

**Priority  
Development  
Panel**

**Footscray Market  
Footscray Transit City – Part 2**

**Response to request for advice  
from the MINISTER FOR PLANNING**

**Pursuant to s.151 of the  
Planning and Environment Act 1987**

PDP Referral 07-30(2)

**April 2009**

## Table of Contents

<b>1</b>	<b>Executive Summary .....</b>	<b>1</b>
<b>2</b>	<b>Introduction .....</b>	<b>4</b>
2.1	The Footscray Market site and adjacent 'triangle site' .....	4
2.2	PDP referral and inquiry process .....	5
2.2.1	PDP Referral .....	5
2.2.2	PDP inquiry process .....	6
2.2.3	Specialist Advice .....	6
2.2.4	Targeted Consultation .....	6
2.3	Previous redevelopment proposals .....	8
2.3.1	Footscray Market Site .....	8
2.3.2	Triangle site .....	8
<b>3</b>	<b>Key Issues Analysis .....</b>	<b>9</b>
3.1	Strategic Planning and Urban Design .....	9
3.1.1	Policy and Strategic Planning .....	9
3.1.2	Planning and Urban Design Principles for the site .....	10
3.1.3	Redevelopment Options and Development Feasibility .....	11
3.1.4	Urban massing study .....	12
3.1.5	Encouraging redevelopment of the gateway sites .....	14
3.2	Priority Development Zone .....	16
3.3	Approval Process .....	19
<b>4</b>	<b>Key Recommendations .....</b>	<b>21</b>
<b>5</b>	<b>Report endorsement .....</b>	<b>22</b>
<b>6</b>	<b>Appendices .....</b>	<b>23</b>
6.1	Letter of Referral .....	23
6.2	Letter of Advice from REDC .....	23
6.3	Extracts from SJB Urban Design Massing Study .....	23
6.4	Proposed changes to draft Priority Development Zone Schedule 1 .....	23

## List of Figures

Figure 1 - Site location .....	4
Figure 2 – Urban Massing Study Scenario 1 .....	12
Figure 3 – Urban Massing Study Scenario 2 .....	13
Figure 4 – Existing and proposed land use zones .....	16

# 1 Executive Summary

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## Introduction

The Footscray Market and adjacent 'triangle site' are located at the 'gateway' to Footscray's core retail precinct and the Station Precinct. These two sites present key strategic redevelopment opportunities, however, both are currently in poor condition and make little positive contribution to the surrounding urban environment.

The State government is currently redeveloping Footscray Station as part of its \$52.1m *Footscray Renewal Initiative*. However these efforts could be undermined by the underdevelopment and underutilisation of the Market and triangle site.

## Role of PDP

In previous advice to the Minister for Planning the PDP recognised the strategic significance of the Market and triangle sites and the potential to integrate with the Station Precinct.

As a consequence, and to enable due consideration of the Footscray Market and triangle sites in conjunction with the future development of the Station Precinct, the Minister requested the PDP to consider:

- the strategic planning and urban design analysis by SJB for the site
- drafting of a Priority Development Zone schedule to include the site
- an appropriate approval process for giving effect to the amendment.

During the course of the PDP inquiry, SJB's work was used to establish six key development principles for the site, which informed the preparation of a number of design concepts. These were further refined following feasibility testing and discussion with landowners during targeted consultation.

The inquiry process and targeted consultation revealed a range of issues which significantly affect the redevelopment potential of the sites – the most significant being the presence and condition of the existing building structure on the Market site, the substantial costs associated with demolition or structural reinforcement, and the resultant impacts on development feasibility and need to achieve substantially increased yields from the site.

## Planning and Urban Design Analysis

There is strong state and local policy support for facilitating the redevelopment of these sites as a gateway or catalyst project, not only to accommodate jobs and housing, but to improving the function and contribution that the site makes to its immediate and broader context. However, despite policy support for substantial development, neither site has been redeveloped.

In considering the strategic objectives and urban design opportunities for the sites, the PDP has been particularly mindful of the impacts that height limits can have on development feasibility and the need to ensure that any planning controls will enable delivery of a viable project.

Significantly, the PDP inquiry process revealed that the current 10-12 storey heights specified in the Footscray Skyline Study are unlikely to enable or encourage a viable development to occur. The Market owner maintains that around 30 storeys will be required to make redevelopment viable, given the substantial costs associated with reinforcement or demolition of the existing structure. The owner of the triangle site, while not faced with the same constraints, has concluded that around 18 storeys would be required to make the development viable. If Council and DCPD wish to see a catalyst project delivered on these sites, then existing heights specified must be reconsidered.

The Skyline Study provides for heights to be increased to around 20 storeys, in conjunction with specified design outcomes. Much greater planning certainty is required around this in order to facilitate development and unlock the catalyst potential of these sites.

During the PDP process, an urban design massing study was prepared by SJB to test a development of 20-25 storeys on the Market site and 15-20 storeys on the triangle site. This demonstrated that additional height could be absorbed and could create a good gateway outcome. It also demonstrated, from both a commercial and urban design perspective, that greater heights on these gateway sites can be justified.

