

Management report to Council

Agenda item 6.8

City of Melbourne submission to the Fishermans Bend Draft Framework and Planning Controls consultation

Council

Presenter: Emma Appleton, Manager Urban Strategy

12 December 2017

Purpose and background

1. The purpose of this report is to seek the Council's endorsement of the City of Melbourne's draft submission to the Victorian Government's consultation on the Fishermans Bend Draft Framework (the Framework) and draft Planning Scheme Amendments GC81 (the planning controls).
2. The Framework sets out a long term strategic plan that will guide investment and development in the area to 2050 and will inform the future development of individual precinct structure plans.
3. The Minister for Planning has appointed an Advisory Committee, the 'Fishermans Bend Planning Review Panel' to consider the submissions made in response to the public consultation.

Key issues

4. City of Melbourne Management (CoM) supports the overall vision to create 'a thriving place that is a leading example for environmental sustainability, liveability, diversity and innovation' along with the ten strategic directions and eight sustainability goals around which the Framework is structured.
5. As a nationally significant urban renewal opportunity, it is important to ensure that planning for Fishermans Bend is ambitious and reflects the best of State and Council policy aspirations. However, CoM is concerned that the proposed strategies and the planning controls will not deliver the agreed vision or targets set out in the Framework.
6. The commitment to embed precinct wide sustainability through the Green Star Communities tool is strongly supported but the Framework falls short of demonstrating how its sustainability aspirations will be achieved.
7. Flooding and drainage associated with sea-level rise and extreme rainfall events should be resolved through the Framework process, and remain a critical risk for future development.
8. Proposals for new public and active transport within Fishermans Bend are supported but there is concern around a lack of commitment to early delivery, particularly in relation to the new tram routes. This is critical to establish sustainable transport and land use patterns and reduce car dependency.
9. The two proposed pedestrian and public transport bridges across the Yarra River and Victoria Harbour are fundamental to successfully connect Fishermans Bend to the central city and Docklands but need to be designed to ensure the ongoing use of the waterways for river traffic and marine operations. In addition, there are significant unresolved design and operational issues regarding the proposed freight bridge.
10. The planning controls are complex and should be simplified to provide clarity to the community and developers to ensure that the intent of the Framework can be delivered.
11. It is unclear what the current interim developer contributions will fund and there is no mechanism within the Framework to guarantee delivery of critical social infrastructure for the Fishermans Bend baseline population.
12. While CoM supports the concept of a Floor Aspect Ratio (FAR) and design objectives as a way to manage density and design outcomes, the use of a Floor Area Uplift (FAU) mechanism to deliver essential infrastructure and affordable housing is challenged. CoM proposes strongly that community infrastructure requirements for the baseline population should be delivered within the FAR.
13. The Framework does not plan adequately for the total population that could reside in Lorimer as it makes no provision for additional dwellings delivered via the FAU and predicts only a 75 per cent build out by 2050.
14. Employment uses are not mandatory within the FAR. This may result in overdevelopment of residential uses, and the target of 80,000 jobs across Fishermans Bend may not be met.
15. The target of six per cent affordable housing is low when compared with urban renewal projects locally and globally. This target will not be achieved within the FAR, as it is a discretionary policy. It is most likely that affordable housing will be delivered via the FAU mechanism which will be a more attractive option for industry.
16. The overall management structure and the funding and finance model for the delivery of Fishermans Bend is still to be determined. It remains unclear what role CoM will play in aspects such as funding and the assessment of Planning Permit Applications.
17. A more detailed set of issues is provided in Attachment 2.

Recommendation from management

18. That Council:
 - 18.1. agrees that the strategies within the Fishermans Bend Draft Framework and the Draft Planning Scheme Amendments GC81 as currently proposed will not deliver the vision and high ambitions of the Framework
 - 18.2. notes the significant risk that the time allocated for Council to present to the panel will be manifestly inadequate, given the importance and complexity of the issues at stake
 - 18.3. endorses the City of Melbourne draft submission (Attachment 2) to the Fishermans Bend Planning Review Panel in response to the exhibited Fishermans Bend Draft Framework and Planning Scheme Amendments GC81
 - 18.4. endorses management's intention to be represented and appear at the public hearing and put forward Council's submission supported by more detailed evidence and advice consistent with the submission
 - 18.5. acknowledges that further information on the Framework and Planning Controls may become available and authorises management to make any required changes to the submission and advise councillors accordingly
 - 18.6. authorises the Acting Director City Strategy and Place to make any further minor editorial changes to the submission prior to it being submitted to the Fishermans Bend Planning Review Panel.

