



6.1 1 & 7 WATERFRONT PLACE, PORT MELBOURNE

LOCATION/ADDRESS: 1 & 7 WATERFRONT PLACE, PORT MELBOURNE

EXECUTIVE MEMBER: LILI ROSIC, GENERAL MANAGER, DEVELOPMENT,
TRANSPORT AND CITY AMENITY

PREPARED BY: JOCK FARROW, PRINCIPAL PLANNER

1. PURPOSE

- 1.1 To consider and determine an application for the use and development of the land, to carry out works and construct a 10 storey mixed use building over two basement levels, comprising dwellings, retail (shop, food and drink premises, wellness centre), a restricted recreation facility (gymnasium) and a reduction in car parking requirements.

2. EXECUTIVE SUMMARY

WARD:	Gateway
TRIGGER FOR DETERMINATION BY COMMITTEE:	The number of objections exceeds 15
APPLICATION NO:	490/2020
APPLICANT:	Waterfront Place Pty Ltd
EXISTING USE:	The previous use, being community facilities including a gymnasium, child minding centre, swimming pool and tennis courts, which have been discontinued
ABUTTING USES:	Commercial
ZONING:	Mixed Use Zone
OVERLAYS:	Design and Development Overlay 23 Environmental Significance Overlay 4 Heritage Overlay 46 (in part) Environmental Audit Overlay (in part)
AREA OF ABORIGINAL CULTURAL HERITAGE SENSITIVITY:	No; pursuant to Regulations 31(2) and 40(2) of the Aboriginal Heritage Regulations 2018, the Site is not within an area of cultural heritage sensitivity, due to historic significant ground disturbance
STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL	Expired

- 2.1 The application seeks a permit for the use and development of the land, to carry out works and construct a 10 storey mixed use building over two basement levels, in a



shared podium and two tower arrangement, comprising 119 dwellings, retail (shop, food and drink premises, wellness centre), a restricted recreation facility (gymnasium) and a reduction in car parking requirements.

- 2.2 Following two periods of public notice (advertising), including 544 letters and 4 site notices, the application has received 37 objections and 11 letters of support. Key concerns included: the height, scale, bulk and design; the impact upon the adjacent heritage building; compliance with the Design and Development Overlay 23; winter shadows impacting the foreshore and public space; the level of community facilities and community benefit; traffic congestion; impact upon parking; whether the development would breach the covenants affecting the land; and, the compatibility with and impact upon the ongoing operation of the port.
- 2.3 A consultation meeting was held on 23 March 2021. The meeting was attended by Ward Councillors, applicants, objectors and Planning Officers. The key issues raised at the meeting are reflected in the proceeding summary of objections. Following the meeting, amended plans were submitted pursuant to section 57A of the *Planning and Environment Act 1987*. The key changes to the plans included shifting the pavilion building to adjoin the main building (shifted out of the Heritage Overlay), increased tower setbacks (the largest increase being to the western interface), increased parking provisions, reduced dwellings, increased retail space and shower/changing facilities introduced into the gym.
- 2.4 The proposal is considered to have strong strategic support from the Planning Scheme, which has a consistent theme of increasing residential density at strategic locations and within close proximity to jobs, services and public transport. Furthermore, an appropriate range of commercial uses are proposed which would support the locality, in line with policy.
- 2.5 The proposal is considered to be well conceived from an urban design perspective, resulting in high quality architecture which would enhance the public realm and skyline, at a strategic 'gateway' location.
- 2.6 The development proposes to give back to the community in the form of pedestrian links, widened footpaths, public open space along with a meeting room; while the abovementioned commercial uses are also intended to support the local community.
- 2.7 The development would achieve 'design excellence' in terms of sustainability (minimum BESS score of 70%).
- 2.8 The development would achieve all of the design requirements of the Design and Development Overlay 23. While shadows would be cast to the foreshore area, the shadows are considered to be appropriately 'minimised' within the tolerances envisaged by Design and Development Overlay 23.
- 2.9 Subject to appropriate noise attenuation measures to the development, it is considered that the proposal will not conflict with or constrain the ongoing operation of the port.
- 2.10 The development is not considered to result in a significant impact upon the road network. The development would provide parking spaces in excess of the requirements of the Planning Scheme. However, due to the way parking would be allocated (no parking allocated to customers of the commercial uses), a parking waiver is sought for the customer component of the parking requirements. The parking waiver is well justified and not considered to result in any undue offsite impacts.



- 2.11 The development would achieve all objectives and most standards of Clause 58 (BADS).
- 2.12 Key to the wording of the covenants is that with the relevant consent of Mirvac or its nominee, the restrictions do not apply; as such, the covenants are not the type of restrictions that would prevent the grant of a permit. The grant of a permit would not inherently authorise anything that would breach the covenant, provided a condition on any permit required Mirvac's consent prior to the permit being acted upon. Any permit that issues should include a condition to this effect, thereby ensuring the covenant would not be breached. It is further noted that the applicant has provided a letter from Mirvac's representatives advising that it is their intention to provide written consent following the issue of any planning permit.
- 2.13 The following Report finds that subject to recommended conditions, the proposal would result in a sustainable development that would be in general compliance with the relevant planning controls, that would meet all mandatory requirements and that achieves 'net community benefit'.

3. RECOMMENDATION

- 3.1 The Council adopt Recommendation 'Part A' and 'Part B'.

RECOMMENDATION PART A

- 3.2 That the Responsible Authority, having caused the application to be advertised and having received and noted the objections, issue a Notice of Decision to Grant a Permit.
- 3.3 That a Notice of Decision to Grant a Permit be issued for the use and development of the land, to carry out works and construct a 10 storey mixed use building over two basement levels, in a shared podium and two tower arrangement, comprising dwellings, retail (shop, food and drink premises, wellness centre), a restricted recreation facility (gymnasium) and a reduction in car parking requirements at 1 & 7 Waterfront Place, Port Melbourne.
- 3.4 That the decision be issued as follows:

1 Amended Plans Required

Before the use and/or development starts (excluding demolition and works required for relevant pre-commencement testing and works to remediate contaminated land), amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and an electronic copy must be provided. The plans must be generally in accordance with the plans amended by way of Section 57A of the Planning and Environment Act 1987 and advertised by Council, date stamped as being received by Council on 8 April 2021 and identified as A0003 (Rev: D), A0098 (Rev: D), A0099 (Rev: D), A0100 (Rev: D), A0101 (Rev: D), A0102 (Rev: C), A0103 (Rev: C), A0104 (Rev: C), A0105 (Rev: C), A0106 (Rev: C), A0107 (Rev: D), A0108 (Rev: D), A0109 (Rev: D), A0110 (Rev: D), A0900 (Rev: D), A0901 (Rev: D), A0902 (Rev: D), A0903 (Rev: D), A0904 (Rev: B), A0905 (Rev: B), A0950 (Rev: D), A0951 (Rev: D), A0952 (Rev: D), A0960 (Rev: D), A0961 (Rev: D), A0963 (Rev: B), A1100 (Rev: B), A1101 (Rev: B), A1600 (Rev: B), A1601 (Rev: B) and Schedule 002 – External Materials and Finishes (Rev: B) but modified to show:



- a) Details of the surface materials to be used to the north/south laneway (to the western interface of the site), to identify it as a shared surface for pedestrians and vehicles.
- b) A detailed (1:50 scale) elevation(s) to all ground floor commercial frontages which includes a solid section of wall at the base of the building, to better anchor the building and improve tactility.
- c) An improved western interface to Townhouse 6, by including privacy measures to windows and by extending/reconfiguring the abutting planter, to create defensible space adjacent to the bedrooms and bathroom.
- d) Public seating provided to the eastern 'parklet'.
- e) Internal disabled ramp access to the southern entrances of the food and drink premises, provedore and gym. Ramp access can replace platform lifts.
- f) Introduction of external shading to the east elevation; and, details of operable external shading devices to east and west façade including dimensions, design details, materials, operability; to be shown on elevations as well as the floor plans.
- g) All windows that are openable on the floor plans.
- h) All balconies that are to be winter gardens.
- i) Details of winter gardens showing the method used to enclose them, the allowance for light penetration and that they shall be fully openable (full height and across the full width of the balcony).
- j) Provide appropriate privacy measures to the east facing windows of the townhouses, to protect their own privacy and also limit overlooking to adjoining townhouses.
- k) The car park entrance 'garage door' at Beach Street to be setback a minimum of 6 metres from the property boundary with Beach Street.
- l) All buildings/built form at ground floor to be setback a minimum of 2m from the southern boundary, including the architectural corner features and the planter extending from the southern courtyard.
- m) Removal of the seating and planter boxes within the east/west pedestrian linkage.
- n) Reduction in height of the podium (likely including the reduction or removal of the parapet) to ensure the podium does not exceed 3 storeys or 12m at any point.
- o) The development does not exceed 10 storeys and 35 metres (inclusive of the podium and exclusive of rooftop services), including the deletion of the rooms upon roof level which are considered to be an 11th storey.
- p) A notation on the plans that written confirmation by a Licensed Land Surveyor will be provided to the Responsible Authority verifying that the development does not exceed 35m above natural ground level in height. This must be provided at



relevant stages during the construction of the building as nominated by the Responsible Authority and before the building is occupied.

- q) Details that demonstrate that architectural features, such as building services, that exceed the maximum building height, do not exceed the height by more than 4 metres and do not exceed 10% of the gross floor area of the top building level; and, any associated reduction in roof top services.
- r) Details that demonstrate that development above 3 storeys (and 12 metres) to be set back a minimum of 8 metres in addition to any ground level setback, this includes to the eastern corner of the development where the setback must be taken from the ground level setback; and to the canopy overhangs along the southern elevation and to the eastern corner. Consequential design changes are permitted albeit setbacks must be absorbed within the building envelope, without the reduction of any other setback.
- s) Specifications that demonstrate the external finishes to be of a type that does not reflect more than 15% of visible light, when measured at an angle of 90 degrees to the surface.
- t) A storage schedule which demonstrates compliance with Clause 58 standard D20, for all dwellings.
- u) An annotation to the ground floor plan to state that all offsite works are indicative and are subject to the relevant approval of the Responsible Authority.
- v) Any changes required by the Car and Bicycle Parking Management Plan, in accordance with condition 16.
- w) An Urban Art Plan, in accordance with condition 21.
- x) Any changes required by the findings of the amended Wind Assessment, in accordance with condition 22.
- y) Any changes required by the findings of the Arboricultural Impact Assessment and the TPMP, in accordance with conditions 23 and 24 respectively.
- z) An updated Landscape Plan, in accordance with condition 25.
- aa) Any changes required by the amended SMP, in accordance with condition 27.
- bb) Any changes required by the amended WMP, in accordance with condition 32.
- cc) Any changes required by the findings and recommendations of the Amended Acoustic Report, in accordance with condition 33.

2 No Alterations (development and use)

The layout of the site and the size, levels, design, finishes and location of buildings and works; and, the description of the use(s), as shown on the endorsed plans must not be modified for any reason (unless the Port Phillip Planning Scheme specifically states that a permit is not required) without the prior written consent of the Responsible Authority.

3 Covenants

The uses and development approved by this permit must not commence until the relevant written consents are obtained from Mirvac (Beacon Cove Pty Ltd and/or Victoria Pty Ltd, as relevant) or its nominee pursuant to Restrictive Covenants V074097S (5/11/1997), PS344341D (29/05/1997), W413729L (17/11/1999) registered on the titles of the Subject



Land OR the requirement for consent by Mirvac or its nominee is removed from Restrictive Covenants V074097S (5/11/1997), PS344341D (29/05/1997), W413729L (17/11/1999). If the requirement for consent persists in the covenants, prior to the endorsement of plans the written consents of Mirvac or its nominee must be provided to the Council.

4 Satisfactory Continuation and Completion

Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

5 Hours of Operation and Number of Patrons

Without the further written consent of the Responsible Authority the use(s) must operate only between the following hours and with no more than the following number of patrons:

- a) Food and drink premises: 7am to 11pm, Monday to Sunday; with a maximum of 150 patrons at any time.
- b) Retail/shops, including provedore: 7am to 11pm, Monday to Sunday.
- c) Gym (including wellness centre): 5:30am to 11pm, Monday to Sunday; with a maximum of 175 patrons at any time.

6 General Amenity

The amenity of the area must not be detrimentally affected by the use and development through the:

- a) Transport of materials, goods or commodities to or from the land
- b) Appearance of any building, works or materials, or
- c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.

to the satisfaction of the Responsible Authority.

7 Ongoing Involvement of the Architect

The applicant must retain the project architect, Elenberg Fraser, to complete the design and provide architectural oversight of the delivery of the detailed design as shown in the endorsed plans and endorsed schedule of materials and finishes during construction except with the prior written approval of the Responsible Authority.

8 No External Amplified Equipment

Without the further written consent of the Responsible Authority, no form of public address system, loud speakers or sound amplification equipment must be used on the premises so as to be audible outside the premises.

9 Privacy Screening Must be Installed

Prior to occupation of the development approved by this permit the installation of privacy screens must be undertaken in accordance with the endorsed plans. The privacy screens must be maintained thereafter to the satisfaction of the Responsible Authority.

10 Walls on or Facing the Boundary

Prior to occupation of the development approved by this permit all new or extended walls on or facing the boundary of adjoining properties and/or a laneway must be cleaned and



finished to a uniform standard to the satisfaction of the Responsible Authority. Unpainted or unrendered masonry walls must have all excess mortar removed from the joints and face and all joints must be tooled or pointed also to the satisfaction of the Responsible Authority. Painted or rendered or bagged walls must be finished to a uniform standard to the satisfaction of the Responsible Authority.

11 No Equipment or Services

Any plant, equipment or domestic services visible from the primary street (other than a lane) or public park must be located and visually screened to the satisfaction of the Responsible Authority. No mechanical plant is permitted on balconies/terraces.