It is however, the detailed design and architectural quality that will be critical to achieving a positive urban design outcome. To this end, DPCD and Council should work with both landowners to prepare an integrated urban design concept for both sites that can at the same time allow redevelopment of each site to occur independently. Both landowners have indicated a willingness to work with Council and State government to identify an appropriate and viable redevelopment proposal.

### **Drafting of the PDZ Schedule 1**

The Priority Development Zone can provide the desired level of planning certainty by clearly articulating the realm of height that can be considered (i.e. 20-25 storeys for the Market site and 15-20 storeys for the triangle site), and the key design outcomes to be achieved. This will provide a clear framework within which detailed design concepts can be progressed.

Accordingly, it is recommended that both sites be included within the **Priority Development Zone. Schedule 1 to the PDZ**, previously drafted for the Footscray Market, has been revised to include a requirement for a development plan to be prepared for both sites. This will ensure that issues of detail are given due consideration, and opportunity provided for public comment, at the appropriate point in the planning process. The current exemptions for third party notice and review will be retained under the new zone regime.

The PDP or similar design assessment panel should then be made available early in the planning process to assist Council and DPCD and ensure appropriate design outcomes are achieved.

### **Approval process**

There has been extensive consultation in relation to the future of these sites and there is a clear expectation for gateway development to occur. The affected landowners have also been consulted during the PDP inquiry process, as has VicRoads, and all are supportive of the proposed rezoning.

The success *Footscray Renewal Initiative* relies on the redevelopment of these gateway sites within a timeframe that supports the renewal efforts underway at the Footscray Station.

Rezoning to a Priority Development Zone will provide the necessary certainty about the development potential of these sites, should occur as soon as practical. However, other factors may also have the potential to affect whether or not a redevelopment occurs – including the redevelopment appetite or capability of the landowners to realise the redevelopment opportunities. Non-statutory incentives can be applied to encourage redevelopment within the short term. In the longer term, however, should these critical gateway sites remain undeveloped, the opportunity also remains for the Government to consider acquiring all or parts of the sites.

### **Key Recommendations**

Key findings and recommendations from the PDP inquiry are:

- A range of strategic and policy objectives exist which support greater heights for the Market site and triangle site than are specified in the Footscray Skyline Study. In addition, when tested in terms of commercial viability and urban design, greater heights have been found to be both warranted and justifiable.
- The Priority Development Zone Schedule 1 can be provide the necessary greater certainty that heights will be supported to around 20-25 storeys for the Market Site and 15-20 storeys for the triangle site. This should occur in conjunction with a development plan requirement to ensure clear direction about the urban design outcomes sought for the site.
- The Planning Scheme should be amend to extend the PDZ1 across the Market and triangle site. The Amendment should be approved without notice, pursuant to Section 20(4) of the Act, because:
  - Notice is not warranted as the issues have been reasonably considered and the views of affected land owners are known.
  - The interests of Victoria make such exemption appropriate because the matter is of State and regional significance and the rezoning is likely to have a substantial effect on the successful implementation of the *Footscray Renewal Initiative* and achievement of planning objectives for the Footscray Central Activities District.

## 2 Introduction

### 2.1 The Footscray Market site and adjacent 'triangle site'

Together, the Footscray Market Site and adjacent 'triangle site' form a key 'Gateway Site' to Footscray retail core and Station Precinct. The gateway site presents significant redevelopment opportunities that could act as catalysts for upgrading the image of Footscray and stimulating investment and development elsewhere in the centre.



Figure 1 - Site location (Source, Google Maps)

The Market site has an area of approximately 9400sqm, and is located at 81 Hopkins St immediately opposite the Footscray Station. It has frontage to Irving and Hopkins Streets, and laneway access to Leeds Street. The existing four storey structure includes market activities at ground level (approximately 82 individual stalls plus supermarket) with 3 levels of car parking (approx 600 spaces) above.

The 'triangle site' has an area of approximately 2300sqm and is located at 67-73 Hopkins St, immediately to the east of the Market, on the corner of Irving Street and Hopkins Street. It is currently utilised by a car hire operation, with at grade car parking across most of the site.

Opposite the site on Irving Street, the Footscray Station footbridge and forecourt are currently being upgraded. This is the first stage of the redevelopment of the Station Precinct being delivered through the \$52m Footscray Renewal Initiative – part of the State Government's Transit City program.

The existing interface condition between the Station and the Market along Irving Street is currently very poor, with Irving Street treated largely as a 'back-of-house' loading point for the Market. This results in an unsatisfactory pedestrian experience when entering, exiting and passing by the current market, and very poor public realm amenity around the main entrance to the Station. This urban blight, and the underutilisation of the Market and 'triangle site', has the potential to significantly

undermine the revitalisation and redevelopment efforts being undertaken on the Station Precinct.

Conversely, the redevelopment of the gateway sites could provide the opportunity to:

- **integrate and complement** the redevelopment of Footscray Station Precinct,
- **improve pedestrian amenity** and the public environment
- **increase levels of activity, safety, and vitality** with the precinct and over longer hours
- **capitalise on proximity to public transport** and support sustainable travel patterns
- **take advantage of views** provided by the elevation of the site and opportunity to achieve compelling city views to the east
- **improve the trading performance of the Market** by remixing and relocating specific types of stalls (such as food and beverage) to better locations that can activate frontages
- **improve vehicle access and loading arrangements** to both sites.