Attachments:

1. Supporting Attachment (page 3 of 11)
2. City of Melbourne submission to the Fishermans Bend Draft Framework Consultation (page 4 of 11)

Supporting Attachment

Legal

1. Legal advice will be provided as required in the preparation of the submission. Council will have legal representation at the public hearing.

Finance

2. Funding for this project is incorporated within the existing 2017–18 budget, although legal representation and expert witnesses at planning panel in February 2018 will be a pressure on budget delivery.

Conflict of interest

3. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a direct or indirect interest in relation to the matter of the report.

Stakeholder consultation

4. Consultation for this Victorian Government led project has been prepared and managed by the Fishermans Bend Taskforce. City of Melbourne has promoted the engagement program of the Taskforce across its media platforms to inform the community of events and how to make a submission.
5. The Framework builds on the Fishermans Bend Vision that was released in September 2016
6. The Framework and 17 background documents were released for public consultation on Saturday 21 October 2017. The planning controls were released on 31 October 2017.
7. The public consultation closes at 5pm on 15 December 2017.
8. A Directions Hearing has been set for Wednesday 20 December 2017 at Planning Panels Victoria, with the Public Hearings to begin the week commencing 12 February 2018.

Relation to Council policy

9. Relevant Council policies are listed in the City of Melbourne's submission. These policies have informed our response to the Framework and Planning Controls.

Environmental sustainability

10. Relevant Council policies have been considered in City of Melbourne's submission.

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Purpose

1. The City of Melbourne welcomes the opportunity to provide comments on the Fishermans Bend Draft Framework (the Framework) and draft Planning Scheme Amendments GC81 (the planning controls). This paper provides a high level review of the issues that have emerged from the officer's detailed assessment of the Framework and planning controls.
2. Fishermans Bend represents a significant opportunity for the growth of Melbourne. As Australia's largest urban renewal site and proposed Green Star Community, it will set the direction and benchmark for other renewal areas across the city for years to come. It is therefore critical that the Framework sets high aspirations and delivers against its vision, not just for the future prosperity and sustainability of Fishermans Bend but for Melbourne.
3. The City of Melbourne will continue to work with partners in state and local government to ensure that Fishermans Bend is a 'world leading urban renewal project' that lives up to the opportunity it presents.

Headline Issues

Overview

4. The Fishermans Bend Taskforce is to be commended for developing the Fishermans Bend Draft Framework. There is broad support for the overall vision to create 'a thriving place that is a leading example for environmental sustainability, liveability, diversity and innovation' and the 10 strategic directions and eight sustainability goals around which the Framework is structured.
5. However, there are numerous issues that have not been addressed and there is a disconnect between the high level aspirations and targets, and the strength of the objectives set out to deliver these aspirations in both the Framework and the planning controls. Central to this is providing certainty regarding the delivery of infrastructure required to make Fishermans Bend a 'world leading urban renewal project'.
6. The delivery of essential infrastructure for the baseline population is reliant on developers taking up the Floor Area Uplift (FAU) incentive, which is at the discretion of developers whether to 'opt in' or not. Essential infrastructure required for the baseline population should be provided within the Floor Area Ratio (FAR).
7. Flooding and drainage associated with sea-level rise and extreme rainfall events have not been resolved through the Framework process, and remain a critical risk for future development in Fishermans Bend.
8. The planning controls are complex and should be simplified to provide clarity to the community and developers to ensure that the intent of the Framework can be delivered.

Sustainability

9. The commitment to embedding precinct wide sustainability through the Green Star Communities tool is strongly supported, however the Framework falls short of demonstrating how its sustainability aspirations will be achieved and does not provide enough strength on commitments and plans for implementation.
10. For example, the Framework sets a target for Fishermans Bend to achieve zero net greenhouse gas (GHG) emissions by 2050 but the 4 Star Green Star building rating requirement in the planning controls

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does not have a minimum threshold for GHG emissions. While the 4 Star Green Star 'As Built' requirement is encouraging, the Framework target would require a 5 Star Green Star 'As Built' rating and commitment to net zero emissions by 2030 to achieve this. City of Melbourne is currently requiring (and achieving) 5 Star Green Star for new developments, although this is not certified 'As Built'.