12 Vehicle Crossings

Before the occupation of the development allowed by this permit, vehicle crossings must be constructed in accordance with Council's current Vehicle Crossing Guidelines and standard drawings to the satisfaction of the Responsible Authority. All redundant crossings must be removed and the footpath, naturestrip, kerb and road reinstated as necessary at the cost of the applicant/owner and to the satisfaction of the Responsible Authority.

13 Car and Bicycle Parking Layout

Prior to occupation of the development approved by this permit the area(s) set aside for the parking of vehicles and bicycles and access lanes as shown on the endorsed plans must, to the satisfaction of the Responsible Authority, be:

- a) Constructed;
- b) Properly formed to such levels that may be used in accordance with the plans;
- c) Surfaced with an all weather surface or seal coat (as appropriate);
- d) Drained and maintained; and
- e) Line marked to indicate each car space, visitor space, motorcycle space, loading bay and/or access lane.
- f) Clearly marked to show the direction of traffic along access lanes and driveways.

14 Parking and Loading Areas Must Be Available

Car, motorcycle and bicycle parking and loading areas and access lanes must be developed and kept available for those purposes at all times and must not be used for any other purpose such as storage to the satisfaction of the Responsible Authority.

15 Car Parking Allocation

Without the further written consent of the Responsible Authority car parking for the approved development must be allocated on any Plan of Subdivision as follows:

- a) not less than one car space for each one and two bedroom dwelling;
- b) not less than two car spaces for each dwelling with three or more bedrooms;
- c) not less than 13 car spaces (total) for the food and drink / shop / retail uses;
- d) not less than 10 car spaces for the gym use.

All to the satisfaction of the Responsible Authority.

16 Car and Bicycle Parking Management Plan



Prior to the endorsement of plans under condition 1 of this permit, a parking plan to the satisfaction of the Responsible Authority, prepared by a suitably qualified professional, must be submitted to and approved by the Responsible Authority. Once approved the plan will be endorsed and form part of this permit. The plan must detail a car parking management plan (CPMP) including a line-marking plan, specific details regarding the car park access controls and location of intercom system, how to use the bike racks and where residents, staff and accredited visitors should park bikes, to the satisfaction of the Responsible Authority.

17 Lighting

All lighting of external areas must be suitably baffled so as not to cause nuisance or annoyance to nearby properties or roads.

18 Utility connections

Before the occupation of the development allowed by this permit, any modification to existing infrastructure and services within the road reserve (including but not restricted to electricity, telecommunications services, gas, water, sewerage and stormwater drainage), necessary to provide the required access to the site, must be undertaken by the applicant/owner to the satisfaction of the relevant authority and the Responsible Authority. All costs associated with any such modifications must be borne by the applicant/owner.

19 Provision of Bike Racks on the Pavement

Prior to occupation of the development approved by this permit, stainless steel bike racks must be installed in the adjacent public footpath or nature strip in a location to the satisfaction of the Responsible Authority. Installation of the bike racks shall be undertaken by the Responsible Authority. All costs associated with the supply and installation of the bike racks are to be borne by the applicant/owner/developer. Once the racks have been installed they will become a Council asset and the developer will have no further ongoing obligations or responsibilities regarding the racks.

20 Green Transport Plan

Before the occupation of the development allowed by this permit, a green travel plan to the satisfaction of the Responsible Authority, prepared by a suitably qualified professional, must be submitted to and approved by the Responsible Authority. Once approved the plan will be endorsed and form part of this permit. The green travel plan must provide detailed advice regarding how traffic movements and staff parking will be managed and ensure an alternative, non-private vehicle transport modes will be encouraged. The plan should also identify specific opportunities for the provision of more sustainable transport options and encouragement of their use. The plan must include but not be limited to:

- a) Bicycle parking, including that suitable for e-bikes, to be installed in well secured and prominent locations at ground level if possible, for tenants and visitors.
- b) Provide electric vehicle recharge facilities
- c) Install signs in prominent locations advising of the location of existing and proposed share car schemes, bicycle parking facilities for staff, residents and visitors, tram stops, taxi ranks, railway stations, bus stops and bicycle lanes and paths.
- d) Ensure that access to the on-site parking is restricted and controlled.
- e) Establishment of a car-pooling database for residents/employees
- f) Specific targets to guide the plans ongoing implementation;



- g) Identify persons responsible for the implementation of actions;
- h) Estimate timescales and costs for each action;
- i) Include a plan for monitoring and review of the Travel Plan on an annual basis for at least three years.

21 Urban Art Plan

Concurrently with the submission of plans for endorsement under condition 1 of this permit, an urban art plan in accordance with Council's Urban Art Strategy must be submitted to, be to the satisfaction of and approved by the Responsible Authority. The value of the urban art must be at least 0.5% of the total building cost of the development to the satisfaction of the Responsible Authority. Urban art in accordance with the approved plan must be installed prior to the occupation of the building to the satisfaction of the Responsible Authority.

22 Wind Assessment

Concurrently with the submission of plans for endorsement under condition 1 of this permit, a suitably qualified person must prepare an updated Wind Climate Assessment Report to the satisfaction of the Responsible Authority, which must be provided for the written endorsement of the Responsible Authority. The Report must be in general accordance with the submitted Environmental Wind Considerations, prepared by MEL Consultants and dated 29 October 2020 but updated to reflect the requirements of Condition 1 of this permit. Any modifications required to the development in order to ensure acceptable wind conditions must be submitted to and approved by the Responsible Authority as part of the plans for endorsement. The design details of any wind mitigation works must receive the endorsement of the owner's wind climate experts, preferencing the use of architectural features and planting to resolve any issues identified, to the satisfaction of the Responsible Authority.

23 Arboricultural Impact Assessment

Prior to the commencement of the development (excluding works required for relevant pre-commencement testing), an Arboricultural Impact Assessment report must be submitted to, be to the satisfaction of and approved by the Responsible Authority, the impact assessment must be prepared by a suitably qualified Arborist (AQF level 5 or equivalent) and include:

- a) trees on neighbouring properties with TPZs that fall within the subject site,
- b) the nature strip tree(s) adjacent the property.

The report must follow the guidelines from Council Arboriculture Victoria and comply with the Australian Standard 4970:2009 Protection of Trees on Development Sites.

Should the report find that any works encroach into 10% or more of the Tree Protection Zone, or into the Structural Root Zone of any tree, and the design cannot be modified to reduce the incursion, then a non-destructive root investigation (NDRI) must be conducted and documented, with a root map to show the location, depth and diameter of all roots found along the line of the proposed works. The findings, photographs and recommendations shall be presented in the impact assessment report.

When approved, the impact assessment will be endorsed and will then form part of this permit.

24 Tree Protection Management Plan

Prior to the commencement of the development (excluding works required for relevant pre-commencement testing), and prior to any related demolition or vegetation removal, a Tree Protection and Management Plan (TPMP) that details how the trees will be protected, in



accordance with AS4970-2009 (Protection of Trees on Development Sites), will be required, to the satisfaction of the Responsible Authority. Once approved, the TPMP will be endorsed and form part of the permit. The TPMP must be prepared by a suitably qualified Arborist (AQF level 5 or equivalent) and include:

- a) measures to protect trees including any modified construction techniques such as root sensitive footings and permeable paving;
- b) identification and methodology of any canopy or root pruning required (for onsite or offsite trees);
- c) trees on neighbouring properties with TPZs that fall within the subject site;
- d) the nature strip tree(s) adjacent the property.

The tree protection measures directed in the TPMP must be installed prior to commencement of works at the site, maintained and remain in place until such time as specified within the TPMP.

25 Landscape Plan

Concurrently with the submission of plans for endorsement under condition 1 of this permit, an updated detailed Landscape Plan must be submitted to, approved by and be to the satisfaction of the Responsible Authority. When the Landscape Plan is approved, it will become an endorsed plan forming part of this Permit. The Landscape Plan must be in general accordance with the Landscape Concept Plan (Rev: 02) dated 08/04/2021 but updated to incorporate:

- (a) A survey plan, including botanical names, of all existing vegetation/trees to be retained;
- (b) Buildings and vegetation (including botanical names) on neighbouring properties within 3m of the boundary;
- (c) Significant trees greater than 1.5m in circumference, as measured 1m above ground;
- (d) All street trees and/or other trees on Council land;
- (e) A planting schedule of all proposed vegetation including botanical names; common names; pot sizes; sizes at maturity; quantities of each plant; and details of surface finishes of pathways and driveways;
- (f) Landscaping and planting within all open space areas of the site;
- (g) Advanced tree stock (minimum 45 litre pot or bag 2.5 metres tall when planted unless otherwise agreed to in writing by the Responsible Authority);
- (h) Consistency with the plans required under condition 1 of this permit;
- (i) Details of the green wall to the north facing wall, above the food and drink premises;
- (j) Details of the façade planting to the western retail units;
- (k) Landscaping to the first floor level;
- (l) Details of surfaces and appropriate integration with the public realm;
- (m) Details of irrigation;
- (n) Details of the green roof.

Trees are not to be sited over easements.

26 Completion and Maintenance of Landscaping



The landscaping as shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority before the occupation of the development and/or the commencement of the use or at such later date as is approved by the Responsible Authority in writing. The landscaping as shown the endorsed Landscape Plan must be maintained, and any dead, diseased or damaged plant replaced in accordance with the landscaping plan to the satisfaction of the Responsible Authority.

27 Sustainable Management Plan

Concurrent with the endorsement of plans under condition 1 of this permit, a revised Sustainable Management Plan must be submitted to, be to the satisfaction of and approved by the Responsible Authority. The revised Sustainability Management Plan must be generally in accordance with the ESD design memo 'Further Initiatives to BESS Excellence' dated 5 March 2021 that commits to at least a 70% BESS score for the development but modified to be consistent with items specified in condition 1 of this permit. In addition, the following shall be incorporated in the updated SMP:

- a) Confirm that all dwellings would achieve NatHERS cooling loads not exceeding 30 MJ/M² per annum.
- b) For residential windows within the podium level, the usage of windows with visible light transmissions (VLTs) exceeding 50%.

When approved, the Plan will be endorsed and will then form part of the permit and the project must incorporate the sustainable design initiatives listed.

28 Incorporation and Maintenance of Sustainable Design Initiatives

Prior to the occupation of any dwelling/building approved under this permit, the provisions, recommendations and requirements of the endorsed Water Sensitive Urban Design Report and Sustainability Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

The ESD initiatives of the endorsed Water Sensitive Urban Design Report and Sustainability Management Plan must be fully implemented and maintained throughout the operational life of the development to the satisfaction of the Responsible Authority.

29 ESD Implementation Report

Prior to the occupation of any building approved under this permit, a report (or reports) from the author of the Sustainability Management Plan (SMP), approved under this permit, or similarly qualified person or company, must be submitted to the satisfaction of the Responsible Authority and must confirm all measures specified in the approved SMP and WSUD report have been implemented in accordance with the approved plans.

30 Confirmation of Green Power

Prior to the issue of a Statement of Compliance, electrical plans must be submitted to the responsible authority showing that the whole development will be serviced by an embedded network. Within one month of the first owners' corporation meeting required under the Owners Corporations Act 2006, a copy of the executed contract with the Embedded Network Operation, confirming that all electricity supplied to the entire development will be 100% accredited Green Power (or equivalent 100% renewable energy generation), must be submitted to Council.

31 Construction Management Water Sensitive Urban Design

The developer must ensure that throughout the construction of the building(s) and construction and carrying out of works allowed by this permit;



- a) No water containing oil, foam, grease, scum or litter will be discharged to the stormwater drainage system from the site;
- b) All stored wastes are kept in designated areas or covered containers that prevent escape into the stormwater system;
- c) The amount of mud, dirt, sand, soil, clay or stones deposited by vehicles on the abutting roads is minimised when vehicles are leaving the site.
- d) No mud, dirt, sand, soil, clay or stones are washed into, or are allowed to enter the stormwater drainage system;
- e) The site is developed and managed to minimise the risks of stormwater pollution through the contamination of run-off by chemicals, sediments, animal wastes or gross pollutants in accordance with currently accepted best practice

32 Waste Management Plan

Concurrent with the endorsement of plans under condition 1 of this permit, an updated Waste Management Plan must be submitted to, be to the satisfaction of and approved by the Responsible Authority. The plan must be in general accordance with the WMP submitted with the application but updated to reflect the plans required by condition 1. When approved the WMP will be endorsed and form part of the permit.

33 Acoustic Report and Mitigation Measures

Concurrent with the endorsement of plans under condition 1 of this permit, an updated Acoustic Report prepared by a suitably qualified person must be submitted to, approved by and be to the satisfaction of the Responsible Authority. The Report must be generally in accordance with the submitted Acoustic Assessment prepared by Acoustic Logic (Rev: 3, 22/10/2020) but updated to include:

- a) Confirmation that the Port was audible during measurements, or if the measured noise levels are inclusive of Port noise and what noise level the Port was generating;
- b) Confirmation of how it was established that the Port was in full operation. Alternatively, provide long term continuous monitoring (at least 7-days) to reasonably sample and establish the variability of Port operation;
- c) Appropriate mitigation measures based on surrounding noise sources, including the Port (in full operation) and the adjacent tram/light rail, to confirm that all dwellings will achieve internal noise levels not exceeding 30dBA in any bedrooms and 40 dBA in living areas;
- d) Appropriate mitigation measures to ensure the use of the gym will not unreasonably impact the above/surrounding dwellings in terms of noise and vibration.

When approved, the Report will be endorsed and will then form part of this permit and the development must incorporate the mitigation measures listed.

34 Internal Noise Levels to Dwellings

All dwellings must achieve internal noise levels not exceeding 30dBA in any bedrooms and 40 dBA in living areas, to the satisfaction of the Responsible Authority.