## 2.2 PDP referral and inquiry process

The PDP recognised the significance and potential of the Market and triangle site in earlier advice relating to the statutory implementation of the ***Footscray Station Precinct Planning and Urban Design Framework (PUDF) (SJB, March 2008)***

The ***PDP Report Transit City Planning Review (PDP August 2008)*** included recommendations that *consideration should be given to extending the PDZ to the Footscray Market...in future planning, because, although beyond the original scope of referral, it was recognised as a key gateway site which provides significant strategic redevelopment opportunities and potential to integrate and create synergies with the Footscray Station Precinct'*

The landowners of the Footscray Market (and adjacent triangle site) were not included in the targeted consultation process for the earlier PDP inquiry for the Station Precinct, as the proposal fell outside the scope of the earlier PDP referral.

### 2.2.1 PDP Referral

In order to enable consideration of the Footscray Market (and adjacent triangle site) in conjunction with the future development of the Station Precinct, the Minister for Planning in February 2009 sought the advice of the PDP. The Specific matters for the PDP to consider included:

- **The strategic planning and urban design analysis by SJB for the site.**
- **Drafting of a Priority Development Zone Schedule to include the site.**
- **An appropriate approval process for giving effect to the amendment.**

In accordance with the Minister's request, the PDP worked closely with Council and DPCD Officers throughout its inquiry, and consulted with key stakeholders including the landowners of both sites, as well as VicRoads. (Refer to **Appendix 1**)

### 2.2.2 PDP inquiry process

The Process for this inquiry included:

- A **Preliminary Presentation** on 26 February 2009 where SJB Planning presented initial planning and urban design concept to PDP Members.
- Establishment of a **Project Working Group** comprising: Jane Monk, PDP Chair; Tania Quick, Senior Project Manager; and Cameron Alderson of RedC.
- **PDP workshop** on 25 March 2009 with Council and DPCD, where refined design concepts, tested against the economic and development feasibility advice provided by RED.C, were presented.
- **Targeted Consultation** involving meetings with the landowners of both sites, and seeking comments from VicRoads.
- **PDP workshop** on 8 April 2009 with Council and DPCD, at which the findings and preliminary recommendations were presented and tested.

### 2.2.3 Specialist Advice

The earlier Station Precinct work undertaken by SJB in March 2008 had provided only limited guidance on the future development of the gateway sites. Therefore, DPCD commissioned SJB to expand upon and provide further strategic planning and urban design analysis for the site. This enabled key development principles to be established for the site, as outlined in further detail in Section 3. During the course of the PDP inquiry SJB also prepared a number of design concepts. These were refined following feasibility testing and discussions with landowners during targeted consultation. (Refer to **Appendix 2**).

A key issue for the PDP in this instance was to have a sound understanding of the actual redevelopment potential of the site and the extent to which planning controls and policies support the delivery of a viable project. The PDP therefore engaged the specialist services of **Cameron Alderson, Director, Real Estate Development Corporation (RED.C)** to provide economic and development feasibility advice and to assist in refining and testing the 'build-ability' of the SJB design concepts. Cameron Alderson was also involved in targeted consultation discussions with the landowners

### 2.2.4 Targeted Consultation

During targeted consultation, both landowners advised that they have current concept proposals for:

- **Market Site:** a 30 storey development including structural reinforcement of the existing building and a two stage redevelopment of ground level market activities, 5 levels of car parking, and residential above.
- **Triangle Site:** an 18 storey development including supermarket at ground level with commercial and residential above.

During the course of the PDP inquiry and targeted consultation process, a number of other key issues affecting development potential were identified and considered.

The most significant related to the **Structural condition of the Market** - the existing building is a substantial structure, with significant costs likely to be associated with demolition or structural reinforcement (to accommodate upper level development). At first consideration, the building would appear to lend itself to accommodating additional levels above. However, it was confirmed during targeted consultation that

previous structural testing has demonstrated that the building has capacity to accommodate no more than two (lightweight) levels. Other issues included:

- **Staging of redevelopment** to allow the market to continue to operate during construction. The option of temporarily relocating the market while construction and redevelopment occurred is unlikely to be financially viable due to the costs associated with loss (and compensation) of income, costs associated with significant wet area infrastructure required for fish, meat and poultry, and lack of an obvious alternative location. However, a key insight from targeted consultation with the landowner was that a two stage redevelopment of the Market may be possible.
- **Separation of titles** - At a strategic level, there is merit in considering the redevelopment of the two sites in an integrated manner. However, given that the two sites are in separate ownership, and both landowners have their own investment objectives for their sites, it is pragmatic to assume that the two land holdings will be developed independently. However, at the same time, this does not preclude the need to integrate the urban design of the sites from a streetscape, podium and building envelope perspective.
- **Development yields** - Underlying land values and relatively low median residential prices in surrounding area affect development feasibility and require a higher development yield to achieve a commercially viable outcome. The landowner of the Market site maintains that around 30 storeys will be required to make the redevelopment viable, given the substantial costs associated with structural reinforcement and/or demolition. The triangle site does not have those same constraints, but has concluded that around 18 storeys would be required to deliver a viable development.
- **Ground conditions** - The PDP inquiry process has confirmed that the ground conditions in the area are broadly known to be basalt rock and are likely to inhibit excavation for basement car parking. Therefore it has been assumed that all car parking would need to be provided above ground and integrated into development with active frontages.
- **Car parking ratios** - The site benefits substantially from its proximity to the station, making a case for substantially reduced car parking ratios. Council officers indicated a willingness to consider very low rates. From a commercial perspective, however, it may be difficult to market residential apartments without car spaces, making a rate below 0.5 spaces per dwelling problematic. A rate of around 0.7 spaces per dwelling was assumed in design and feasibility testing. It was also noted that while the Market site currently contains around 600 car spaces, there may be justification for a reduction in the number of spaces allocated to this use, or alternatively, for temporal sharing of car spaces between the market and other commercial uses (e.g. office) on the site.
- **Access and loading** - The potential to relocate loading access to Hopkins Street have been tested with VicRoads who indicated in-principle support and commented that it would make good sense in terms of improving pedestrian movement and creating more active frontages near Footscray Station. VicRoads also indicated that their usual preference would be for left-in and left-out only access to the loading dock but may choose to allow right-turns to discourage truck travel on Hopkins Street between Geelong Road and Moore Street.

## **2.3 Previous redevelopment proposals**

### **2.3.1 Footscray Market Site**

- The current owner has owned the site for over 20 years, with the site consolidated into a single title in 1979. He wishes to maintain the integrity of the title, and to lease, rather than subdivide or strata title, future development.
- The owner has previously prepared concept plans for a 30 storey development, including structural reinforcement of the existing building and a two stage redevelopment of ground level market activities, 5 levels of car parking, and residential above. An application has not been lodged with Council.
- An application has been recently lodged by the market owner to develop two-storeys containing 10 apartments above the existing supermarket, which he intends to lease. This application was the subject of an appeal to VCAT, during the course of the PDP inquiry. The PDP has strongly discouraged the landowner from pursuing this option concern as this would significantly compromise future development opportunities.

### **2.3.2 Triangle site**

- The current landowner purchased the site in 2008. During targeted consultation the land owner confirmed his preparation of concept plans for an 18 storey development including supermarket at ground level with commercial and residential above. The owner advised that given current market conditions, this proposal has been placed on hold, and an application has not yet been lodged. The owner indicated an intention to pursue this proposal within the next 4-5 years, but would require greater planning certainty before undertaking more detailed planning work to support the application.
- In April 2002 an application was lodged with Council (TP02/0183) for a 21 storey development referred to as the 'Genesis' building. The application was withdrawn following a request for further information from Council.
- Prior to this, in October 2000, Council had pre-application discussions with the then owner regarding a 27 storey development referred to as the 'Titanium' building. The application was never lodged.

## 3 Key Issues Analysis

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### 3.1 Strategic Planning and Urban Design

#### 3.1.1 Policy and Strategic Planning

Footscray is a designated Central Activity District. As such, opportunities to support both job growth and to accommodate housing are to be encouraged. The Gateway site is located immediately adjacent to the Footscray Station and proposed interchange ensuring excellent access to public transport facilities.

In addition to the Maribyrnong Planning Scheme, a number of key strategic documents provide guidance about the future of the Footscray Central Activity District. All have been the subject of previous community consultation processes. They include:

- **Footscray Urban Design Framework** (David Lock and Associates, 1999)
- **Footscray Transit City Master Plan** (Charter Keck Cramer, June 2003)
- **(re)Visioning Footscray** (Red Road Consulting, June 2005)
- **Footscray Skyline Study** (Maribyrnong City Council/Urban Futures, April 2006)

These documents provide strong local level planning and policy support for facilitating the redevelopment of the two sites as a gateway or catalyst project, and more specifically for:

- improving the pedestrian environment and amenity of the Footscray centre, and **reinforcing and enhancing the regional function of Footscray centre** as a regional destination (*Clause 22.03 Maribyrnong Planning Scheme*)
- recognising the **Footscray Market as a 'sacred space'** and its important role in supporting the cultural diversity and defining the identity of the city (*(re)Visioning Footscray*)
- acknowledging the **potential for redevelopment of significant scale of at least 12 storeys with potential for up to 20 storeys** pending contribution to architectural character, public open space and the capacity to bring new activities to the centre (*Footscray Skyline Study*)
- noting that the height may be developed with **minimal impact to the surrounding pedestrian environment** and minimal amenity impacts given the absence of existing residential development (*Footscray Skyline Study*)
- improving the **pedestrian permeability and connectivity to the station** as well as the presentation to Irving Street by relocating the Market's heavy vehicle access from its current location along the Southwest edge at Irving Street, to the East edge on Hopkins Street (*Footscray Transit City Masterplan*)
- encouraging the development of **residential and/or mixed use facilities** above the market, pending the robustness and structural capacity of the market building (*Footscray Transit City Master Plan*)
- providing **active ground floor facades along street frontages** and integrating the urban design treatments of both the market and the adjacent triangle site (*Footscray Central UDF*).