11. The 50 per cent canopy cover target is supported but it is noted that the potential conflict with biodiversity and water management will need to be resolved. In addition, actions to address water, drainage, biodiversity and sea level rise are not part of the implementation plan and should be considered.
12. The target of 50 per cent of food waste being diverted from landfill will heavily depend on the outcome achieved for commercial waste collection services, which is not overtly required in the planning controls.

Flooding and Water Management

13. The wider issues of flooding and drainage associated with sea-level rise and extreme rainfall events have not been resolved through the Framework process, and remains a critical risk for future development due to the low lying nature of Fishermans Bend.
14. Technical work has been carried out by the Taskforce which has identified a levee solution that would protect Fishermans Bend from tidal inundation and flooding. However, Melbourne Water does not support the reliance on mechanical mechanisms or other engineered solutions (e.g. flood gates, retaining walls, levees) to achieve appropriate levels of protection because of failure risk.
15. The Melbourne Water 'Planning for Sea Level Rise' 2017 guidelines set out specific development requirements for areas that will be affected by tidal inundation as a result of predicted sea level rise. For urban renewal areas such as Fishermans Bend, this specifies a raised 3 m high floor level for residential or office accommodation (with some potential marginal reduction for retail). To tackle this issue on a site-by-site basis, rather than promoting a strategic solution to addressing flooding across the precinct is not supported.
16. A raised 3 m Finished Floor Level for new developments within Fishermans Bend, will create an extremely poor and unprecedented built form response impacting on the public realm, along with substantial economic opportunity costs associated with an absence of ground floor commercial uses. The cumulative impact of this requirement will be poor quality streets with no active frontages.
17. A joint project between the Cities of Melbourne and Port Phillip is underway with consultants Ramboll, to propose an integrated levee and 'cloudburst' strategy solution, based on global best practice. This plan, addressing water management across the precinct, through a combination of street and open space design, storage tanks and physical defences could remove the requirement for raised floor levels in each building. The outcome of this work should be incorporated into the final version of the Framework with commitment to funding an integrated water management solution. Collaborative work with the Port of Melbourne is required to develop an integrated solution.

Transport

18. Proposals for new public and active transport within Fishermans Bend are supported, but there is concern around a lack of commitment to early delivery, particularly in relation to the new tram routes. The Northern tram route (through Lorimer into the Employment Precinct) is a medium term delivery goal (2020–2025) whilst the Southern tram route (Lorimer, Sandridge, Wirraway) is a longer term priority (delivery post

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2025). There is uncertainty regarding the location of the future stations as part of Melbourne Metro 2. Until this decision is made, optimal land use patterns will not be realised.

19. It is critical that there is a commitment now to deliver the transport infrastructure early to establish sustainable transport and land use patterns and reduce car dependency. It will also be a fundamental success factor in attracting 'world leading higher education institutions and future employment and investment opportunities', particularly in the Employment Precinct.
20. With regards to active transport, more ambitious targets are required to improve on the current service levels of the Central City, such as a Walkscore of above 90 (much of the Central City is above this) and reduced maximum parking rates to below 0.5, reflecting the oversupply of residential spaces in the Central City.
21. It is noted that the freight traffic from Webb Dock is set to increase significantly with the expansion of the facility over coming years. The freight traffic will be utilising the existing primary freight route along Todd Road and Lorimer Street. There are concerns over how the increased number of heavy vehicle movements that will be running through Lorimer Precinct along Lorimer Street will integrate with the urban realm in terms of both access and amenity. In particular, how meaningful connections can be made across to the Yarra's Edge waterfront and the proposed health and wellbeing hub in Bolte West.
22. In addition, the future 'direct road and rail corridor to connect Webb Dock to Swanson/Appleton Docks' in the form of an elevated road and rail structure (at height of the Bolte Bridge when crossing the Yarra River) will have significant negative impacts on the development of the precincts, particularly in terms of built form, design and amenity. The Infrastructure Victoria report 'Securing Victoria's Ports Capacity' states that it would be a more desirable option to provide extra port capacity elsewhere, such as the future Bay West port when this long term need arises.
23. The design and detail of the two proposed pedestrian and public transport bridges across the Yarra River and Victoria Harbour need to be resolved as a matter of priority, in particular bridge height, form and operability. These bridges are fundamental to successfully connect Fishermans Bend to the central city and Docklands but need to be designed to ensure the ongoing use of the waterways for river traffic and marine operations.