35 Environmental Audit Overlay

Before the commencement of construction or carrying out of buildings and works pursuant to this permit, or any works associated with a sensitive use, either:



- a) A Certificate of Environmental Audit for the land must be issued in accordance with Section 53Y of the Environment Protection Act 1970 and provided to the Responsible Authority;
- b) A Statement of Environmental Audit for the land must be issued in accordance with Section 53Z of the Environment Protection Act 1970 that the environmental conditions of the land are suitable for the use and/or development that are the subject of this permit and this statement must be provided to the Responsible Authority.

36 Compliance with Statement of Environmental Audit

Where a Statement of Environmental Audit is issued for the land, the buildings and works and the use(s) of the land that are the subject of this permit must comply with all directions and conditions contained within the statement.

Where a Statement of Environmental Audit is issued for the land, before the commencement of the use, and before the issue of a Statement of Compliance under the Subdivision Act 1988, and before the issue of an occupancy permit under the Building Act 1993, a letter prepared by an Environmental Auditor appointed under Section 53S of the Environment Protection Act 1970 must be submitted to the Responsible Authority to verify that the directions and conditions contained within the statement have been satisfied.

Where a Statement of Environmental Audit is issued for the land, and any condition of that statement requires any maintenance or monitoring of an on-going nature, the owner(s) must enter into an agreement with the Responsible Authority pursuant to Section 173 of the Planning & Environment Act 1987, which must be executed before the commencement of the permitted use and before the certification of the Plan of Subdivision under the Subdivision Act 1988. All such expenses related to the Section 173 Agreement including drafting, negotiating, lodging, registering and execution of the Agreement, including those incurred by the Responsible Authority, must be met by the owner(s).

37 Remediation Works Plan

Before any remediation works are undertaken in association with the environmental audit, a 'remediation works plan' must be submitted to and approved by the Responsible Authority. The plan must detail all excavation works as well as any proposed structures such as retaining walls required to facilitate the remediation works. Only those works detailed in the approved remediation works plans are permitted to be carried out before the issue of a Certificate or Statement of Environmental Audit.

38 Removal of Easement

Before the commencement of construction or carrying out of buildings and works pursuant to this permit, easement E7 (located centrally within the Site, between Lots 2 and 3) registered on the titles of the Subject Land shall be removed from the respective titles.

39 Construction Over Easement

No buildings or works are to be constructed over any easement or other restriction on the land or any sewers, drains, pipes, wires or cables under the control of a public authority without the prior written consent of the relevant authority and the Responsible Authority.

40 Section 173 Agreement – Use of the Meeting Room

Prior to the occupation of any dwelling/building approved under this permit, the applicant must enter into an agreement under Section 173 of the Planning and Environment Act 1987 with the Responsible Authority. The agreement must be in a form to the satisfaction of the Responsible Authority, and the applicant must be responsible for the expense of the



preparation and registration of the agreement, including the Responsible Authority's reasonable costs and expense (including legal expenses) incidental to the preparation, registration and enforcement of the agreement. The agreement must contain covenants to be registered on the Title of the property so as to run with the land pursuant to Section 181 of the Section 173 of the Planning and Environment Act 1987, and must provide for the following:

- a) That the ground floor meeting room be made available for the use of local residents (including residents outside of the development) by means of a booking system; the meeting room is to be available to residents for the lifetime of the development. The meeting room must be available for booking on all days between the hours of 8am to 10pm, unless otherwise agreed by the Responsible Authority.

The agreement will be registered on Title in accordance with Section 181 of the Planning and Environment Act 1987. A dealing number must be provided to the Responsible Authority.

41 Department of Transport Conditions – Additional Plans

Before the development starts, excluding demolition, excavation, piling, site preparation works and works to remediate contaminated land, amended plans must be submitted to and approved by the Head, Transport for Victoria. The plans must be drawn to scale with dimensions and an electronic copy must be provided. The plans must be generally in accordance with the plans submitted but modified to show:

- a) New/updated bus stop and all associated infrastructure in an agreed location on Beach Street outside the development site;
- b) A new shelter and barrier kerb as required;
- c) The inclusion of Passenger Information Displays (PIDS) in the vicinity of the bus stop (if required);
- d) The bus stop clear of any street furniture and obstacles; and
- e) A design compliant with the Disability Discrimination Act 1992 (Cth).

42 Department of Transport Conditions – Public Transport (Bus Stop Works)

If the existing bus stop on Beach Street cannot be used during the demolition and construction of the development a temporary bus stop must be provided in an alternative location at no cost and to the satisfaction of the Head, Transport for Victoria.

43 Department of Transport Conditions – Public Transport (Bus Stop Works)

Any request for written consent to disrupt bus operations or a temporary bus stop on Beach Street during the demolition and construction of the development must be submitted to and approved by the Head, Transport for Victoria not later than 8 weeks prior to the planned disruption / temporary bus stop relocation and must detail measures that will occur to mitigate the impact of the planned disruption or temporary bus stop.

44 Department of Transport Conditions – Prior to Occupation

Prior to the occupation of the development, all works outlined on the endorsed plans for the relocated bus stop must be completed at no cost to and to the satisfaction of the Head, Transport for Victoria. Any temporary bus stop (if required) must be removed and the site reinstated to the satisfaction of the Head, Transport for Victoria.

45 Time for Starting and Completion

This permit will expire if one of the following circumstances applies:

- a) The development is not started within three (3) years of the date of this permit.
- b) The development is not completed within five (5) years of the date of this permit.



- c) The use is not commenced within two (2) years of the completion of the development. The Responsible Authority may extend the periods referred to if a request is made in writing:
- before or within 6 months after the permit expiry date, where the use or development allowed by the permit has not yet started; and
 - within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires

Permit Notes:

- **No Resident or Visitor Parking Permits**

The owners and occupiers of the new dwellings allowed by this permit will not be eligible for Council resident or visitor parking permits.

- **Boundary Fences**

1. This permit has been assessed only against the relevant planning controls relating to fencing in the Port Phillip Planning Scheme. Property owners rights and responsibilities for fences on a common boundary are prescribed by the provisions of the *Fence Act 1968* (refer particularly to Part 3 Procedures; Division 1, Sections 11 to 22).
2. A fence exceeding two metres in height may require a Building Permit. Please contact the relevant Building Surveyor.

- **Building Approval Required**

This permit does not authorise the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.

- **Building Works to Accord With Planning Permit**

The applicant/owner will provide a copy of this planning permit to any appointed Building Surveyor. It is the responsibility of the applicant/owner and Building Surveyor to ensure that all building development works approved by any building permit is consistent with this planning permit.

- **Due Care**

The developer must show due care in the development of the proposed extensions so as to ensure that no damage is incurred to any dwelling on the adjoining properties.

- **Days and Hours of Construction Works**

Except in the case of an emergency, a builder must not carry out building works outside the following times, without first obtaining a permit from Council's Local Laws Section:

- Monday to Friday: 7.00am to 6.00pm; or
- Saturdays: 9.00am to 3.00pm.

An after hours building works permit cannot be granted for an appointed public holiday under the Public Holidays Act, 1993.

- **Drainage Point and Method of Discharge**

The legal point of stormwater discharge for the proposal must be to the satisfaction of the responsible authority. Engineering construction plans for the satisfactory drainage



and discharge of stormwater from the site must be submitted to and approved by the responsible authority prior to the commencement of any buildings or works.

- **Other Approvals May be Required**

This Planning Permit represents the Planning approval for the use and/or development of the land. This Planning Permit does not represent the approval of other departments of the City of Port Phillip or other statutory authorities. Such approvals may be required and may be assessed on different criteria from that adopted for the approval of this Planning Permit.

- **Heritage Victoria Approval Required**

Prior to the commencement of any buildings or works allowed by this Planning Permit, the proposed buildings and works must also be approved in writing by Heritage Victoria.

- **Noise**

The air conditioning plant must be screened and baffled and/or insulated to minimise noise and vibration to other residences in accordance with Environmental Protection Authority Noise Control Technical Guidelines as follows:

- a) noise from the plant during the day and evening (7.00am to 10.00pm Monday to Friday, 9.00am to 10.00pm Weekends and Public Holidays) must not exceed the background noise level by more than 5 dB(A) measured at the property boundary
- b) noise from the plant during the night (10.00pm to 7.00am Monday to Friday, 10.00pm to 9.00am Weekends and Public Holidays) must not be audible within a habitable room of any other residence (regardless of whether any door or window giving access to the room is open).

RECOMMENDATION PART B

That Council accepts that the car parking provision for the restricted recreation facility (gymnasium) is to its satisfaction.

4. RELEVANT BACKGROUND

- 4.1 Historically, the site was part of an industrial area. It was then developed into a community hub as part of the Beacon Cove urban renewal development. This was a joint venture between the State Government and Mirvac Group in the 1990s. The site was originally developed to contain a gymnasium, child minding centre, swimming pool and tennis courts. Covenants were placed on the site during the final stage of redevelopment of the residential areas 'to protect the form of the buildings on these lots and restrict design and built form changes to those approved by Mirvac' (VCAT P764/2013, order dated 16 December 2014, paragraph 12).
- 4.2 *To manage future development in the area the council resolved in December 2011 to prepare and place on exhibition Amendment C104. This amendment emerged from the draft Port Melbourne Waterfront Urban Design Framework (UDF) which council prepared in 2010. An extensive consultation process was undertaken with the majority of the submissions relating to the future use of the subject site. Council finally resolved that a separate Urban Design Framework should be applied to both the subject site and the adjacent land at 103 Beach Street which contains the supermarket and cafes. (ibid, paragraph 18).*



- 4.3 Amendment C104 was subsequently introduced into the planning scheme on 11 June 2015. It rezoned the subject site from Comprehensive Development Zone to Mixed Use Zone, introduced and applied Design and Development Overlay – Schedule 23 and made other associated amendments to the Local Planning Policy Framework.
- 4.4 The following relevant applications have previously been considered for the subject site:

Application No.	Proposal	Decision	Date of Decision
989/2016	Construction of a ten storey mixed use building over two basement levels containing 175 dwellings and two retail premises 355m2 and a reduction in car parking requirements	Refused	14 July 2017
761/2013	Application for Council consent to vary the use of the development from the Beacon Cove Concept Plan No.1 and the Beacon Cove Precinct Plan No.1	Refused	24 September 2013
1084/2012	Application for Council consent to vary the use of the development (19 storeys) from the Beacon Cove Concept Plan No.1 and the Beacon Cove Precinct Plan No.1	Refused Appeal withdrawn	23 April 2013
1078/2012	(a) The removal of the restriction as set out on Plan of Subdivision 344341D. (b) The variation of the restriction contained in Instrument of Transfer W413729L. (c) The variation of the restriction contained in Instrument of Transfer VO74097S	Approved by VCAT (P764/2013)	30 March 2015
1370/1996	3 lot subdivision PS344341D <i>This subdivision introduced some of the easements onto the land, including the way easement</i>	Approved	15 January 1997

5. PROPOSAL

- 5.1 The application seeks a permit for the use and development of the land, to carry out works and construct a 10 storey mixed use building over two basement levels, in a shared podium and two tower arrangement, comprising dwellings, retail (shop, food and drink premises, wellness centre), a restricted recreation facility (gymnasium) and a reduction in car parking requirements.
- 5.2 The plans which are the subject of this report are those amended by way of Section 57A of the Planning and Environment Act 1987 and advertised by Council, date stamped as being received on 8 April 2021 and identified as A0003 (Rev: D), A0098 (Rev: D), A0099 (Rev: D), A0100 (Rev: D), A0101 (Rev: D), A0102 (Rev: C), A0103 (Rev: C), A0104 (Rev: C), A0105 (Rev: C), A0106 (Rev: C), A0107 (Rev: D), A0108 (Rev: D), A0109 (Rev: D), A0110 (Rev: D), A0900 (Rev: D), A0901 (Rev: D), A0902 (Rev: D), A0903 (Rev: D), A0904 (Rev: B), A0905 (Rev: B), A0950 (Rev: D), A0951 (Rev: D), A0952 (Rev: D), A0960 (Rev: D), A0961 (Rev: D), A0963 (Rev: B), A1100



(Rev: B), A1101 (Rev: B), A1600 (Rev: B), A1601 (Rev: B) and Schedule 002 – External Materials and Finishes (Rev: B).

5.3 The key parameters are as follows:

- Site area: 5,487sqm
- Podium height: 12m and 3 storeys
- Maximum height: 35m and 10 storey
- No. of dwellings: 119
- Parking spaces: 208
- Commercial floor areas:
 - Retail: 926sqm
 - Gym: 675sqm
 - Wellness centre: 306sqm

5.4 The proposed development can be generally described as follows:

- The demolition of all structures and the removal of all vegetation from the site.
- The proposed building would be characterised by a podium and tower typology, comprising commercial and residential space at ground floor and residential above along with a first floor wellness centre.
- The building footprint would reflect the shape of the subject site (the Site), which is roughly triangular, albeit a number of setbacks would be provided around the property boundary along with areas of open space and pedestrian links within the Site.
- Two areas of ground level public open space would be provided centrally within the Site, along a north-south axis; the areas would be separated by a single storey lobby/link, connecting the eastern and western portions of the building.
- A 5m wide laneway (covered by an arbor) would be provided along the western boundary, running in a north-south direction. A pedestrian link would be provided to connect the southern area of public open space with the western laneway.
- Along the southern boundary and at ground floor, the building would be setback 2m from the boundary, allowing for a widened footpath. The southeast corner of the site would be provided as a parklet. Vehicle access would be provided from Beach Street to the northwest corner of the Site.
- The podium would be three storeys in height and would reflect the footprint outlined above. Upon the podium would be two towers each reaching a height of 10 storeys; the towers would incorporate setbacks from the podium edge of 8m to 10m.
- The building would effectively be separated by the aforementioned areas of public open space, this separation would carry through all upper levels resulting in a tower separation of approximately 9.6m.

