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**Final Report of Independent Hearing and Assessment Panel**

**In Respect of a Proposal by Kavlyn Pty Ltd**

**For The Concept Plan for a Residential Development at  
7-17 Elsie Street & 45-49 George Street, Burwood**

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**18 December 2008**

## INTRODUCTION

The Panel prepared its Preliminary Report on the proposal on 16 September 2008 (see **Attachment 1**). The Panel subsequently received amended plans and report in respect of the proposal on 2 December 2008. The proponent had previously briefed the Panel on those amended plans which were to become the Preferred Project in respect of which this report relates.

## FURTHER INFORMATION AND AMENDMENTS SOUGHT

Having reviewed the amended plans and Preferred Project report of 2 December 2008, the Panel met to consider the proposal on 10 December 2008.

A letter was subsequently forwarded to the proponent on 11 December 2008 (see **Attachment 2**) seeking the following:

- " 1. Would the applicant please provide a comparison between the August 2008 plans and the preferred project rather than the 'original project' generally but specifically in relation to table 2. Please also provide RLs for all the buildings referred to in that table and other references for consistent comparison of like with like.*
- 2. Please provide a calculation of the residential FSR (GFA) separate from the total FSR (GFA) proposed.*
- 3. In the recount of Appendix B for the winter sun, please provide details as to what hours are being counted in the 'Y' notation. That is, what period of hours – ie 9am-11am 2pm-4pm because the Panel's preliminary calculation indicates less than 70% (not 81.4%) provision.*
- 4. Please provide an argument for why, on p16 para 2.5.1, first paragraph, the height is calculated from the podium and not the ground. The reason for our need for expansion on this point is because if the calculation is taken from the ground it MAY improve (3) above.*
- 5. Please provide confirmation of the minimum footpath width to Victoria St*
- 6. Please clarify that the floor area of the tenancies 7/8 are reduced, not increased as specified. Our viewing of the August 08 plans show the tenancies as larger.*
- 7. Please provide the landscape plan/details for the ground level along the western boundary.*
- 8. Please recalculate (if necessary) the S94 contribution based on the new residential mix.*
- 9. Please confirm from Appendix B, table Building 'C', level 9 whether 6 or 7 units are proposed. It would appear the plans and the table are inconsistent.*

*As stated above, if the Panel can receive this information by COB Monday 15 December, we hope to be able to complete our report by the end of that week, having planned to meet on 17 December 2008.*

Details, as requested, were provided by Monday 15 December 2008. It is in respect of these amended plans and report, where they vary from those provided on 2 December 2008, and the subject of our Preliminary Report of 16 September 2008, that this report relates.

## **ASSESSMENT OF IMPACT**

The assessment of impact is based on the same format as the Preliminary Report on this proposal. (see Attachment 1)

### **Built Form and Urban Design**

#### **Tower Setbacks to Site Boundaries**

##### ***West***

To the west of Tower A there is unlikely to be a development due to the existence of heritage properties and thus the setback is considered acceptable.

To the west of Tower B is acceptable because it exceeds 12m.

Tower C was not acceptable inasmuch as the setback was 11.4m. It was recommended to be increased to a min of 12m. The Preferred Project does increase the setback to 12m and is now acceptable.

##### ***South/East/North***

Towers A, B and C are setback between nil – 2840mm from these boundary alignments. This is contrary to proposed controls in the DDCP which would require a 6m setback. To conform to the 6m setback the towers would need to be located either closer to the residential properties to the west or closer to each other. Neither is acceptable. Accordingly, the setbacks, per se, are satisfactory.

#### **Separation of Tower Elements**

In considering the amended plans of 2 December 2008, the Panel sought, inter alia, clarification as to the height above which the separation distances had been promulgated. That is, why is the height measured from the podium and not the ground level. The only justification the Panel can deduce is that the proponent wishes to ignore the existence of the podium, in all respects.

It is the Panel's view that the measurement of height should be measured from the ground level inasmuch as the objective of the Rule of Thumb is, inter alia, to minimise any impact of massing and visual impact when viewed from a distance, as well as addressing privacy and solar access.

The amendments provided to increase the separation of buildings have improved the building relationship, however, the Panel believes that the proponent has compromised the consideration of building separation by insisting on measuring the separation height from the podium and has not really satisfied the issue of solar access and building mass when viewed from a distance.

Accordingly, the Panel considers this aspect of the proposal unsatisfactory. It is the Panel's view that the separation above levels 6 to 24m between Building A and B and B and C is required. This could be achieved on Building B by removing units 1 and 5 on levels 7-10, inclusive and on Building C by removing units 6 and 7 on levels 7-10, inclusive and replacing these with a single unit similar to 11.04. This, in turn, would improve solar access to approx 70% of the units and improve building separation when viewed externally from the site.