Floor Area Ratio and Floor Area Uplift

24. A Floor Area Ratio (FAR) and design objectives, including setbacks and discretionary heights, are proposed to manage density and design outcomes. The FAR for Lorimer is 5.4:1 and delivers accommodation for 12,000 residents and 6000 workers in the precinct. These figures are based on an assumption of a 75 per cent build out by 2050.
25. There is no mechanism within the FAR to deliver critical social infrastructure, including children, youth and family services, health and wellbeing services and community spaces for the baseline population.

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26. Social infrastructure requirements for the baseline population should be delivered within the FAR.
27. The reliance on a FAU mechanism to deliver essential social infrastructure (in lieu of any mandatory requirements) for the baseline population is a high risk approach, in that it provides no certainty for delivery and relies on considerable population increase above that which has been strategically planned for to deliver the infrastructure.
28. It is understood that the intent is for developer contributions not to apply to the additional uplift development. Without this, there is no further mechanism to capture financial contributions towards the services and infrastructure that this increased 'uplift' population will require, which could be an additional 50 per cent of the 80,000 baseline population projection.
29. In addition, there are concerns regarding the FAU delivery mechanisms outlined in the 'How to Calculate Floor Area Uplifts and Public Benefits in Fishermans Bend', in terms of process, and certainty of the scale of benefit being delivered for open space and social infrastructure. These mechanisms require the public benefit assets to be delivered at the equivalent value to the additional dwellings, with the value being subject to approval by the Victorian Government Land Monitor. The timing of this valuation and approval process is likely to impact upon planning assessment processes, and limits certainty regarding the required quantum of space to be incorporated into any development proposal at the outset.
30. The reference to the FAU requirements within Section 4 of Schedule 4 to Clause 37.04 Capital City Zone is unclear, and appears to conflict with the intent of the FAU controls established within the Framework. In particular, the controls appear to allow for additional floor area above the FAR provided that the space is not used as a 'Dwelling'; or provided as a public benefit under the FAU controls. The specific reference to a Dwelling provides the potential for other unintended uses to be delivered above the FAR thresholds (e.g. student accommodation).
31. The impacts of additional built form associated with any FAU are still being assessed.

Employment Uses

32. The use of the Floor Area Ratio (FAR) tool and the rigorous strategic justification provided for the proposed area specific FARs within the Framework is supported on the basis that it is providing clarity regarding yield, and supporting a negotiation that focuses on the delivery of quality outcomes, and contextually responsive and varied built form.
33. However, the FAR for delivering commercial floorspace as a ratio of overall development set out in the planning controls are an 'encouraged' outcome, rather than a mandatory requirement. This is a concern in terms of providing certainty for the quantum of commercial space and accommodating the expected employment numbers.
34. The experience elsewhere across the city is that the current market is favouring residential development by not mandating a minimum requirement for commercial floorspace. This may potentially undermine the delivery of jobs in areas best suited to accommodating employment, establishing development trends that will be difficult to change in the future.
35. The planning controls must also be clearer on the relationship between the total FAR and the commercial FAR requirements. It is understood that the commercial FAR is intended to be part of, rather than in addition to, the total FAR. This should be made explicit across the planning controls to provide certainty and clarity to ensure the required development outcomes are delivered.