- The towers would present a tiered form, progressively stepping further back from the Waterfront Place frontage (southern elevation) with each additional storey of height; it is noted that the remaining elevations would rise vertically.
- In terms of the façade treatment, concrete and glazing would feature prominently, along with the use of feature stone (silver coloured) to the podium.
- Ground floor level would be characterised by increased floor to ceiling heights (approximately 4.7m) and full length glazing.
- The upper levels of the podium would be interspersed with recessed balconies. Balconies and terraces would also feature prominently within the towers, along with layers of canopies (expressed as overhangs from the floor slabs) and curved architectural features rising vertically up the façade.



Figure 1: Indicative appearance of the proposed development, viewed from the southeast



Figure 2: Indicative appearance of the proposed development, viewed from the southwest



Figure 3: Indicative appearance of the proposed development, viewed from the northeast

5.5 A more detailed breakdown of the proposal is provided as follows:

Basement levels

5.6 The two basement levels would collectively accommodate 208 parking spaces, 16 motor cycle spaces, garages for the townhouses, waste storage and collection, loading bays, residential storage, rainwater tanks, plant/services and lift and stair cores connecting to the upper levels.

Ground level

5.7 Vehicle access (basement ramp) would be from Beach Street, to the northwest corner of the Site, with a loading bay (including commercial waste collection) being provided near the entrance. Retail space would be provided to either side of the vehicle access, to the west the retail space would be a strip following the proposed laneway. To the south/southeast of the site would be a food and drink premises connected to a providore; the food and drink premises would open out to an alfresco area to the west. To the south/southeast would be a public gym which fronts Waterfront Place. To the northeast interface, fronting Beach Street, would be the ground floor level of a row of townhouses, all of which would be 3 storey. Located centrally within the site (connecting the two halves of the building) would be the main residential entrance/airlock, the entrance would provide access to the eastern and western residential lobby's respectively. A meeting room would be located adjacent the east-west pedestrian link and the southern area of open space, the meeting room is intended to be available for public booking. A number of other facilities would be provided including visitor and long term bike storage (including e-bike charging), a manager's office and storage.

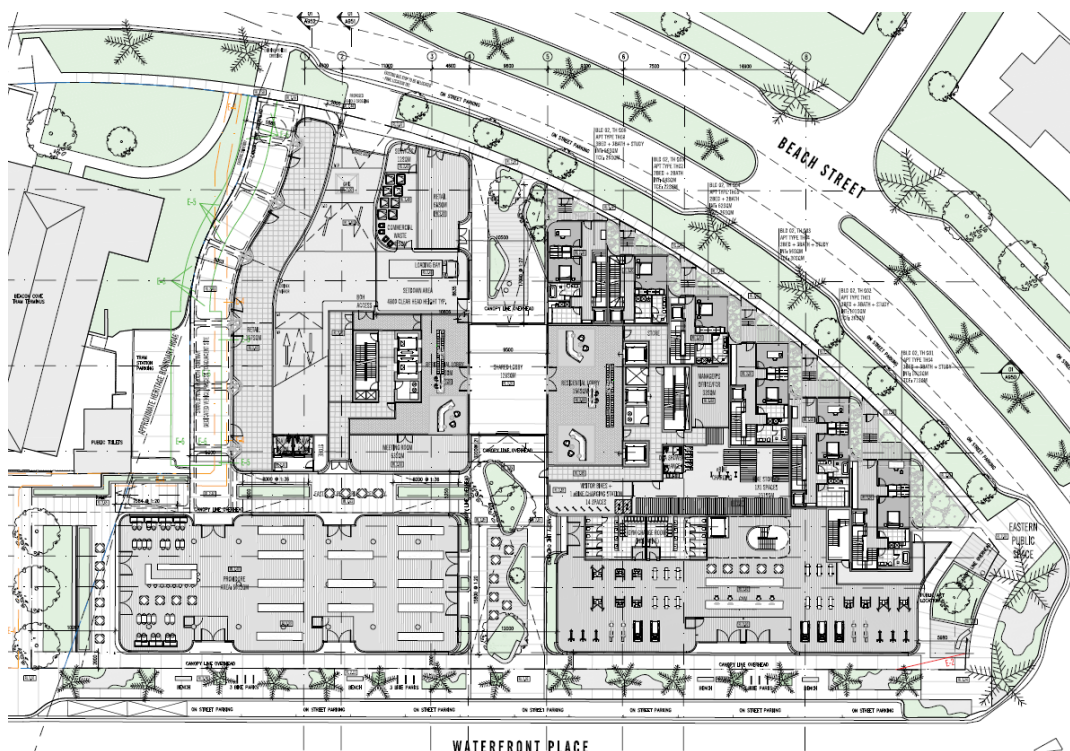


Figure 4: Proposed ground floor

First floor



5.8 First floor would include a wellness centre (connected to the ground level gym), a residential pool complex and dwellings.

Second floor

5.9 Second floor would include a residential lounge and dwellings.

Third floor and above

5.10 The upper levels would comprise dwellings.

Roof

5.11 The roof is proposed to incorporate plant, stair access and lift overruns.

Proposed uses

5.12 The proposed uses (in addition to accommodation/dwellings) include:

- Food and drink premises:
 - 7am to 11pm, Monday to Sunday
 - 150 patrons
- Retail (shops, including providore):
 - 7am to 11pm, Monday to Sunday
- Gym (restricted recreation facility) with associated wellness centre (retail)
 - 5:30am to 11pm, Monday to Sunday
 - 175 patrons

Amended Application

5.13 The plans described in section 5 of the Report were amended by way of Section 57A of the Planning and Environment Act 1987. The amendments are sought to address concerns raised by Council officers along with certain objector concerns, the key changes are summarised as follows

- Pavilion building shifted to adjoin the main building
- Increased retail space
- Removal of public toilets
- Increased parking provisions, from 196 to 208 spaces
- Reduction in number of dwellings (from 122 to 119 dwellings) and change to unit size mix
- Increased tower setback from western boundary
- Slight reduction to width of towers
- Introduction of changing and shower facilities to the gym



6. SUBJECT SITE AND SURROUNDS

<p>Width, length and site area</p>	<p>The Site is irregular in shape and can be described as roughly triangular; it is bound by Waterfront Place to the south and Beach Street to the northeast, on an oblique.</p> <p>The Site has the following approximate dimensions:</p> <ul style="list-style-type: none"> - 115m frontage to Waterfront Place - 110m frontage to Beach Street - 70m maximum width (measured north to south, toward the western portion of the Site). <p>The total site area equates to 5,487sqm.</p>
<p>Slope of land</p>	<p>The Site is relatively flat.</p>
<p>Existing buildings</p>	<p>There are single and double storey brick buildings within the eastern portion of the Site.</p> <p>Two tennis courts are still visible within the western portion of the Site.</p> <p>The site was previously used as a child care centre and gym, including the aforementioned tennis courts and an indoor pool. Some of the previous structures have been removed from the Site.</p>
<p>Existing vegetation</p>	<p>A number of trees and other vegetation are spread across the Site.</p> <p>Tree 48 (as per the submitted Arboricultural Assessment), an <i>Agonis flexuosa</i>, is onsite and 'significant' under local law. The remaining trees onsite are not significant. None of the onsite trees are considered to have high retention value.</p> <p>Surrounding the Site are a number of mature street trees providing a positive contribution to the local character.</p>
<p>Site interfaces</p>	<p><u>West</u></p> <p>The immediate interface to the west is the Tram 109 (Beacon Cove/Light Rail) terminus; this area is provided as pedestrian friendly open space and landscaping.</p> <p>Also to the west is the Port Melbourne Railway Station building which is a registered heritage place under the Heritage Act 2017 (expanded upon later in the Report, in the comments provided by Heritage Victoria); the building is brick, single storey and used as a medical centre; the immediate interface with the Site is a parking area.</p> <p>Further to the west at 103 Beach Street, is a two storey building used as a supermarket and offices. The site has a planning permit approval for a 4 storey building with commercial at ground floor and residential above.</p> <p><u>South</u></p> <p>The immediate interface to the south is Waterfront Place.</p> <p>Beyond Waterfront Place to the south are the Port Melbourne Beach and foreshore, Station Pier (serving the Spirit of Tasmania, cruise ships, navy vessels and other ships) and with associated parking/storage areas and a public car park.</p> <p><u>North/north east</u></p>


	<p>The immediate interface to the northeast is Beach Street.</p> <p>Beyond Beach Street to the north/northeast are detached, two storey dwellings.</p> <p><u>East</u></p> <p>The immediate interface to the east is a roundabout which forms the junction of Waterfront Place, Beach Street and Princess Street. Beyond which, at 92 Beach Street (former London Hotel site) and 2-4 Princess Street, an 8 storey building is under construction including a hotel/tavern and apartments.</p>
<p>Scale, height and style of buildings on neighbouring properties</p>	<p>North of the Site the building scale is predominately two and three storey.</p> <p>Building scale steps up where fronting the foreshore. Fronting the foreshore and to the west of the Site, are a number of tall buildings ranging from 11 to 13 storeys.</p> <p>Fronting the foreshore and to the east of the Site are buildings up to 8 storeys, including the building (former London Hotel) under construction at 92 Beach Street and 2-4 Princess Street which has approval for 8 storeys.</p>  <p>Figure: Building height context</p>
<p>Proximity to Public Transport, PPTN and any relevant parking controls</p>	<p>The Site is within the Principal Public Transport Network area (PPTN).</p> <p>Tram 109 is immediately adjacent to the Site, which provides a direct, 20 minute, route to Flinders Street Railway Station, which in turn provides access to the wider city in all directions.</p> <p>Tram 109 also provides connections (prior to Flinders Street Station) to Tram 96, providing access south to Middle Park and St Kilda.</p> <p>Bus 236 travels in both directions along Beach Street. Bus routes 234, 606 and 235 are also within comfortable walking distance.</p> <p>Bicycle paths are present along Beach Street, providing cycle access along the foreshore.</p>



Figure 5: Aerial of the Site, viewed from the south, looking north (accessed from nearmap on 27/04/2021)



Figure 6: Aerial of the Site and surrounds, viewed from the south, looking north (accessed from nearmap on 28/04/2021)



Figure 7: Aerial of the Site and wider context, viewed from the south, looking north (accessed from nearmap on 27/04/2021)

7. RELEVANT EXCERPTS OF DESCRIPTION IN PORT PHILLIP DESIGN MANUAL VERSION 3 2000

The Site is within area 78, the character description within the design manual is dated, noting it dates back to the year 2000 and as there has been considerable development since this time. However, while dated, the description remains relevant in relation to the land to the north of the Site along with providing insights into the emerging character of the area:

Description of the character of the area:

The area is characterised by a relatively undeveloped strip of foreshore, the light rail line passing through the area and terminating at Station Pier, and the strong blend of old and new architectural forms. These include a block of post-war public housing between Barak and Beacon Roads, a strip of Victorian houses along Swallow Street and a public housing estate off Princes Street. The balance of the area is currently being developed as a series of private housing estates.

The most recent private developments are typically two storey attached courtyard houses with lavish public landscape areas and no front boundary definition. They also include communal recreation and open space facilities developed and maintained to a high standard and subdivision layouts designed to deter through traffic.

There are limited shops and community services in the area with the result that trips to these facilities are generally by car.

8. TITLE INFORMATION

8.1 1 Waterfront Place, Volume 10330 Folio 311, known as Lot 3 on Plan of Subdivision 344341D (parent titles Volume 10278 Folio 866 and Volume 10303 Folio 102). It is affected by covenants V074097S and PS344341D which are discussed below. It is also affected by several easements:

- E-2: Sewerage; south east corner.



- E-4: Powerline; west boundary.
 - E-5: Powerline; west boundary.
 - E-5 and E-6: Way and drainage; west boundary.
- 8.2 7 Waterfront Place, Volume 10612 Folio 922, known as Lot 2 on Plan of Subdivision 344341D (parent title Volume 10330 Folio 310). It is affected by covenant W413729L as well as several easements:
- E-4: Powerline; western portion of Site.
 - E-5: Powerline; western portion of Site.
 - E-7: Drainage with accompanying rights for erection and maintenance of eaves and guttering; between lots 2 and 3 (centrally within the Site).
- 8.3 Covenant V074097S (5/11/1997): In brief, this covenant restricts the following, except with the written consent of Mirvac: demolition, improvement, or construction of any buildings and works (including external painting/ external alterations) unless in accordance with plans prepared by Mirvac’s Architects; the drying or airing of laundry; the erection of signs unless specific requirements are met; the hours of use of the tennis courts.
- 8.4 Covenant PS344341D (29/05/1997): In brief, this covenant restricts the following, except with the written consent of Mirvac: demolition, improvement, or construction of any buildings and works (including external painting/ external alterations) unless in accordance with plans prepared by Mirvac’s Architects; the drying or airing of laundry; the erection of signs unless specific requirements are met; the hours of use of the tennis courts.
- 8.5 Covenant W413729L (17/11/1999): In brief, this covenant restricts the following, except with the written consent of Mirvac: demolition, improvement, or construction of any buildings and works (including external painting/ external alterations) unless in accordance with plans prepared by Mirvac’s Architects; the drying or airing of laundry; the erection of signs unless specific requirements are met; subdivision and the use as a dwelling or accommodation.
- 8.6 Consideration of the easements and covenants are discussed later in the Report, at section 13.9.