### 3.1.2 Planning and Urban Design Principles for the site

In undertaking their strategic planning and urban design analysis of the two sites, SJB developed six key principles to guide the future redevelopment of the site. These comprise:

- **Establishing a gateway development** that marks the entrance to Footscray, and creating a transition to the west
- **Focussing activity and creating a new 'entrance' to Irving Street** near the Footscray Station



- **Improving pedestrian permeability and connectivity** through the market and into the retail core of the Footscray



- **Improving and centralising market loading access** and providing natural light and air to the market



- **Providing defined active street frontages** with street address and direct access along Irving Street, Hopkins Street, and Leeds Street



- **Increasing and improving the sense of identity and presence of the market** for the CAD and Station.



### 3.1.3 Redevelopment Options and Development Feasibility

Both Council and DPCD support the redevelopment of these gateway sites. However, despite strong policy support for substantial development, neither site has been redeveloped.

As established in the PDP interviews, both landowners have given at least some consideration to the redevelopment potential of their sites. In both instances, they had concluded that development of a scale substantially greater than the scale envisaged by Council in the Footscray Skyline Study would be required in order to deliver a viable development (i.e. 30 and 18 storeys compared to 12 and 10 storeys, for the Market site and triangle site respectively). For the Market site, the costs associated with structural reinforcement or demolition is prohibitive for a development of only the 12 storeys envisaged in the Skyline Study. For the triangle site - in the absence of any certainty that greater heights would be supported by Council - the owner is hesitant to progress with redevelopment concepts. As a result, both sites remain undeveloped and continue to make little positive contribution to the surrounding urban environment.

Failure to properly consider the implications of height controls on the financial viability can prevent a viable project from being delivered. Rather than encouraging development to occur by providing certainty, height limits can have the unintended effect of effectively rendering a site 'un-developable' and ensuring that *none* of the desired planning and urban design outcomes, including improved street level amenity, are achieved.

This issue has been given substantial consideration during the PDP process.

#### Height limits as a barrier to development

The Footscray Skyline Study suggests height limits of 10 storeys for the Market site and 12 storeys for the triangle site. However, the Skyline Study heights were urban design led, not commercially led. The cost to reinforce or demolish the existing Market structure will require a yield greater than for adjoining or nearby sites and it is reasonable to assume that building height above 20 storeys may be required to justify such a proposal. These costs will not be present on the triangle site and therefore a lower height could apply to that site, but development feasibility testing confirms that heights of around 15-20 storeys will be required in order to deliver a viable development.

The Footscray Skyline Study acknowledges the potential for heights above 10-12 storeys and the potential for heights of up to around 20 storeys to be considered. The Study also identifies a number of advantages in allowing additional height in locations where the impacts are tolerable specifically noting that:

- *'additional height above 10-12 storeys may be considered in this location if benefits against the design criteria are demonstrated, with upper limits may be in the order of 20 storeys'*
- *'this is a gateway location and high visibility along Hopkins Street and along Docklands Highway presents a critical opportunity to see and be seen. Height limits of 12 storeys were selected as a base, because it will only just be visible from the valley and along Hopkins Street.'* Therefore, heights of greater than 10-12 storeys will be required to achieve visual presence from a distance.

- *'this is a location where larger footprints are available and where shading impacts will be limited and there will be only minimal impacts to pedestrian environment from higher buildings'*. Podiums of 4-5 storeys to hold the street edge can provide a human scale with higher towers setback to minimise impacts.

### 3.1.4 Urban massing study

To inform a more considered debate about height and the possibility of developing the market in two stages, the PDP requested SJB to undertake a preliminary study of urban form of up to and above 20 storeys. The massing study provided a series of 3-dimensional sketches, using the heights prescribed in the Skyline Study as a base, and tested building envelopes and massing for two scenarios:

- **Scenario 1** - Heights increased to 20 storeys on the triangle site and two towers on the market site of 15 and 12 storeys (i.e. highest form on the triangle site)
- **Scenario 2** - Heights increased to 15 storeys on the triangle site and two towers on the market site of 25 and 20 storeys (i.e. highest form on the Market site)

Extracts from the massing study for each scenario are provided below, with further extracts provided at **Appendix 3**.



**Figure 2 – Urban Massing Study Scenario 1 – Height of 12-15 storeys on Market site and 20 storeys on triangle site (Source SJB Urban)**



**Figure 3 – Urban Massing Study - Scenario 2 Heights of 20-25 storeys on Market site and 15 storeys on triangle site. (Source SJB Urban)**

While the Massing Study tested only basic building envelopes, it has demonstrated that:

- heights of around 20 and 25 storeys can be absorbed within the Market site with minimal off site impacts
- lower heights of around 15 to 20 storeys on the triangle land will have a better relationship with the 10 storey development occurring on the corner of Hopkins and Moore St
- the arrangement of two taller towers on the market site and a smaller tower on the triangle site provides:
  - a good 'gateway' outcome that identifies the centre from major approaches
  - provides opportunity for an iconic development to be built and the local landmark of the market to be retained
  - an opportunity for view sharing with buildings arranged to maximise views to the river, city, docks and bay
- towers of 20 to 25 storeys will provide a visual marker to identify Footscray when viewed from a distance from Docklands
- podiums of 4-5 storeys, with towers setback, can retain a human scale to the street and minimise visual impact at street level.

