8 level buildings except for walls which do not include habitable room windows or balconies which can be setback 3m.

The mandatory control will mean that floor plans will be configured to ‘tick the box’ rather than to maximise amenity – for example: an open plan kitchen living dining area is considered habitable

(refer to planning scheme definition below) so this will deter applicants from including side windows to these spaces to avoid the larger setback requirement.

Habitable room (planning scheme definition) Any room of a dwelling or residential building other than a bathroom, laundry, toilet, pantry, walk-in wardrobe, corridor, stair, lobby, photographic darkroom, clothes drying room and other space of a specialised nature occupied neither frequently nor for extended periods.

This approach hasn't been adopted in other CCZ areas to preserve future adaptability and changing use over time. A simpler set of setback controls which balances amenity with design flexibility is required.

In some cases, there is a disconnection between the framework vision and existing conditions and approvals. For example, there are some sites where there has been recent and significant investment in current infrastructure and uses that are now identified as locations for new roads and open space. There are also some open spaces identified for protection of winter sunlight which are already overshadowed by existing buildings. The Industry would like clarification on how existing investment will be considered under the new controls.

Incentives to Industry

Industry is concerned that the current Floor Area Uplift (FAU) does not provide adequate incentives for industry to provide the additional community benefit required by the Framework. Combined with the height and setback controls, all of which are mandatory and allow no flexibility in design, the current FAU is unlikely to be sufficient to encourage desired development in Fishermans Bend.

To ensure some initial interest and to create momentum, it may be necessary to allow for some flexibility, particularly in the early stages of development. For example, development without the mandatory employment space and design flexibility would help, particularly in areas such as Montague and Lorimer, where there has been some early activity.

Car Parking Requirements

The objective to promote sustainable travel options and a transition to reduced car rates is supported however this is reliant on public transport infrastructure.

It is understood that reducing car parking has an urban design benefit in reducing high above ground podia and releasing space at lower levels to active uses.

However, the maximum car rates are problematic for some dwelling types before public transport infrastructure is implemented (which is listed as medium and long term).

The current controls mandate car parking rates at 0.5 maximum per dwelling.

This will be a disincentive for family-friendly aspirations (problematic for families/workers/schools) for example the ambition to provide 20% 3 bed dwellings in developments in Lorimer >300 dwellings. 1 car should be allowed for each 3 bedroom dwelling.

The provisions for exceeding the maximum parking provisions is unclear. It is assumed that meeting the Clause 6.0 car share provisions does not trigger an ability to increase car numbers, but the drafting of this provision is unclear.

The design standards state that car parking areas should have a floor to floor height of not less than 3.8m.

This is greater than floor to floor heights required for residential and smaller office spaces and will result in unnecessarily higher podiums to achieve car parking requirements and long ramps which will be very difficult to accommodate on small to medium sized sites.

There is also a lack of alignment in funding structures and planning outcomes which may make implementation impractical. For example, carparking conversion relies on a different development model where car parks are not sold with apartments or strata offices but are held in single ownership. The Property Council questions how development funding will be secured for alternative models (such as lease back arrangements?) to allow this objective to be achieved.

Developer Contributions

The Property Council is concerned that certain development costs are not adequately understood or considered by the taskforce. For example:

- the principle that commercial return is unaffected on sites which include open space and road requirements (because the FAR and therefore yield is consistent) ignores many resulting development costs.*(refer to page 81 of Urban design strategy – development example with and without a new street and park)*
- Because car-parking has to be accommodated above ground, a site with smaller but taller footprints can result in less efficient car parking which has implications for the sellable area that can be achieved.
- Due to site contamination, flooding and geotechnical conditions, provision of open space is complex and expensive. Where an owner is required to provide this on site it should be offset from the public open space contribution.
- Higher compact forms may create more complex building types and regulatory requirements such as fire regulations, extent of piling and the requirement to use more expensive tier 1 & 2 builders.