9. PERMIT TRIGGERS

9.1 The following controls apply to the site, with planning permission required as described.

Zone or Overlay	Permit trigger
<p>Clause 32.04 Mixed Use Zone</p>	<p>Clause 32.04-2 states that a permit is required for Section 2 uses:</p> <ul style="list-style-type: none"> • ‘Food and drink premises’ are a Section 2 use where the leasable floor area exceeds 150sqm. • ‘Shops’ (provider) are a Section 2 use where the leasable floor area exceeds 150sqm • ‘Retail premises’ (including wellness centre) are listed as a Section 2 use. • ‘Leisure and recreation’, which includes ‘Restricted recreation facilities’ (gym), is listed as a Section 2 use. <p>As per Clause 32.04-2, dwellings are Section 1 uses thus they do not require a permit. The meeting room is considered to be ancillary to the dwellings.</p>



	<p>Clause 32.04-6 states that a permit is required to:</p> <ul style="list-style-type: none"> Construct two or more dwellings on a lot. <p>Clause 32.04-9 states that a permit is required to:</p> <ul style="list-style-type: none"> Construct a building or construct or carry out works for a use in Section 2.
<p>Clause 43.02 Design and Development Overlay (DDO23)</p>	<p>Clause 43.02-2 states that a permit is required to:</p> <ul style="list-style-type: none"> Construct a building or construct or carry out works.
<p>Clause 43.01 Heritage Overlay (HO46)</p>	<p>Clause 43.01-3 states that no permit is required:</p> <ul style="list-style-type: none"> To develop a heritage place which is included in the Victorian Heritage Register <p>Note: The Heritage Overlay which affects a portion of the Site is HO46 (Port Melbourne Railway Station) which is included on the Victorian Heritage Register under the Heritage Act 2017</p>
<p>Clause 42.01 Environmental Significance Overlay (ESO4)</p>	<p>Clause 42.01-2 states that a permit is required to:</p> <ul style="list-style-type: none"> Construct a building or construct or carry out works, where the building is associated with accommodation (amongst other uses). <p>As per Schedule 4 of the ESO, a permit is not required to remove, destroy or lop any vegetation, including dead vegetation.</p>
<p>Clause 45.03 Environmental Audit Overlay (EAO)</p>	<p>There is no permit requirement under the EAO; however, pursuant to Clause 45.03-1, the following requirement is relevant:</p> <p><i>Before a sensitive use (residential use, child care centre, pre-school centre or primary school) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, either:</i></p> <ul style="list-style-type: none"> <i>A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or</i> <i>An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.</i>
Particular provision	Permit trigger
<p>Clause 52.06 Car Parking</p>	<p>Clause 52.06-3 states that a permit is required to:</p> <ul style="list-style-type: none"> Reduce the number of car parking spaces required under Clause 52.06-5.

10. PLANNING SCHEME PROVISIONS

10.1 State Planning Policy Frameworks (SPPF)

The application needs to be assessed against the state provisions of the PPF, including:



- Clause 11: Settlement
- Clause 12: Environmental and Landscape Values
- Clause 13: Environmental Risks and Amenity
- Clause 15: Built Environment and Heritage
- Clause 16: Housing
- Clause 17: Economic Development
- Clause 18: Transport
- Clause 19: Infrastructure

10.2 Local Planning Policy Framework (LPPF)

The Municipal Strategic Statement (MSS) contains a number of clauses which are relevant to this application as follows:

- Clause 21.03 Ecologically Sustainable Development
 - Clause 21.03-1 Environmentally Sustainable Land Use and Development
 - Clause 21.03-2 Sustainable Transport
- Clause 21.04 Land Use
 - Clause 21.04-1 Housing and Accommodation
 - Clause 21.04-5 Public Open Space and Foreshore
 - Clause 21.04-6 Tourism and the Arts
 - Clause 21.04-8 Social Impact Assessment
- Clause 21.05 Built Form
 - Clause 21.05-1 Heritage
 - Clause 21.05-2 Urban Structure and Character
 - Clause 21.05-3 Urban Design and the Public Realm
 - Clause 21.05-4 Physical Infrastructure
- Clause 21.06 Neighbourhoods
 - Clause 21.06-4 Port Melbourne and Garden City
- Clause 21.07 Incorporated documents
 - Port Phillip Heritage Review (2020)
 - Sustainable Transport Framework (2004)
 - Port Phillip Housing Strategy (2007)
 - Port Phillip Design Manual (2000)
 - Design Guidelines 1-7 Waterfront Place, Port Melbourne (2014)

The application also needs to be assessed against the following clauses of the LPPF:

- Clause 22.04 Heritage Policy



- Clause 22.06 Urban Design Policy for Non - Residential Development and Multi – Unit Residential Development
- Clause 22.12 Stormwater Management (Water Sensitive Urban Design)
- Clause 22.13 Environmentally Sustainable Development

10.3 Other relevant provisions

- Clause 52.06 Car Parking
- Clause 52.34 Bicycle Facilities
- Clause 53.18 Stormwater Management
- Clause 58 Apartment Developments
- Clause 65.01 Decision Guidelines – Approval of an Application or Plan
- Clause 71.02 Operation of the Planning Policy Framework

10.4 Relevant Planning Scheme Amendment/s

There are no planning scheme amendments relevant to this application.

11. REFERRALS

11.1 External referrals

Referral Authority	Referral comments (summarised)
<p>Office of the Victorian Government Architect (OVGA) and Victorian Design Review Panel (VDRP)</p>	<p>It is noted that the comments were provided prior to the submission of amended plans (S57A), the comments are summarised as follows (with the full comments provided as an attachment):</p> <p>Elenberg Fraser (architect) and Tract (landscaping) presented the scheme to the Victorian Design Review Panel (VDRP), which was facilitated by the Office of the Victorian Government Architect (OVGA), on 10 December 2020.</p> <p>The VDRP considered the scheme to be a generally well-conceived, coherent design that would be responsive to the maritime character, site constraints and planning framework.</p> <p>The 3 storey podium height and 2m setback to Waterfront Place provides a pedestrian friendly interface. Pedestrian links serve to breakdown the frontage into distinct segments and the proposal adopts the preferred 10m tower separation.</p> <p>The proposed stepped and curved form responds well to Beach Street and Waterfront Place. The required mandatory tower setback to the west is in contention (Council interpretation is 8m from ground level setback, applicant interpretation is 8m from boundary); regardless, the 5m podium setback and 8m tower setback results in acceptable massing to the western interface.</p> <p>The massing appears to follow the requirements of the DDO and minimise overshadowing to the waterfront, albeit reduced shadow would be preferable.</p> <p>The tram terminus and pedestrian crossing to Waterfront Place indicate strong desire lines for movement along the west of the site. Aspects of the public realm response require more generosity; the journey from</p>



Beach St is compromised by the Council leased toilets (the VDRP would support their removal) and proposed bollards to the western lane; bollards should be arranged coherently away from the building or removed entirely, with differing pavement material used to denote a shared (vehicle and pedestrian) accessway.

The DDO requirement of a direct and clear line of sight for the western laneway is hindering a better urban design outcome. The separated annex (pavilion) building does not align with any particular feature and comes at the cost of a more generous north-south link, it would necessitate the wind break lobby and obscure views to the public toilets and heritage building. There is a case for providing a 'direct' link based on origin and destination rather than a straight line which would support moving the annex building east, hard up against the central building, providing a kinked but more generous link which aligns with the existing crossing point. The benefits would allow more space for the café to open out toward the tram stop, enlarging the perception of public space to the west with less encroachment into the Heritage Overlay.

The design must work harder to achieve a better public experience to the public spaces and links, to ensure suitable levels of activation and to foster desirable and safe spaces. The western façade to the north-south link is sub-optimal, the public toilets need to be resolved and a 1:50 elevation should be provided to interrogate the fine grain detailing at street level and investigate improved depth and tactility. The 5m canopy (acknowledged it is in part for wind protection) inhibits passive surveillance, connection to the sky, legibility and a sense of public space; if the wind impacts can be mitigated in other ways the canopy should be reduced from a pedestrian experience perspective; a slimmer profile would also work better in terms of its proportions in relation to the podium. An opportunity exists to improve the space in the 'elbow', north of the annex to develop place making; use and visibility from the annex would provide passive surveillance and opportunities to open out to this north facing space. While outside the scope of the proposal the VDRP would recommend removing the Council leased toilets, improving view line and opening and activating the space to the rear of the heritage building. Incorporating public toilets within the development is supported, as is the option for providing public toilets elsewhere such as the foreshore (also outside the scope of the proposal). To the east, the small pocket park would benefit from improved interaction with the ground floor uses, reduced paving, deep soil planting and to capitalise on the easterly aspect over the beach and water.

The arrangement of the ground floor is well designed to accommodate a range of uses and has capacity to adapt over time. The uses offer an appropriate mix that will improve and activate this end of the promenade. The gym and emergency egress to the eastern edge is perhaps less desirable to the highly visible corner; ensuring visually permeable frontages is critical. It may not be commercially viable to have retail facing all public interfaces, thus on balance the art gallery and meeting rooms are acceptable.

The basement parking is supported. The vehicle access from Beach Street, services within the basement and bookending with the gallery and retail spaces reduces the impact of parking and services on the public realm.



	<p>The building form has resulted in some apartments to be irregularly shaped and with overly deep floor plans, but the layouts are generally acceptable.</p> <p>The architectural expression is resolved and works well in the maritime context. The form has an air foil like quality, achieving a contemporary nautical look. The curves are successful in breaking up the façade and could be used more to the western elevation. The high level of glazing provides a lightness to the upper levels. Solid sections could be introduced to the podium to anchor the building to the ground and improve tactility. The simple material palette of concrete and glazing creates an enticing composition.</p> <p>The intention and direction of the landscaping is generally sound although more deep planting is needed.</p> <p>Concern with wind impacts to the balconies facing the building separation zone achieving ‘walking criterion’; and, the east-west link being advised not to be activated due to wind impacts. Accepting ‘walking criterion’ is a low bar for courtyards/public space, ‘seating criterion’ should be achieved for at least one public space. The airlock between the towers may be required to mitigate wind impacts but it has implications in terms of the perception of publicness and accessibility, if alternate mitigation measures are found it would be preferable for this space to be open.</p> <p>While the slab overhangs provide some shading, it is questioned whether they will be sufficient, it would be preferable to provide additional secondary shading. A development of this prominence should achieve design excellence in sustainability (70% BESS) rather than best practice (50% BESS).</p> <p>Planning Officer response:</p> <p>The VDRP were broadly supportive of the proposal albeit provided advice/direction on detailed design matters. The amended (S57A) plans are considered to respond well to the VDRP comments. The changes as they relate to the VDRP comments included shifting the pavilion building to adjoin the main building, improving the pedestrian experience along the western laneway (increased activation, arbor, removal of bollards, removal of public toilets) and providing external shading to apartments.</p>
<p>Department of Transport (Section 55)</p>	<p>No objection subject to conditions.</p> <p>The required conditions relate to the relocation of the bus stop, the submission of detailed plans, timing of works and costs.</p> <p>Planning Officer response:</p> <p>The required conditions would be included on any permit that issues.</p>
<p>Heritage Victoria (Section 52 – notice)</p>	<p><u>Heritage Victoria’s initial comments (provided prior to the submission of amended plans (S57A) are provided verbatim as follows:</u></p> <p>“The south west section of the proposed area to be developed at 7 Waterfront Place, sits partially on land that forms part of the extent of registration at the Port Melbourne Railway Station which is a registered heritage place under the <i>Heritage Act 2017</i>. Within this part of the development site, the building that will sit partially within the extent of registration of the Port Melbourne Railway Station is proposed to consist</p>



of a ground floor food & beverage tenancy, first floor residents pool, second floor resident's lounge and green rooftop. The building is connected by a walkway to the multi-level developed on its eastern side at both ground and first floor level.

The former Port Melbourne Railway Station building is of architectural and historical significance to the State of Victoria. It is historically significant by association with the first public steam railway in Australia, and with the development and use of the Port Melbourne piers. The building played an important role in the history of the piers, in particular Station Pier, and in the social history of Melbourne through its association with the popular bay excursion trade. The former Port Melbourne Railway Station building, which was rebuilt at a time when the function of the piers was expanding, is significant in demonstrating a critical change in the maritime activity of the Bayside area. Its significance is further enhanced by the fact that, unlike the piers, it has not been dramatically altered throughout the twentieth century.

It is acknowledged that the proposal does not include a physical connection between the proposed pool building and the Port Melbourne Railway Station. However, given the height and placement of the proposed building in the south east corner of the extent of registration of the heritage place, it partially obscures the Station Building from the south elevation. This is likely to result in harm to the cultural heritage significance of the place, especially that of the setting and historical connections with Station Pier. It is preferable that the proposed structure be removed from the extent of registration of the Port Melbourne Railway Station to maintain the visual connection between the Pier and Railway. As harm has been identified, if the applicant wishes to proceed with the design as presented, they should address s101(2)(b) of the *Heritage Act 2017* where in determining whether to approve an application for a permit the **Executive Director** must consider the extent to which the application, if refused, would affect the reasonable or economic use of the registered place or registered object.

As a section of the development of 1-7 Waterfront Place falls within the extent of registration for a place on the Victorian Heritage Register, approval will therefore be necessary for the works proposed on the registered land by means of a permit under the *Heritage Act 2017*. This is consistent with advice Heritage Victoria previously provided to the City of Port Phillip in March 2017 (ref: P26421) for Planning Permit Application 989/2016 at 1-7 Waterfront Place Port Melbourne.

Please note that the above officer comments are provided to assist in your further consideration of options for the place. They should not be construed as either approval or refusal of the proposal as it currently stands. A decision on the merits of a finalised proposal can only be provided once a permit application has been fully tested through the permit processes under the *Heritage Act 2017*."