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Social infrastructure

36. The identification of a full range of community hubs required to support and serve new residents and workers in Lorimer is supported. However, there is concern that the delivery of social infrastructure is reliant on developers taking up the Floor Area Uplift (FAU). As already discussed, social infrastructure required for the baseline population should be provided within the FAR.
37. It is not stated in the Framework whether the FAU delivery model has been robustly tested or if an alternative funding option is available to provide essential community services, should developers choose not to take up the FAU. There is also a risk that the 'hub' concept could be, in reality, a series of smaller spaces spread across a number of different buildings, which would not provide the economies of scale or 'civic role' and community focal point that a community hub or stand-alone facility can play within a neighbourhood.
38. Certainty of delivery is further questioned as the provision of social infrastructure through the FAU will be in competition with open space and affordable housing. Affordable housing is identified in the Framework as the 'highest priority public benefit' to be sought through the FAU.
39. It is further noted that the 80,000 residents and 80,000 jobs forecasts are based on a 75 per cent development build out rate by 2050. This approach is unusual and is not explicitly stated in the Framework document but has potentially significant implications on the provision of future services, including community infrastructure and open space. For example, the Population and Demographics background report is based on this 75 per cent build out figure but forecasts the Lorimer population/household target will be broadly achieved by the mid-2030s.
40. It is therefore reasonable to suggest that a significant proportion of the additional 25 per cent of sites in Lorimer would come forward over the remaining period up to 2050, creating additional development and population not factored in to the long term planning. Population and services should be modelled on a 100 per cent development build out rate for Lorimer by 2050.

Affordable Housing

41. The Framework sets a target for a minimum of at least six per cent affordable housing across Fishermans Bend. Goal 1 of The City of Melbourne Housing Strategy is to help to provide at least 1721 affordable homes (subsidised) for low and moderate income earners by 2024. The target in the City of Melbourne goal is based on 15 per cent of new dwellings estimated to be built between 2016 and 2021 which do not currently have a planning permit or are at an advanced stage of the development process. Fishermans Bend is a key place to deliver this target.
42. A target of 15 per cent is comparable with other Australian state capitals and is required by the City of Sydney in Sustainable Sydney 2030, by Economic Development Queensland on large residential redevelopment sites (enforced through mandatory planning provisions) and that of the South Australian Government on urban renewal sites in Adelaide. In London, Mayor Khan announced that new developments will include 35 per cent affordable housing.
43. The affordable housing target is set out in the Local Policy section of the planning controls, which means that this is an 'encouraged' outcome rather than a mandatory requirement. Affordable housing is also identified as the highest priority public benefit to be delivered through the Floor Area Uplift (FAU) mechanism; however its delivery remains discretionary.

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44. Instead of being delivered within the FAR, it is anticipated that affordable housing will be delivered primarily through the FAU, which proposes that developers can deliver eight additional market value units for every one affordable unit constructed (a total of one in nine). It is therefore questionable whether an opt in policy would be delivered within the base yield and FAR, when a density bonus (the FAU) is available to deliver the same outcome.
45. Of the 40,000 dwellings planned in Fishermans Bend up to 2050, the target of six per cent affordable homes equates to a total of 2400. Using the FAU affordable housing ratio of 8:1 it could therefore result in an additional 21,600 dwellings (inclusive of the 2400 affordable) to be constructed to achieve the minimum six per cent target. This would create an additional population of over 43,000 residents using the two residents per dwelling ratio applied within the Framework. This is an increase of over 50 per cent in the total Fishermans Bend resident population, who in turn will require further social infrastructure.
46. It is understood that any dwelling constructed as part of the uplift will not be subject to developer contributions. It is considered that the six per cent baseline provision should be delivered as part of the FAR with the FAU delivering additional benefit.
47. Since the FAU mechanism is an opt-in and will be in competition with social infrastructure and open space as the other possible FAU items, it is unclear if the overall six per cent figure will be achieved in practice. However, if this mechanism is utilised (and we assume it will be to deliver the target set in the Framework) this will have serious implications for the level of service delivery being planned for Fishermans Bend, particularly in terms of open space, social infrastructure, and transport provision.

Open Space

48. The proportion of open space that is intended to be delivered through the Floor Area Ratio (FAR) controls or through the direct purchase of strategic sites is unclear. Some open spaces which take up an entire development parcel, including Lorimer Place, will not be delivered through the FAR controls and will need to be purchased. It is unclear how this land is intended to be purchased.
49. Developer contributions relating to open space are set at eight per cent for Lorimer and five per cent for the Employment Precinct. These may not be sufficient to deliver the quantity and quality of open space required to create 'a thriving place that is a leading example for environmental sustainability, liveability, diversity and innovation'. The actual cost of delivering the required network of open space (and other infrastructure) may demonstrate a significant shortfall. Evidence is required regarding assumptions underpinning the developer contribution rate, as it may not be sufficient to contribute to the future amenity of the neighbourhood.
50. The Framework states that 24 hectares of open space, including six hectares of active recreation space, will be delivered within the Employment Precinct, at locations to be determined. High quality open spaces and streets will provide a foundation for the future development of the precinct and further investigations should consider the role open space can play in providing a high quality amenity to encourage knowledge intensive industries, while serving the needs of residents.