It would appear that by increasing the height of Buildings B and C, east of the cores, by a maximum of 2 levels, without resulting in significant increase of overshadowing to adjoining residential properties, could minimise loss of units.

Given that the proposal is a Concept application, it is open for a condition of consent to be imposed on the application seeking this matter to be addressed in any future Project Application. In the circumstances, where the Panel believes that a solution is available to the proponent to address its concerns, it recommends that these issues be addressed prior to the determination of any Project Application.

However, if, as it would appear, the proponent is requesting that the Minister exercise her discretion and grant approval under S75P(1)(c)...*"that no further environmental assessment is required for the project or any particular stage...."*, the Minister would need to be satisfied that the issue of building separation was resolved prior to determination, through amended plans.

### **Building Depth**

In addressing the issues raised by the Panel the building depth aspects of the Rule of Thumb have been improved but are still greater than 18m in depth for each tower. This would be acceptable subject to the building separation issue identified above, being satisfied.

### **Visual Impact**

The Panels view is that the amendments have provided some improvement to the visual impact. However, given the context of the site, greater separation as recommended would further improve the visual impact to a satisfactory level.

### **Summary**

In relation to built form and urban design, the Panel considered that a better form of development would be 3 towers, narrower in width and more widely spaced. This view remains. The suggested increase in separation and improvements to solar access would achieve this outcome.

### **Appropriateness of Building Heights**

The building heights in the Preferred Project increase those of the previous scheme, having taken on board the comments of the Panel. .

Building A has increased from RL 72.35 to RL 75.1, a change from 14 residential levels to 15 residential levels. No change is proposed to Buildings B and C.

It is the Panel's view that the increase in height of Building A does not result in any increased overshadowing or detrimental visual impact. It is further noted that the height of Building A is contemplated by the draft BTCLEP 2008.

There remains some limited scope, subject to maintaining variation in height and minimal overshadowing of adjoining residential properties, to increase the height of Building B and C east of the cores.

### **Heritage Impacts**

The impact on the adjoining and surrounding heritage items is considered to be satisfactory.

### **Residential Amenity (on and off site)**

The attached SEPP 65 table – see **Attachment 3** - identifies the assessment of the Preferred Project under SEPP 65. It is now considered acceptable subject to increased building separation.

## **Relevant Issues Raised in Submissions**

Those issues not addressed by the above headings are considered below:

### ***Wind Tunnel***

This is considered to be satisfactory.

### ***Traffic***

This is considered to be satisfactory given that the traffic generation remains unchanged from that originally approved.

### ***Parking and Servicing Facilities***

These are considered to be satisfactory in respect of the amendments and the Panel's view, as expressed in its Preliminary Report (see **Attachment 1**) remains unchanged.

### ***Footpath/Streetscape***

The Panel noted in the Preliminary Report that the residential lift lobbies on Victoria Street and George Street could only be accessed through the public car park lobby. This was considered unsafe and not acceptable. Separate lobby access was recommended which did not involve any increase in floor space. The Preferred Project appears to have satisfactorily addressed this issue.

The Panel also notes that the proponent plans to widen the footpath, notably along Victoria Street to a minimum width of 1.8m. In so doing, the Panel acknowledges that this will, in effect, reverse the proponent's already undertaken actions to widen Victoria Street adjacent to the site.

In this respect, it is important to be aware that the applicant widened Victoria Street as a consequence of Council conditions attached to the erection of the original DA for development of the site. The subsequent s96 modifications approved by Council, which resulted in the diminution of the footpath along Victoria Street to a width such that no person could pass without stepping into the road was overlooked. The significant intensification of the site with the introduction of 210 residential apartments and their consequential impact on the public domain has necessitated the widening of the footpaths. Since it is not possible to reduce the footprint of the existing building, due in part because it is not the subject of this application to the Minister and also because the existing building has been the subject of subsequent strata and stratum applications which have given ownership to Council of several units along this elevation, the only option available to the Panel to address this significant inadequacy, is to require the widening of the footpath (and consequential reduction in width of Victoria Street).

### ***Reflectivity***

This is considered satisfactory.

### ***DBTCLEP2008 and Draft Inner West Subregional Strategy***

Since the preparation of the Panel's Preliminary Report, the BTCLEP 2008 has completed its exhibition period but the Burwood Town Centre Panel has yet to consider a s68 report. Accordingly, whilst still not certain, it is closer to being resolved. Nevertheless, the weight of these documents remains no greater than matters for consideration.

### ***Lack of Open Space***

In considering the Preferred Project, the Panel sought clarification of the provision of open space at the ground floor on the western boundary. It had been the subject of discussion with the proponent and plans were submitted to the Panel, prepared by Turf Designs (No DLA6A). These were considered desirable and should be the subject of a condition of consent.