Following the submission of the amended (S57A) plans, Heritage Victoria provided additional comment, provided verbatim as follows:

"The Planning Permit Application for 1-7 Waterfront Place seeks to construct a multi-level mixed use development. It is noted that the proposal has been amended to remove the built form from Levels 00, 01, 02 and 03 that fell within the extent of registration for the Port Melbourne



	<p>Railway Station and this amendment is generally supported by Heritage Victoria.</p> <p>The south west section of the proposed area to be developed at 7 Waterfront Place, includes works (Basement 1, Basement 2 and Level 00) within the extent of registration of the Port Melbourne Railway Station which is a registered heritage place under the Heritage Act 2017.</p> <p>Approval will therefore be necessary for the works within the extent of registration by means of a permit under the Heritage Act 2017. Please note that the above officer comments are provided to assist in your further consideration of options for the place. They should not be construed as either approval or refusal of the proposal as it currently stands. A decision on the merits of a finalised proposal can only be provided once a permit application has been fully tested through the permit processes under the Heritage Act 2017.”</p> <p>Planning Officer response:</p> <p>Following the submission of amended plans (S57A), the pavilion building has been shifted to the east such that it would now sit outside of the heritage overlay, which appears to meet the requirements of Heritage Victoria. It is noted that there would still be components of the development within the Heritage Overlay, such as the basement, paths and planters; ultimately, any development within the heritage overlay will require a separate permit under the Heritage Act 2017; this is a matter between the developer and Heritage Victoria.</p>
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11.2 Internal referrals

The application was referred to the following areas of Council for comment. It is noted that multiple referrals were undertaken relating to various iterations of the proposal, the responses received are summarised below, as they relate to the current iteration of the proposal:

Internal Department/Officer	Referral comments (summarised)
Urban Design Advisor	<p>Council’s Urban Design Advisor reviewed the proposal, their comments are summarised as follows:</p> <p>The S57A April 2021 plan amendments generally address the larger design issues previously identified. However, the following detailed design and documentation issues need to be addressed before the proposal can be considered to achieve the very high standard of architectural design required for this significant gateway site.</p> <p>The main issues identified below have all been previously raised, including in the earlier referral advice of January 2021 and the December 2020 review by the Office of the Victorian Government Architect (OVGA) Victorian Design Review Panel (VDRP).</p> <p><u>Landscape</u></p> <p>Consistency is required across the development plans and landscape plan. The landscape plan does not provide sufficient detail and it must cover ground level to the second floor level. Parts of the landscaping</p>



	<p>create pinch points and disrupt desire lines to the pedestrian movements.</p> <p>In the central laneway, planter boxes could be better arranged to provide privacy buffer to Townhouse 6 bedroom and bathroom and a softening element to the Loading bay wall.</p> <p>Outdoor public area to west of cafe will be very exposed in summer months and so shade and shelter solutions should be integrated with design, such as:</p> <ul style="list-style-type: none">- Canopy tree planting, or- Introduction of a pergola. <p><u>Western N-S Link</u></p> <p>The revised canopy/pergola structure provides some increased sense of openness compared to the previous solid design, but the low height and broad width would reduce the public character, surveillance and sense of openness. Therefore, it is desirable to reduce the canopy's width. A small section of solid awning may better protect building edge conditions.</p> <p>To mark space as a shared accessway, suitable details of pavement material need to be provided.</p> <p><u>Sightlines & Circulation</u></p> <p>The pedestrian laneway to the northwest corner of cafe creates a pinch point for circulation and restricts the required DDO sightline down to a single point. The landscape plan further reduces path width due to depth of planter boxes. Therefore, more 'opening up' of this corner is required – which could be achieved by angling the ground floor wall to match the alignment of the upper levels. This would also increase the sheltered outdoor dining area.</p> <p>Resolving the circulation and sightline issue would remove the need for the 5m wide dedicated internal circulation space currently shown between cafe and providore areas, which is less practical as a public thoroughfare and also subject to adverse wind impacts. Retaining sightlines through transparent windows on each side of the cafe remains desirable.</p> <p><u>Ground Floor Facades</u></p> <p>Ground level facades should be finessed to support activity of the adjacent public spaces:</p> <ol style="list-style-type: none">1. Full height glazing is shown along the length of the building edge to all ground floor frontages, which is considered a poor response. As discussed by VDRP, it is recommended that solid sections of wall be included at the base to better anchor the building to the ground and provide a more tactile interface to shopfronts. A 1:50 scale elevation / section would demonstrate this design response.
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2. For the active uses adjoining streets and laneways, providing more sections of opening windows, serveries and doors to improve public realm interface.
3. Full height glazing is shown to ground floor service and private areas, such as the Loading Bay and Townhouse 6 ground floor bedroom and bathroom. Plastic privacy films are a very poor outcome, so more durable solutions such as high-level windows and solid sections of walling are required.

Eastern Public Space

The quality of this public space is compromised by limited interaction with ground floor uses and the extensive paving (as shown on architectural plans), therefore please provide

1. Small seating area(s), with deep soil plantings and less paving
2. Details of artwork
3. If possible, provide a permeable building edge or a smaller tenancy with direct access to the corner.

Wind Impacts

Updated wind assessment is required, which may trigger further design refinements to ensure that wind impacts are appropriately managed in the design at street level and balcony spaces, including:

1. achieving a seating criterion for at least one of the public spaces.
2. single aspect apartments facing into the central laneway, including mid-level balconies. As noted below, external operable shutters may ameliorate wind impacts and privacy interface in these locations.
3. refining design of doorways and air locks to functionally improve public circulation and mitigate harmful wind effects. This is important for the perception of publicness and accessibility.

Environmentally Sustainable Design

The proposed achievement of a 70% BESS rating representing excellence is supported as demonstrating design excellence.

Flood resilient design and equitable access

Access to the Gym, Provedore and Cafe include large internal landings and steps, with platform lifts also shown on plans. Given the small height difference, a short ramp would provide more equitable and dignified access than a platform lift. Ramps are also less expensive to both install and maintain, are quicker for people to use, and more reliable because they never break down.

The Gym floor level and/or doorway locations could be further improved to provide level access from at least one frontage i.e. current layout requires steps *up* from the street but steps *down* from the central laneway.

Tower: additional external shading + glazing

The slab projections will not achieve enough shading given the extensive amount of glazing oriented east, north and west. A small number of



shade panels have been added to the western facade, which is a modest aesthetic and functional improvement, however:

1. details of panel 'operability' are unclear: do the panels slide or contain louvres?
2. to improve building performance, the number of shade panels could be increased to the western facade and also added to the eastern and northern facades.

Large areas of unshaded glass will detrimentally affect the building's presentation, amenity and sustainability. For example, triggering building code requirement to decrease the Visual Light Transmittance of clear windows into dark tinted glass would change the building's appearance, reduce activation of public areas and decrease the daylight amenity of all internal areas.

Plan and Facade Coordination & Detailing

Details of external window and door openings are currently unclear, so need to be resolved and clearly documented. This is important because they will affect the appearance of the building and because they are required for compliance with amenity and sustainability standards. For example:

1. Balconies and Wintergardens: details of balustrades and openings are unclear and inconsistent e.g. Wintergarden detail 03 on drawing A1100 shows no balustrade, opening sliding door or waterproof balcony area. Similarly, detail 04 on drawing A1160 indicates balustrade but no other relevant details.
2. Openable windows (type, size and location) are not shown in elevations, in floor plans or in renders.
3. Spandrel panel detail is included detail 03 on drawing A1160 but location on elevations and plans is unclear.

Better Apartment Design Standards

While no full or detailed BADS (Clause 58) review has been undertaken as part of this referral, it is apparent that some apartments have irregular and/or unresolved layouts that makes their interiors and balconies fall short of the amenity standards, despite claiming full compliance in the accompanying self-assessment. For example, circulation and living area dimensions in Building 01 Apartments 105 & 205. However, in most cases it appears that these shortfalls can be fully remedied with relatively minor internal revisions.

Space and screening for mechanical services (such as hot water units and air conditioners) are not included on balconies. It is important that these services are not permitted on balconies and that they are accommodated elsewhere in suitably screened locations. With the rooftop plant space being very restricted in area, this is an important coordination issue.

Residential interface between dwellings



The following residential interface between dwellings could be better resolved:

1. On levels 1 and 2, the apartments directly facing each other across the central laneway have a primary balcony to primary balcony interface of less than 12m. Operable screens may improve privacy interface as well as ameliorate wind impacts.
2. The Beach St townhouses have interface issues between separate dwellings. To resolve this issue, either: modify east facing windows (size, position) and/or adding external privacy and sun shade screens to the eastern windows.

Planning Officer response:

Regarding shading to the alfresco area, this area is predominantly covered by the upper floor building overhang, which is considered to be adequate.

With regard to a chamfered corner to the northwest of the food and drink premises, this is not considered to be necessary for the reasons outlined within the DDO assessment, at Section 13.4 of the Report. Ultimately, the laneway is considered to achieve suitable way finding, sightlines and pedestrian movements.

With regard to reducing the width of the arbor/canopy over the north/south laneway, this is not considered to be necessary noting the structure is largely open. Reducing the width would result in an uncomfortable relationship with the walkway below (out of alignment) and would reduce the 'openness' of the structure.

With regard to Clause 58 (BADS), an assessment is provided at section 13.11 of the Report.

In accordance with the Urban Design advice, the following conditions are recommended:

- An updated and more detailed landscape plan
- Provide details of the materials to the north/south lane to mark it as a shared surface
- A detailed 1:50 scale elevation to all ground floor commercial frontages and to include a solid section of wall at the base to better anchor the building and improve tactility
- Improved western interface to Townhouse 6 including privacy measures to windows and an extension/reconfiguration to the abutting planter, to create defensible space adjacent to the bedrooms and bathroom
- Seating provided to the eastern 'parklet'
- An updated wind assessment report
- Internal disabled ramp access to the southern entrances of the food and drink premises, providore and gym
- Details, including operability, of external shading to the east and west elevations; including introduction of shading to the east elevations.
- Detail which windows are openable on the floor plans.
- Clearly detail which balconies are to be winter gardens; any method of enclosing winter gardens must be glazing or



	<p>screening which allows light penetration and fully openable (full height and across the full width of the balcony).</p> <ul style="list-style-type: none"> - No mechanical plant to be permitted on balconies/terraces - Provide appropriate privacy measures to the east facing windows of the townhouses, to protect their own privacy and also limit overlooking to adjoining townhouses.
<p>Strategic Planner</p>	<p>Council's Strategic Planner reviewed the application with regard to compliance with DDO23.</p> <p>Initial concerns were raised with regard to:</p> <ul style="list-style-type: none"> - The mandatory 2m setback to Waterfront Place. - The mandatory 8m setback to the towers. - Discretionary requirements relating to public access and pedestrian linkages. - Discretionary (winter) overshadowing. <p>Following the submission of amended plans (S57A) Council's Strategic Planner opted not to provide further detailed comments, noting that the plans appeared to address the previous concerns.</p> <p>Planning Officer response:</p> <p>Noted. A full assessment against the DDO is provided at section 13.4 of the Report.</p>
<p>Arborist</p>	<p>Council's Arborist commented as follows:</p> <p>Tree 48 (as numbered in the report), an <i>Agonis flexuosa</i> on the western side of the site, has measurements in excess of the minimum required for protection under Local Law. The tree may not be removed without a Significant Tree Removal permit.</p> <p>The remaining trees listed for removal to facilitate the development are not considered Significant by Council's Local Law. Removal of the remaining onsite vegetation to facilitate the development can be completed without a permit.</p> <p>An Arboricultural Impact Assessment report is required for review. The report must be prepared by a suitably qualified Arborist (AQF level 5 or equivalent) and include:</p> <ul style="list-style-type: none"> • Trees on neighbouring properties with TPZs that fall within the subject site, • The nature strip tree(s) adjacent the property. <p>Should the report find that any works encroach into 10% or more of the Tree Protection Zone, or into the Structural Root Zone of any tree, and the design cannot be modified to reduce the incursion, then a non-destructive root investigation (NDRI) must be conducted and documented, with a root map to show the location, depth and diameter of all roots found along the line of the proposed works. The findings, photographs and recommendations should be presented in the impact assessment report.</p> <p>Planning Officer response:</p> <p>The removal of all vegetation from the Site, including Tree 48 (<i>Agonis flexuosa</i>), is supported noting the strategic justification for the</p>



	<p>development (outlined in the following sections of the Report). The applicant is aware of the requirement to obtain a local laws permit.</p> <p>Conditions are recommended on any permit that issues which would require an Arboricultural Impact Assessment to demonstrate offsite trees will not be unduly impacted.</p>
<p>Environmentally Sustainable Development</p>	<p>Council’s Sustainable Design Advisor has reviewed the application, including the submitted Sustainable Management Plan. Following the submission of the amended plans (S57A) together with an additional ESD Memo, Council’s Sustainable Design Advisor confirmed that the ESD response was acceptable, subject to the following conditions:</p> <p><u>Updated Sustainable Management Plan</u> Concurrent with the endorsement of plans, a revised Sustainable Management Plan must be submitted to, be to the satisfaction of and approved by the Responsible Authority. The revised Sustainability Management Plan must be generally in accordance with the ESD design memo ‘Further Initiatives to BESS Excellence’ that commits to at least a 70% BESS score for the development but modified to be consistent with items specified in condition 1 of this permit. When approved, the Plan will be endorsed and will then form part of the permit and the project must incorporate the sustainable design initiatives listed.</p> <p><u>Implementation of Sustainable Design Initiatives</u> Prior to the occupation of any building approved under this permit, the provisions, recommendations and requirements of the endorsed Sustainability Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.</p> <p><u>ESD Implementation Report</u> Prior to the occupation of any building approved under this permit, a report (or reports) from the author of the Sustainability Management Plan (SMP), approved under this permit, or similarly qualified person or company, must be submitted to the satisfaction of the Responsible Authority and must confirm all measures specified in the approved SMP and WSUD report have been implemented in accordance with the approved plans.</p> <p><u>Incorporation of Water Sensitive Urban Design initiatives</u> Prior to the occupation of any dwelling/building approved under this permit, the provisions, recommendations and requirements of the endorsed Water Sensitive Urban Design Report must be implemented and complied with to the satisfaction of the Responsible Authority.</p> <p><u>Construction Management Water Sensitive Urban Design</u> The developer must ensure that throughout the construction of the building(s) and construction and carrying out of works allowed by this permit:</p> <ol style="list-style-type: none"> a) No water containing oil, foam, grease, scum or litter will be discharged to the stormwater drainage system from the site; b) All stored wastes are kept in designated areas or covered containers that prevent escape into the stormwater system;