Built Form

51. There appears to be drafting errors in the building setback and separation requirements nominated in the Design and Development Overlay. These aspects of the controls will need to be simplified to provide clarity for developers and planners on the intended built form outcomes. A more detailed review of the specific requirements set out within the Planning Controls is currently underway.

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52. There is limited focus on the quality of the design outcomes across Fishermans Bend. As Fishermans Bend will be a benchmark for other renewal areas across Melbourne, Council is supportive of establishing an independent design review panel for Fishermans Bend to ensure that design quality is delivered and maintained across all precincts.

Employment Precinct

53. Council is supportive of the vision for the Employment Precinct to be a hub for innovation, entrepreneurship and design excellence, building on the area's unique history of innovation, engineering and manufacturing. The redevelopment of the former GMH site provides a catalytic opportunity to shape the future development of the precinct as part of the Melbourne Innovation Districts (MID) network, the realisation of which will rely heavily on the early completion of the tram corridor.
54. Council acknowledges the work that is currently underway to progress the vision for the National Employment and Innovation Centre (NEIC) and recognises that the future success of the precinct will rely on the quality as much as the quantity of jobs created. The quality of urban form and public realm will also play an important role in facilitating and attracting businesses to the NEIC. Council looks forward to working with stakeholders to develop more detailed proposals for the Employment Precinct over coming months.

Delivery

55. The overall management structure for the delivery of Fishermans Bend is still to be determined and it remains unclear who will be responsible for decision making and funding, and what role Council will play in aspects such as the assessment of Planning Permit Applications. Given that many of the FAU outcomes will be delivered through developer negotiations, this puts Council at risk of not being able to strategically plan for the cumulative impact of development decisions.
56. It is strongly recommended that an independent, well-resourced and place-specific renewal agency is established for Fishermans Bend, which is not embedded within Government Departments or agencies. The independent agency would work in close partnership with statutory agencies and Local Government to deliver Melbourne's future growth areas. The agency would be led by a Chief Executive Officer and reporting to a Board which includes senior officer representation from City of Melbourne and City of Port Phillip.
57. It is further recommended that the City of Melbourne be the responsible authority for all development applications below 40,000 square metres.
58. The funding and financing model for Fishermans Bend has not been released so it is unclear as to what contribution the Victorian Government will make towards the significant costs associated with public transport and flood mitigation requirements.
59. It is unclear what the current interim developer contributions will fund and there is likely to be a significant shortfall due to the amount of infrastructure required across the precincts, one example being drainage and water management infrastructure.
60. Legislation currently determines that any FAU benefit must be delivered on site. Council is committed to working with DELWP to pursue any legislation changes that may be required to facilitate the 'pooling' of funds received from the FAU and any other infrastructure funding mechanisms to enable delivery of substantial physical, social or community infrastructure projects most effectively.

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61. Given the scale of change anticipated in Fishermans Bend and the timeframes involved in transitioning from an industrial area to a mixed use area, the Framework would benefit from being definitive about how this transition will be managed across issues such as flood management, transport, economic and social activation. This includes the phased delivery of infrastructure and capital works.
62. The underlying risk of the Framework and planning controls in their current format is that the practical strategies detailed within the Framework, combined with the planning controls requirements, are not bold or strong enough to deliver the vision, goals and targets identified in the Framework. Given the fundamental nature of these issues, this has potential for economic, social, environmental as well as reputational risks for State Government and the City of Melbourne in the delivery of Fishermans Bend.

Planning Panel

63. The proposed Public Hearing allocates only three hours for each Local Council to make verbal submissions, compared to two to three hours for a single landowner. Given the wide range of strategic matters covered in Framework and the technical details of the planning controls, this is not considered appropriate.