Importantly, the detailed design and quality of the ultimate architectural solution will be critical to ensuring a positive impact. Issues that will require particular attention during the development of design concepts and detailed plans include:

- the way the building ‘touches the ground’ and the ‘under awning activity’ including provision of active frontages, building entrances, pedestrian permeability into and through the building, and ground level façade treatments and details. The aim must be to ensure improved pedestrian amenity, a quality interface at street level and a positive contribution to the public domain
- ensuring ‘human scale’ is retained through the design of podiums, such as by breaking up large building masses with building articulation, fenestration and design detail
- encouraging taller, slender tower forms, rather than bulky, flatter building forms to allow views to the sky from street level and opportunity for view sharing between tower forms.
- relocation and careful integration of loading and car parking access points and service areas.

### **3.1.5 Encouraging redevelopment of the gateway sites**

The PDP inquiry process has tested and confirmed that the current 10-12 storey height limits set out in the Footscray Skyline Study are unlikely to enable or encourage a viable redevelopment of the gateway sites. The Skyline Study clearly provides for consideration of greater heights, in the order of 20 storeys.

If Council and DCPD wish to unlock the catalyst potential of these sites, and ensure that renewal efforts at the Footscray Station are not undermined, then a review of the height limits must be undertaken, and further guidance must be provided in relation to the specified design outcomes being sought for these sites.

The PDP inquiry process has tested the capacity of the sites to accommodate development of 20-25 storeys on the Market site and 15-20 storeys on the triangle site from both an urban design and commercial perspective. It is considered that provision for development to these heights is warranted and justified for these sites and Council and DPCD can be confident that they should enable a viable redevelopment to be delivered.

The following approach is recommended in order to facilitate the redevelopment of these critical gateway sites:

- In-principle support is required for development to occur at heights greater than those specified in the Skyline Study. This should be supplemented by clear guidance about design outcomes sought as a ‘trade-off’. Recommendations about an appropriate statutory mechanism to achieve this are set out later.
- A ‘master plan’ should be prepared for the two sites, which integrates urban design outcomes while providing for independent redevelopment of each site to occur. An appropriate statutory mechanism is also detailed later.
- Council and DPCD should work with the landowners to develop preliminary concept designs to test against urban design, staging and commercial viability

objectives. Both landowners have indicated a willingness to work with State and Local government to identify an appropriate and viable redevelopment proposal.

- Council and DPCD should actively progress the statutory planning approval process, with the Minister as Responsible Authority (with Council input), and investigate a range of non-statutory incentives to encourage landowners to redevelop in the short term.

#### **Summary of Findings**

- There is strong state and local policy support for facilitating the redevelopment of these sites as a gateway or catalyst project.
- The current 10-12 storey heights specified in the Footscray Skyline Study are unlikely to enable or encourage a viable redevelopment to occur.
- The Skyline Study acknowledges potential for greater height of around 20 storeys, in conjunction with other design outcomes. Greater planning certainty is required about the development potential of the site and the specific design outcomes sought.
- The Urban design massing study has demonstrated that additional height can be absorbed. The detailed design and architectural quality will be critical to achieving key urban design outcomes and ensuring a positive impact is made.
- From both an urban design and a commercial perspective, provision for higher development of around 20-25 storeys on the Market site and 15-20 storeys on the triangle site is warranted and justified.
- Council and DPCD should work with the landowners to further develop design concepts and to facilitate development through the statutory approval process.

## 3.2 Priority Development Zone

The PDP's previous advice in its August 2008 Report included a draft **Schedule 1 to the Priority Development Zone** with draft Development Objectives and Requirements for the Market Site, and a Preferred Building Height of 12 stories, as set out in the Footscray Skyline Study.

The PDP did not originally consult with the landowners of the Market site and triangle site, as this was outside its original scope of referral. Following the Ministers request for further advice, the PDP has now consulted with the landowners of both sites, who are both supportive of the potential rezoning of their land and future opportunity for a redevelopment which could retain the market and provide for residential or commercial development above.

As a result of its further inquiry, the PDP has also found:

- That it has been demonstrated through the PDP process that the 10-12 storey height limits specified will make it difficult for a viable and feasible development to occur on these sites, and should be revised.
- The need to consider the urban design issues for both sites in an integrated manner, whilst also allowing for independent redevelopment of the two sites is critical.
- There are a number of key design objectives upon which support for higher development should be contingent, such as improved pedestrian amenity and streetscape interface, podium treatments, relocation of loading vehicle and parking access points.

The Priority Development Zone provides the opportunity to provide greater certainty about the future development potential of these sites. In terms of statutory planning controls, the preferred and recommended approach is to extend the **Priority Footscray Station Development Zone 1** to include the Footscray Market and adjacent triangle site, as shown below.