	<p>c) The amount of mud, dirt, sand, soil, clay or stones deposited by vehicles on the abutting roads is minimised when vehicles are leaving the site.</p> <p>d) No mud, dirt, sand, soil, clay or stones are washed into, or are allowed to enter the stormwater drainage system;</p> <p>e) The site is developed and managed to minimise the risks of stormwater pollution through the contamination of run-off by chemicals, sediments, animal wastes or gross pollutants in accordance with currently accepted best practice.</p> <p><u>Specific conditions to support design excellence</u></p> <p>Prior to the issue of a Statement of Compliance, electrical plans must be submitted to the responsible authority showing that the whole development will be serviced by an embedded network. Within one month of the first owners' corporation meeting required under the Owners Corporations Act 2006, a copy of the executed contract with the Embedded Network Operation, confirming that all electricity supplied to the entire development will be 100% accredited Green Power (or equivalent 100% renewable energy generation), must be submitted to Council. As per the memo 1 Innovation credit has been assigned in BESS on the provision that this condition is satisfied.</p> <p><u>Items required to be shown on plans, pursuant to condition</u></p> <p>Full details of operable external shading devices to east and west façade including dimensions, design details, materials, operability, to be shown on elevations as well as the floor plans. 1 Innovation credit can be assigned in BESS if this condition is satisfied.</p> <p><u>Optional condition regarding removal of natural gas</u></p> <p>Provide electric heat pumps for all hot water systems as per the memo instead of the other option to provide gas boosted system. Ensuring that all cooking appliances are electric induction systems will remove the need for the development to be connected to natural gas. 1 Innovation credit can be assigned in BESS if this condition is satisfied.</p> <p>Planning Officer response:</p> <p>The proposal seeks to achieve design excellence with regard to ESD (BESS rating of 70%), which is to be commended. To ensure design excellence is achieved, the above conditions are recommended on any permit that issues.</p> <p>With regard to the optional condition relating to natural gas, if the applicant chooses to pursue this option it can be accommodated within the amended SMP, thus a specific condition is not required.</p>
<p>Waste Management</p>	<p>Council's Waste Technical Officer reviewed the application and confirmed that the Waste Management Plan is acceptable.</p> <p>Planning Officer response:</p> <p>Noted. While the WMP was considered to be acceptable, a condition should be included on any permit that issues requiring the WMP to be updated in accordance with any changes required under condition 1 of the any permit.</p>



Traffic Engineer	<p>Council's Traffic Engineer reviewed the application and commented as follows:</p> <p><u>Accessways</u></p> <ul style="list-style-type: none">• The accessway dimensions are generally in accordance with the Planning Scheme and Australian Standard. It is noted that the accessway width narrows to 5.9 metres at the disabled spaces. This is acceptable in this case.• A minimum headroom clearance of 2.2 metres is provided above the accessways. This is acceptable.• The car park entrance "garage door" at Beach Street must be located at least 6 metres from the property boundary to reduce conflict with pedestrians while entering vehicles prop for its opening.• A Car Parking Management Plan (CPMP) is required as a condition of permit including a line-marking plan, and more specific details regarding the car park access controls and location of intercom system to the satisfaction of the Responsible Authority. <p><u>Car parking spaces</u></p> <ul style="list-style-type: none">• All car parking spaces accord with the Planning Scheme.• Additional clearance has been provided for spaces adjacent to walls.• Swept path assessment has been provided demonstrating acceptable access to and from parking spaces. It is noted that some spaces may require multiple manoeuvres. This is acceptable as the spaces are allocated to residents only.• Wheel stops are used throughout the car park to prevent vehicles overhanging into accessways and abutting car spaces. This is acceptable. <p><u>Headroom</u></p> <ul style="list-style-type: none">• A minimum headroom clearance of 2.2 metres is provided above the car spaces. This meets the requirements of the Planning Scheme and Australian Standards.• The plans indicate that a minimum headroom clearance of 2.5 metres is provided above the disabled spaces and the waste collection and loading zone on the Basement 1 level. The traffic report states a minimum of 2.8 metres is provided above these areas. This is acceptable in both cases. <p><u>Gradient of ramps</u></p> <ul style="list-style-type: none">• The proposed gradient of the accessways accords with the Planning Scheme. <p><u>Bicycles</u></p> <ul style="list-style-type: none">• Bicycle parking would be in compliance with Planning Scheme.• Access to the bicycle parking facilities is acceptable.• We have no objection to installing additional bicycle rails on public land. However, we would suggest having some bicycle spaces along Beach Street as well. In view of the above, the applicant shall fund the supply and installation of at least nine bicycle rails on public land. Installation shall be arranged by the Responsible Authority along the Waterfront Place and Beach Street frontage of the site or a nearby location.• A Car Parking Management Plan (CPMP) is required as a condition of permit including how to use the bike racks and where residents, staff and accredited visitors should park.
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	<ul style="list-style-type: none">• Resident and staff parking are proposed to be provided using a mix of vertical, horizontal and the Cora E3DT-GT staggered bicycle parking systems. The systems are acceptable and provide ground level parking options on the site.• Ten electric bicycle parking spaces are proposed on the site using horizontal rails in secure and public locations. This is acceptable.• A shower, change room and lockers have been provided for the commercial tenancies on the site. This is acceptable. <p><u>Pedestrians</u></p> <ul style="list-style-type: none">• A pedestrian sight triangle is provided on the western side of the accessway. This is acceptable. <p><u>Loading and waste collection</u></p> <ul style="list-style-type: none">• A loading area is provided on the site at the ground level measuring 11.0m length by 8.6m width with a 4.8m high clearance. This is acceptable.• A swept path assessment has been provided demonstrating acceptable ingress and egress for Small Rigid Vehicles (SRVs up to 6.4m long) and Medium Rigid Vehicles (MRVs up to 8.8m long). The traffic report states that the majority of deliveries will be undertaken by SRVs with the occasional MRVs. The loading arrangement is satisfactory.• On-street parking space is not guaranteed and any future request for on-street loading zones may not be supported.• The Waste Management Plan should be referred to Council's Waste Management department for assessment.• Waste collection is proposed on the site. Swept path assessment is provided for mini rear loader waste collection vehicles. This is acceptable. <p><u>Traffic Generation and Impact:</u></p> <ul style="list-style-type: none">• The applicant's traffic engineer has stated that up to 66 vehicle movements can be expected during the respective peak hours. The daily traffic generated by residents is estimated to be 488 trips.• A conservative estimate of 4 trips per employee and visitor parking space has been applied. The estimated daily traffic generated by the site is expected to be in the order of 568 trips, comprising 488 residential trips and 80 trips made by employees and accredited visitors.• The traffic report has identified that trips will be distributed: 60 percent to the east and north using Beach Street and Bay Street; 20 percent to the north via Princes Street; and, 20 percent to the west via Beach Street. This appears to be reasonable.• Traffic to and from the site will be restricted to left-in and left-out to and from Beach Street. Drivers are expected to undertake U-turns at the roundabout intersections of Beach Street/Swallow Street and Beach Street/Princes Street depending on the origin and destination of the trips.• A SIDRA assessment of traffic queuing and delays has been undertaken at the intersections of Beach Street/Swallow Street and Beach Street/Princes Street. The additional traffic generated by the development is not expected to significantly increase queues and delay. The development is not expected to create significant adverse impact on traffic operations on the surrounding road network.
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	<ul style="list-style-type: none">• The traffic report advises that U-turn bans can be introduced at the medians in Beach Street to prevent conflict and damage to kerbs and landscaping. In the future, if the Council officers find any problems at this location that would be causing significant congestion or safety concerns then we could look into introducing a "No U-turn" sign. <p><u>On-street parking and vehicle crossovers:</u></p> <ul style="list-style-type: none">• The existing on-street parking is generally a mix of short-term and long-term ticketed parking, with a small number of unrestricted parking spaces.• Parking surveys undertaken in 2018 and 2019 indicate available parking opportunities in the surrounding area. At least 65 spaces were available in the surrounding area with greater parking availability overnight.• A new double crossover is proposed on Beach Street. This will require the relocation of an existing bus stop and shelter.• The applicant is required to submit a Functional Layout Plan (FLP), showing details of the crossover and changes to affected assets (e.g. trees, shelter, signage, line-marking), to the satisfaction of the Responsible Authority.• Approval from the Department of Transport is required to support the relocation of the bus stop and shelter.• The new crossover should incorporate kerb extensions adjacent to match with the indented parking layout along Beach Street.• The applicant is responsible for all costs, including those incurred by Council for associated changes to the street layout and assets.• The new vehicle crossover to Beach Street shall be installed to the satisfaction of the Responsible Authority. <p><u>Parking overlay and parking provisions:</u></p> <ul style="list-style-type: none">• The proposal has a shortfall of 19 spaces under the Planning Scheme for the food, drink and retail uses. Noting that parking rates for the gymnasium and wellness centre are not specified in the Scheme.• I am generally satisfied that the majority of residents and employees have sufficient long-term parking provision on the site.• It is suggested that the surplus 28 residential visitor spaces be made available for staff that require.• Residents/visitors/staff of the development will not be eligible for resident or visitor parking permits and will need to abide by on-street parking restrictions.• Note that the assessment for the appropriate rate for car parking provision lies with Statutory Planning. Reference should be made to CoPP's Sustainable Parking Policy. We also suggest comparing previous approved parking provision rates of adjacent developments as part of the Planning team's assessment / determination. <p>Planning Officer response:</p> <p>A detailed assessment in terms of the proposed parking reduction is provided at section 13.10 of the Report.</p> <p>In addition to the above comments, the Planning Officer's queried Council's Traffic Engineer on whether an updated traffic generation and impact assessment should be provided in light of the amendments made to the plans under S57A; Council's Traffic Engineer confirmed that the</p>
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	<p>original figures were acceptable given the changes would not have a significant impact on traffic generation.</p> <p>Recommended conditions would require:</p> <ul style="list-style-type: none"> - The car park entrance ‘garage door’ at Beach Street to be located at least 6 metres from the property boundary; and, - A Car Parking Management Plan (CPMP) including a line-marking plan, specific details regarding the car park access controls and location of intercom system, how to use the bike racks and where residents, staff and accredited visitors should park bikes, to the satisfaction of the Responsible Authority.
<p>Acoustic Consultant (Consultant on behalf of Council)</p>	<p>The Acoustic Engineer reviewed the application including the submitted Acoustic Report, their comments are summarised as follows:</p> <p>45dBA is a very high number for industrial noise inside a dwelling.</p> <p>SEPP N-1 compliance is an outdoor assessment. While the internal noise requirements of DDO23 have a pragmatic intention, PoMC is correct that it does not actually protect them. If a complaint is made in the future, it will be PoMC’s responsibility to control the noise.</p> <p>There are other existing residential uses surrounding the 1-7 Waterfront property. This means that even if there was a SEPP N-1 non-compliance at 1-7 Waterfront, PoMC are also likely to be non-compliant at many other properties anyway. So it is difficult to really argue that 1-7 Waterfront is encroaching on PoMC operations anyway. PoMC’s concern is therefore a reasonable one in-principle, but should not really change the anything for them in practice.</p> <p>The consultant is relying on some very brief attended noise measurements on the site. Normally, I would be ok with this however this is inadequate in this case to reasonably justify they have captured normal noise emissions from the Port. An hour on site could have capture anything or nothing. The Port would obviously have varying noise emissions and while I can appreciate that it would be difficult to know when the ‘Port facilities are in full operation’ (to use the terms of DDO23). A pragmatic way of dealing with this would be for the consultant to carry out long-term noise monitoring (at least 7-days) using an unattended noise logger on the site.</p> <p>There is no commentary in the Acoustic Report on whether Port noise was audible at any of the monitoring positions. The remainder of the report seems to base recommendations on other sources of noise (trams and traffic). From this, I take it to mean that Port noise was not picked up. This reinforces my comments above, that longer monitoring should be required to at least justify that either the Port does not typically generate noise at this location.</p> <p>The measured data is 15-min but they have assessed against 1-hour. This may be immaterial, but it does not make a lot of sense to me. The requirement under SEPP N-1 is also 30-minutes. DDO23 does not mention a time interval but I think it is logical that this component should at least follow SEPP N-1 in-lieu of any other reference.</p> <p>Table 4 of the Acoustic Report has minimum glazing requirements so there is something to hold the Developer to later, as nothing is noted on</p>



the Plans. The markups at Appendix A of the Acoustic Report show the different glazing requirements.

My recommendations:

1. Request the Applicant's acoustic consultant to provide the following:
 - a. Confirm if the Port was audible during measurements, or if the measured noise levels are inclusive of Port noise and what noise level the Port was generating.
 - b. Confirm how it was established that the Port was in full operation as required by DDO23. Alternatively, provide long term continuous monitoring (at least 7-days) to reasonably sample and establish the variability of Port operations.
 - c. Based on the level of Port noise at the site, confirm how the proposed glazing will satisfy DDO23, in particular for bedrooms.