Drafting issues

There are a number of gaps and detailed drafting items which require further clarification within Schedule 67 to Clause 43.02

Building setback from new and existing streets and laneways – p.2 of 11

Drafting of the requirements is unclear- ie: that the required setbacks *relate to the portion of the building above the street wall height*.

The current drafting could be interpreted as requiring *the whole building* to be setback off the street or lane edge.

Table 1

Street wall heights

There is no guidance for buildings greater than 10L where there is a street > 22m

The built form requirement is unclear – ie: should the street wall be 8L or revert to the standard 6L?

There appears to be a drafting error under: **Building setbacks to side and rear boundaries where the overall building height is greater than 8 storeys and 30 meters.**

The clause should read – any part of the building 6 storeys in height **or more** must be setback a minimum of 6 meters from the boundary.

Building separation within a site

The table could be interpreted to read that separations required for building heights greater than 7 storeys and less than 8 storeys *are more than* separations for buildings greater than 8 storeys.

The drafting is confusing and requires clarification.

Diversity of Stock

The Property Council is concerned that the mandatory nature of many of the provisions will stifle flexibility and innovation. To achieve many of the Frameworks aspirations, innovative approaches will be required.

The Property Council questions whether the current policy framework and planning provisions will allow for affordable housing, and if the development economics will be favourable for the delivery

of a variety of housing, including at a price point for key workers and first home buyers. Further, the Government should consider facilitating Build to Rent developments in Fishermans Bend as a means to encourage diverse communities into the precinct.

Preserving industrial uses

For Fishermans Bend to be a true mixed use precinct, consideration must be given to the current and future role that industrial use may play. This is especially important when considering the location of the Port of Melbourne in close proximity to the Fisherman's Bend precinct, and the importance of freight to both the overall economy, but how goods and services are now delivered to homes and businesses.

It is important that there are appropriate buffers between the Port of Melbourne and residential areas. The Port must be able to operate on a 24x7 basis, and resident reticence to noise and truck activity must not preclude the efficient movement of freight both on road and rail. The current road network is already at capacity for freight movement. The road corridors in and out of the precinct must provide for new age transport solutions and provide for articulated vehicles, automated vehicles and the large volume of traffic until heavy rail arrives.

The Property Council notes that the Government is due to release a freight strategy in the new year. It is important that freight movement around Fishermans Bend is complimentary to this strategy.

The designated freight route through Fishermans Bend is important, and the Property Council recommends the Government actively communicates the importance of allowing the movement of freight in Fishermans Bend. This corridor must be preserved and protected for freight rail with a clear policy that it can't be converted to passenger use in the future.

Future proofing for last mile freight delivery is important in Fishermans Bend, as community expectations demand delivery of goods in a timely manner. This requires the supporting infrastructure – car parking in proximity, loading bays and 24x7 access. It is likely that distribution centres in inner Melbourne will become increasingly necessary to facilitate the timely movement of goods. Increasing land prices and competition for residential development will make it difficult to secure such sites in the future. There will need to be appropriately zoned areas to allow industrial, commercial and residential to co-locate to facilitate the last mile distribution and sortation.

It is important to allow for some existing industrial uses, as well as planning for the "next generation" of clean, high tech industrial land use, including warehousing uses. The Property Council has provided input to research undertaken by inner city local governments on "the new urban makers" and encourages the Taskforce to consider the findings of this work.

5. Next steps

The Property Council welcomes the consultative approach to the development of the Framework. We are committed to working with Government to ensure innovative solutions to the key priorities and challenges. We reiterate that the priorities from an industry perspective are:

1. Clarity on dates of delivery of essential transport infrastructure;
2. The governance arrangements for the precinct; and
3. Development economics for project viability, particularly the impacts of the floor area ratios, levies and charges and also notional FSR bonus regimes – to ensure development is viable and the economics are compelling.

The Property Council would welcome the opportunity to further engage with the Taskforce to ensure the right mechanisms are in place to ensure viable development.