### **Adequacy of Proponent's Response**

The information provided by the proponent has been adequate, for the most part, for the Panel to undertake its assessment role.

### **Any Other Related or Significant Issues**

#### ***Existing Basements***

The Panel's view, as expressed in its Preliminary Report remains unchanged. That being, that the existence of the existing basements is unfortunate and that undertaking such development, in anticipation of future development, is poor planning practice.

#### ***FSR***

The following table outlines the existing and proposed FSR relevant to the applicable controls at that time:

FSR Calculation		
1. Instrument	BPSO	DBTCLEP2008
2. Permitted	2:1	4.5:1
3. Approved Development <ul style="list-style-type: none"><li>• Including public carpark</li><li>• Excluding public carpark</li></ul>	4.03:1 3.36:1	
4. As Built Development <ul style="list-style-type: none"><li>• Including public carpark</li><li>• Excluding public carpark</li></ul>	3.0:1 2.33:1	3.14:1 -
5. Preferred Project* <ul style="list-style-type: none"><li>• Including public carpark</li><li>• Excluding public carpark</li></ul>	6.95:1 6.28:1	6.31:1 4.93:1

\*Calculations include existing as built and as proposed by 16 August 2008

The residential floorspace, in the Preferred Project, is 3.32:1. It is noted that the draftBTCLEP2008 provides for a maximum residential floorspace of 3.0:1.

The Panel noted that the DBTCLEP 2007, as exhibited, provided a maximum FSR of 5:1 with a max. residential FSR of 3.5:1. This draft instrument was the applicable draft instrument that informed the original design of the application. The DBTCLEP 2008 became a matter for consideration in September 2008, some 12 months after lodgement of the preliminary Environmental Assessment report submitted to the Department of Planning.

In the circumstances, where building separation, solar access and public domain are found to be acceptable, the Panel is of the view that the ultimate FSR is acceptable.

### **Section 94**

The current S94 Contributions Plan being Section 94 Plan for Open Space, Community Facilities and Public Car Parking dated February 2006 and Roads and Traffic Facilities dated March 2001 should be recalculated to relate to the revised mix. The Panel's position regarding Section 94 remains unchanged from its Preliminary Report.

### **CONCLUSION**

The Panel considers that the Preferred Project is capable of approval. It is disappointing however that the issue of building separation has not yet been fully resolved and the proponent has been unwilling to resolve this issue notwithstanding the benefits accruing to the site by virtue of the existing approvals and buildings and the increase in height and FSR.

However, since the Panel believes that the issue is capable of solution and has indicated a method of satisfying the concerns, a condition attached to the Concept application would allow an approval to be issued. It would however, need to require a Project Application to be submitted to address this issue. Alternatively, the applicant should be required to provide details of the improved building separation prior to approval.

### **RECOMMENDATION**

That the Concept Application be approved subject to the following specific condition and those conditions that the Department considers appropriate.

#### **Building separation**

That the proponent increase the building separation between Building A and B and B and C to 24m above Level 6. Details to be provided in any Project Application.

#### **Landscaping to western boundary**

That the landscape plans prepared by Turf design (DLA6A) be incorporated in any Project Application.

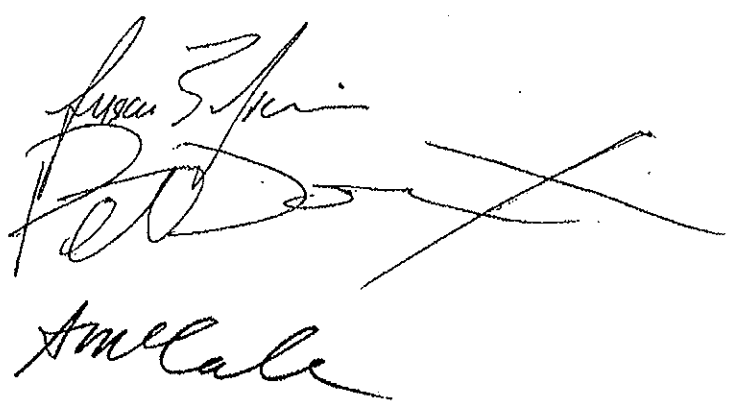
#### **Widening of Victoria Street footpath**

The Victoria Street footpath shall be widened to provide a minimum width of 1.8m.

Panel Chair: Sue Francis:

Panel Member: Peter John Cantrill:

Panel Member: Alison McCabe:

The block contains three handwritten signatures. The top signature is for Sue Francis, the middle for Peter John Cantrill, and the bottom for Alison McCabe. The signatures are written in black ink and are somewhat stylized.