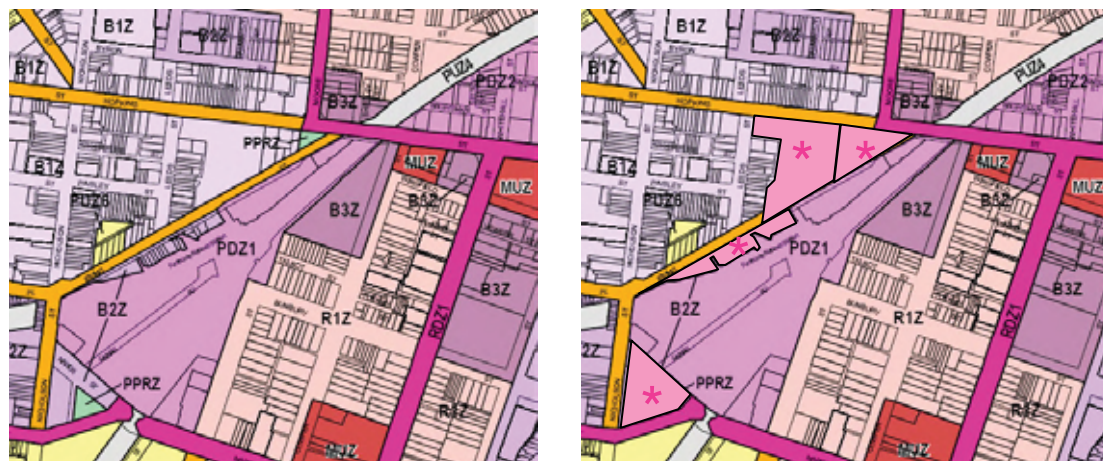


Figure 4 - Existing land use zones (left) and proposed land use zones (right)

The **PDZ Schedule 1**, as drafted for the Footscray Station Precinct in the PDP Report date August 2008, will require only minor changes to ensure the Market Site redevelopment can be accommodated. (Refer to **Appendix 4**). This will include:

- Listing 'Market' as an as of right use for Precinct 9 in Section 1 of the Table of Uses.
- Including a requirement for a development plan that considers both sites in an integrated manner to be prepared to the satisfaction of the Responsible Authority, before a planning permit can be issued for either site, drawing from the key development principles established by SJB for the site and providing further guidance about the key design outcomes sought.
- Suggesting building heights for a development plan as follows:
  - Market site – podium of 4-5 storeys, towers of up to 20-25 storeys, tower setbacks of at least 5m
  - Triangle site - podium of 4-5 storeys, towers of up to 15-20 storeys, tower setbacks of at least 5m.
- Specifying development objectives and requirements that new development should achieve on the Footscray Market (and triangle site).
- Adjusting the preferred height limit specified in the development requirements to '15-25 storeys'.

This approach would provide greater certainty about the general scale of the proposal and enable the landowners to prepare more detailed plans and for DPCD/Council to assess a development plan to ensure the urban design outcomes sought are achieved.

Being a Priority Development Zone, it would also be appropriate to make the PDP or similar design assessment panel available early in the planning process to review or provide input into the preparation of a development plan and to assist Council and DPCD to ensure appropriate design outcomes are achieved. This option could be actioned immediately.

It is also noted that the existing Business 1 Zone includes exemptions from notice for buildings and works and that this approach will be retained for development in this precinct, if a development plan has been approved. The proposed PDZ Schedule includes a requirement for the development plan to be displayed for a period of 21 days, with notice given to both land owners as well as VicRoads and Department of Transport, prior to approval. This will provide opportunities for public comment and ensure issues of detail are given due consideration at an appropriate point in the planning process.

The use of PDZ is preferred over the alternative option of retaining the existing **Business 1 Zone** and apply a **Design and Development Overlay** to the Footscray Market and adjacent triangle site. The introduction of a DDO could enable specific development objectives and parameters (including height and design requirements) to be specified. This approach would require landowners to prepare concept plans (with Council/DPCD input) in order to inform the drafting of a DDO – however the landowners may resist undertaking this work without necessarily having certainty about the scale of development that might be considered acceptable. Furthermore,

while the existing zone provides for the range of uses currently envisaged, a permit for use would still be subject to notice and appeal provisions, whereas the PDZ can specify the desired uses (such as 'market' on the Market site).

#### **Summary of Findings**

- In order to provide the planning certainty required the Priority Development Zone (PDZ1) should be extended to include the Footscray Market and adjacent triangle site.
- This approach will provide a clear framework within which design concepts can be progressed immediately.
- A revised draft PDZ1 has been prepared by the PDP which includes provision for a development plan to be prepared for both sites before a planning permit is issued.

### 3.3 Approval Process

There has been extensive consultation in relation to the future for these gateway sites and there is a clear expectation for significant development to occur. The affected landowners have also been consulted during the PDP inquiry process, as has VicRoads, and all are supportive of the proposed rezoning.

It is of critical importance to the success of the *Footscray Renewal Initiative* that redevelopment of these gateway sites occurs within a timeframe that supports the renewal efforts being undertaken at the Footscray Station.

The rezoning of the sites to a Priority Development Zone can assist by providing certainty about the future development potential of these sites, and it is recommended that this action be taken as soon as is practical.

However, it is also acknowledged that other factors may affect whether or not a redevelopment occurs – including the appetite or capability of the landowners to overcome development obstacles. In order to encourage development to occur within the short term it may also be necessary to pursue non-statutory approaches in addition to revising height limits. This could include offering incentives during a short ‘window of opportunity’ of say, 4-5 years such as rate relief or rebates.

If the sites remain undeveloped, then as key gateway sites, critical to the future of Footscray and the success of the *Footscray Renewal Initiative*, it may be necessary for the Government to consider acquiring all or part of the sites or to undertake a joint venture project in the longer term, either as part of the Station Precinct redevelopment or as separate projects.

It should be noted that the Minister is the Responsible Authority for approval of any permit applications exceeding \$250,000, pursuant to Clause 62.01 of the Maribyrnong Planning Scheme. This clause should also be amended to ensure that the Minister is the Responsible Authority for approval of a development plan on this site.

#### Planning Scheme Amendment process

In its August 2008 report, the PDP recommended including the Footscray Market Site and adjacent triangle site into the existing **PDZ 1** at the same time it was extended to include other land around the Station Precinct. This remains the preferred outcome. However, the August 2008 report also acknowledged that the inclusion of the Market and triangle sites within the PDZ1 could be considered as part of a separate amendment, and if necessary, the Station Precinct and Market Site (plus triangle site) could be progressed independently.

Regardless of which option, is pursued, it is recommended that there is justification for approving an amendment which rezones the Market (and triangle site), without notice, pursuant to Section 20(4) of the Planning and Environment Act, for the following reasons:

- Compliance with the requirements is not warranted because:
  - The issues have been reasonably considered:

- The Footscray Skyline Study, which has previously been the subject of extensive consultation, anticipates that development of up to 20 storeys may occur on this site and this amendment formalises this position.
- The Footscray Skyline Study also acknowledges that the market site has the greatest potential to develop height without impacting on the existing area.
- The requirement for a Development Plan to be approved will provide the opportunity for public comments and ensure that issues of detail are given due consideration at the appropriate point in the planning process.
- The views of the affected parties are known:
  - The landowners of both sites have been consulted through this process. Both support the rezoning of the site and provision of further guidance in relation to future redevelopment potential.
- The interests of Victoria make the exemption appropriate because:
  - the matter is of genuine State or regional significance and may have a substantial effect on the successful implementation and achievement of planning objectives for the Footscray Central Activities District:
    - the Market and Triangle sites are key gateway sites with the potential to integrate and complement the Footscray Station Precinct redevelopment and stimulate investment elsewhere in the centre. Failure to facilitate redevelopment of these sites could significantly undermine the renewal efforts being undertaken on the Station Precinct or Joseph Road Precinct
    - it has been demonstrated that the existing heights specified will not enable viable development to occur and further guidance and certainty is required on this issue in order to facilitate redevelopment of these sites.

### **Summary of Findings**

- There has been extensive public consultation about the strategic directions for the site, and affected landowners (and key agencies) have been consulted during the PDP process. The proposed rezoning is supported by the strategies and stakeholders.
- The redevelopment of the gateway sites is critical to the successful implementation of the objectives of the *Footscray Renewal Initiative*. Development must be facilitated within a timeframe that supports renewal efforts at the Footscray Station.
- A planning scheme amendment should be prepared to rezone the Market and triangle sites to a Priority Development Zone, and should be adopted and approved, without notice (pursuant to Section 20(4) of the Act, to give immediate effect to the revised statutory framework.
- Non-statutory incentives to encourage timely redevelopment should also be investigated.

## 4 Key Recommendations

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The key recommendations from this inquiry process are:

### **Planning and Urban Design Analysis**

- A range of strategic and policy objectives exist which support greater heights for the Market site and triangle site than are specified in the Footscray Skyline Study. In addition, when tested in terms of commercial viability and urban design, greater heights have been found to be both warranted and justifiable.

### **Drafting of the Priority Development Zone**

- The Priority Development Zone Schedule 1 can provide the necessary greater certainty that heights will be supported to around 20-25 storeys for the Market Site and 15-20 storeys for the triangle site. This should occur in conjunction with a development plan requirement to ensure clear direction about the urban design outcomes sought for the site.

### **Planning Scheme Amendment Process**

- The Planning Scheme should be amended to extend the PDZ1 across the Market and triangle site. The Amendment should be approved without notice, pursuant to Section 20(4) of the Act, because:
  - Notice is not warranted as the issues have been reasonably considered and the views of affected land owners are known.
  - The interests of Victoria make such exemption appropriate because the matter is of State and regional significance and the rezoning is likely to have a substantial effect on the successful implementation of the *Footscray Renewal Initiative* and achievement of planning objectives for the Footscray Central Activities District.

## 5 Report endorsement

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The findings of the inquiry process were presented to the PDP Members meeting on 9 April 2009.

A handwritten signature in black ink, appearing to read 'Jane Monk', with a stylized flourish extending to the right.

**Jane Monk**  
**Chair, Priority Development Panel**

Date: 30.4.09

## **6 Appendices**

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### **6.1 Letter of Referral**

### **6.2 Letter of Advice from REDC**

### **6.3 Extracts from SJB Urban Design Massing Study**

### **6.4 Proposed changes to draft Priority Development Zone Schedule 1**