In addition, the applicant should respond to the ESO4 decision guideline which states:

Whether the proposal will result in an increase in the number of people affected by noise or road or rail traffic arising from port operations.

Council's Acoustic Consultant also considered this point and advised that there are already several other existing residences proximate the subject land, and while the number of people affected would naturally increase, it would not have a material impact to Port operations because of the existing residents.

Lastly, the question was put to the Acoustic Consultant of whether Trams and/or light rail should be considered as 'railway', for the purpose of Clause 58, standard D16 (noise impacts). The consequence being that if the tram/light rail is considered to be 'railway', then the area is considered to be a 'noise influence area' and additional acoustic criteria must be met. The Consultant responded as follows:

"The definition of 'railway' has always been a bit fuzzy under that Clause, however most consultants include trams and lightrail as part of the 'railway' definition. This has never been officially confirmed to my knowledge and the planning practice note does not make it any clearer unfortunately.

My opinion is that it is appropriate to consider the trams as railway under the planning clause, but acknowledge there is ambiguity."

Planning Officer response:

The applicant has confirmed their commitment to undertaken further noise monitoring, as per the recommendations above.

With regard to the ESO4 decision guideline, the applicant responded as follows:

- The development will accommodate additional persons on the land as the current site has no occupants. This outcome was accepted by Council and DELWP when the site was rezoned and included a new DDO for a 10 storey mixed use building. The provisions of the DDO provide a required response we meet as demonstrated in the report.



	<ul style="list-style-type: none"> - The port should be complying with SEPP N-1 requirements at existing residential properties near to site. If compliance is achieved at these existing properties, compliance will be achieved at the future development. <p>Should a permit issue, recommended conditions would require an updated Acoustic Report informed by further monitoring which demonstrates that the building will meet the internal criteria set out by the DDO. In addition, the tram will be treated as railway for the purpose of Clause 58, thus the more restrictive noise criteria (out of the DDO and Clause 58) will apply – this is discussed further at section 13.11 of the Report.</p>
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12. PUBLIC NOTIFICATION/OBJECTIONS

- 12.1 It was determined that the proposal may result in material detriment; therefore, Council initially gave notice of the proposal by ordinary mail (544 letters) to the owners and occupiers of surrounding properties and directed that the applicant give notice of the proposal by posting 4 notice(s) on the site for 28 days (double the statutory requirement) to account for the Christmas holiday period, consistent with Section 52 of the *Planning and Environment Act 1987*.
- 12.2 25 Objections were received following this period of advertising, along with 4 letters of support.
- 12.3 Furthermore, following the initial advertising period, amended plans were submitted by way of Section 57A of the *Planning and Environment Act 1987*. It was determined that the changes had the potential to result in material detriment and that an additional period of advertising was warranted. Further advertising was carried out by way of ordinary mail to the owners and occupiers of surrounding properties along with the posting of 4 notice(s) on the site for an 18 day period, consistent with Section 52 of the *Planning and Environment Act 1987*.
- 12.4 24 objections were received following this period of advertising; however, it is noted that many of these were further objections (people that had already objected in response to the initial period of advertising), in terms of new objections, 12 were received. 8 letters of support were received following this period of advertising; in terms of new letters of support (excluding those that had already given their support following the initial period of advertising), 7 were received.
- 12.5 The application has received a combined total of 37 objections and 11 letters of support (these figures do not include repeat objections or letters of support, from the same individual or organisation)

Objections

- 12.6 The application has received a combined total of 37 objections. The key concerns raised are summarised as follows with objector comments and concerns in italics and the Planning Officer response below each objector concern:
- *The proposal is inconsistent with state and local policy*
 - *The development is inconsistent with the Design Guidelines*
 - *Excessive scale, height, mass and visual bulk*
 - *Out of character and detrimental to amenity, being significantly taller than the surrounding buildings*
 - *Fails to respond to the maritime heritage/character or to provide a sense of place*



- *Excessive visual bulk and insufficient setbacks to the heritage building which do not comply with the DDO requirements*
- *The area within the heritage overlay should remain undeveloped to ensure suitable views and setbacks from the heritage building*
- *There are no renders (CGI) provided from the bike path (next to the Food Store) or from Beach St directly opposite the development, these would highlight the excessive mass of the building*
- *The balconies overhanging the 2m setback at Waterfront Place do not achieve the DDO requirement*
- *A permit should not be approved which does not comply with the DDO*
- *Overdevelopment*
- *Overshadowing to surrounding streets, public space including the foreshore, bike and walking paths, and has not been minimised in line with the DDO*
- *The overshadowing diagrams underestimate the area of the shadow on the public space (blue area) as they don't consider any of the area near the freight yard to be publicly accessible when in reality both the bike and pedestrian paths are continuous and extend across the red area of the diagrams*
- *Other applications have been refused due to overshadowing the foreshore*
- *Overshadowing to private property*
- *Unfavourable precedent*
- *Overlooking / loss of privacy*
- *Increased noise pollution from the residential and commercial components given location of the vehicle access and the scale of the building*
- *Loss of view*
- *The Site was allowed to become derelict, the developer should not be given credit for proposing to redevelop it*
- *The 'greeting' to cruise ship passengers would be an unsightly building*
- *Lack of community benefit*
- *Lack of community facilities*
- *Lack of community consultation in relation to community facilities*

With regard to the community facilities proposed, it must be acknowledged that this is a private development. It is the prerogative of any permit applicant to apply for the development they seek; Council is then tasked with determining whether the development is acceptable within the relevant planning controls.

- *Further community consultation required*
- *The gym does not include toilets, changing rooms, showers or lockers; it appears to be for the sole use of the residents as opposed to the community*
- *Use of the community facilities does not appear to be guaranteed, there needs to be a mechanism to ensure the gym, wellness centre and meeting room can be used by the community*
- *The application is long winded, repetitive and biased*
- *Concern over whom benefits more out of the community and the developer and whether profits would remain in Australia*



- *Exacerbate traffic congestion*

the additional traffic generated by the development is not expected to significantly increase queues and delay and that the development is not expected to create significant adverse impact on traffic operations on the surrounding road network.

- *Concerned that cars exiting the car park into Beach St will either do a U-turn at the gap in the median strip for the western entrance of Park Square or go around Park Square itself, causing more delays/congestion and safety concerns*

With regard to the impact upon Park Square, traffic report made reasonable assumptions when identifying a trip distribution of 60 percent to the east and north using Beach Street and Bay Street; 20 percent to the north via Princes Street; and, 20 percent to the west via Beach Street. Traffic to and from the site will be restricted to left-in and left-out to and from Beach Street. Drivers are expected to undertake U-turns at the roundabout intersections of Beach Street/Swallow Street and Beach Street/Princes Street depending on the origin and destination of the trips.

- *Emergency vehicles would be unable to access surrounding streets due to increased congestion*

the additional traffic generated by the development is not expected to significantly increase queues and delay and that the development is not expected to create significant adverse impact on traffic operations on the surrounding road network. Council's Traffic Engineer has raised no concern with regard to emergency vehicles.

- *Concern that increased traffic will cause additional damage to private driveways when they are used for turning around*
- *Onsite carparking is inadequate and on street parking pressure will be exacerbated, especially when considering the developments at 2-4 Princess St, 92 Beach St and 103 Beach St. Furthermore, there is a lack of visitor parking*

The parking rates proposed exceed the requirements of the Planning Scheme, providing an excess of 30 spaces. The 'parking waiver' relates specifically to customers of the food and drink / shop (retail), due to the way parking has been allocated i.e. the excess spaces have been allocated to residential visitors and staff, rather than for customers. This is a sensible approach, as providing the general public with access to a private basement car park can create safety issues; in addition, the uses are unlikely to be destination uses (customers would typically be in the area already, rather than driving to the Site to specifically visit the use), thus they would generate minimal customer parking. ; ultimately, the proposed rates are considered to be acceptable.

- *The vehicle access should be from Waterfront Place, not Beach Street*

The vehicle access is proposed from Beach Street which is both acceptable and the preferred outcome in terms of DDO23. Council's Traffic Engineer has reviewed the application and raises no objection with regard to the location of the crossover.

- *The carparking figures differ in different documents*
- *Assumptions are made throughout the Traffic Report, a higher level of car ownership is anticipated*
- *The Traffic Report is missing information and has not been approved*
- *Concern that unsightly access structure and services will be required to the pavilion*
- *The proposal would breach the covenant affecting the land*



It is further noted that Mirvac have indicated their consent will be forthcoming, once they have a set of approved plans to reference in any consent.

- *The proposal does not meet the revised plans approved by VCAT which vary the covenant*

the application before Council is a fresh application which relies on the consent of Mirvac to comply with the covenant. It is further noted that Mirvac have indicated their consent will be forthcoming, once they have a set of approved plans to reference in any consent.

- *Residents had a reasonable expectation that the land would remain as community use, noting the covenants affecting the land*

With regard to the covenants, provided Mirvac's consent is forthcoming, then there would be no breach.

- *Lack of external storage*
- *Removal of public toilets removes a public benefit*

There is no requirement for the development to accommodate public toilets; it was something offered by the developer. They have since been removed from the proposal to improve the activation and increase retail space along the western laneway. Furthermore, Council is yet to make a decision regarding the preferred location of any new public toilets (this is a separate process and not relevant to the assessment criteria of the application at hand).

- *The amended plans propose more retail space, which there is no demand for*
- *Commercial uses are not needed on the land, Bay Street is nearby; the surrounding commercial spaces are underutilised and vacant*

Whether. It is further noted that providing commercial use complies with the purpose of the Mixed Use Zone and the requirements of DDO23.

- *Lack of commercial space proposed*

purpose of the Mixed Use Zone and the requirements of DDO23.

- *Larger outdoor space should be provided for the use of the community*

Also noting the Site's location, opposite an expansive foreshore.

- *The laneway should not be covered*

considered- *The developer has used the Spirit of Tasmania moving to Geelong to justify the application; it is possible it will return*

Officers.

- *The timing of public notification, to expire on Christmas Eve, detracted from public attention and result in less objections*

Furthermore. This period of advertising was carried out for 28 days, well in excess of the statutory requirement, giving residents additional time to review and respond.

- *Council should rally the State Government to buy back the land and return it to community use*

is.

12.7 Victorian Ports Corporation (summarised):

- Poor *design* response and would lead to disorderly planning outcomes
- "The DDO23 and ESO4 both contain the following decision guidelines:
 - o Whether the proposed design or development might impede the long term operation of the port.



- Whether the proposed design or development has the potential to expose people unnecessarily to any off-site impacts associated with the 24-hour, 7 day a week operation of the port”
- While *the* DDO contemplates a building with a height of up to 10 storeys, it does so in a context where *the* Subject Site's proximity to Station Pier and protecting the long term operation of Station Pier are fundamentally important considerations
- The building has been designed with 48 dwellings across 9 floors with living areas, bedrooms and *balconies* faced and exposed directly towards Station Pier. This represents almost 40% of the *proposed* dwellings. In doing so, the proposed development unreasonably and unnecessarily prioritises bay views ahead of the matters prioritised by the planning scheme. This is a fundamental flaw.
- The proposed development fails to appropriately address acoustic impacts associated with the operations at Station Pier as the assessment undertaken by Acoustic Logic includes no *reference* to State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 (SEPP N-1). The permit applicant should be required to demonstrate that the proposed development has been designed to ensure that noise from Station Pier will comply with SEPP N-1 at the Subject Site.

Planning Officer response:

A full assessment of the proposal is provided in the following sections of the Report.

With regard to the development's compatibility with and impact upon the operations of the port, this is discussed under the ESO4, at section 13.6 of the Report. Ultimately, it is considered that subject to achieving the internal noise criteria required under DDO23, the development would be compatible with the port operations. There is no in principle objection to the development achieving 'bay views'.

With regard to State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 (SEPP N-1), the applicant has provided a response as has Council's acoustic consultant. The responses are considered to be reasonable and are outlined at sections 11.2 and 13.6 of the Report.

12.8 Beacon Cove Neighbourhood Association (summarised):

Initial objection (prior to the submission of amended plans):

Recommends greater provision for on-site visitor and retail parking by not agreeing to a parking waiver. This is particularly relevant to Park Square residents whom currently experience significant overload parking by beach patrons, vehicles associated with ships docking at Station Pier (including the *Spirit of Tasmania*) and other visitors parking in residential streets, and previously in relation to the gym use.

Recommends design changes to minimises winter overshadowing between the hours of 9:00am and 3:00pm such that there is no overshadowing of the bike and pedestrian paths for this time period.

Recommends that DDO23 setbacks (8m tower setback and balconies to 2m Waterfront Place setback) be required.

Recommends that Council uses a mechanism, such as a Section 173 agreement, to ensure continued access by the public to commercial facilities.



Further objection (relating to the amended S57A plans):

Reiterated concerns relating to parking and Park Square residents; and, that visitor spaces should be provided for the gym and retail uses.

Reiterated concerns relating to winter shadows. In addition, bike and pedestrian paths along Waterfront Place are predominantly in shadow between 9 am and 3 pm at the June solstice, this is not consistent with the requirements of the DDO.

Reiterated comments relating community facilities and the desire for a Section 173 agreement (or equivalent).

A number of BCNA's members have covenants on the site that were meant to protect the use of the site. The current plans do not conform with either the original covenants (still valid) or the potential revised covenants (Bosco Jonson building envelope) approved by VCAT (reference No P764/2013). Nor has permission been obtained from Mirvac for the plans.

BCNA recommends that the covenant issue be resolved before any plans are approved.

Planning Officer response:

The parking rates proposed exceed the requirements of the Planning Scheme, providing an excess of 30 spaces. The 'parking waiver' relates specifically to customers of the food and drink / shop (retail), due to the way parking has been allocated i.e. the excess spaces have been allocated to residential visitors and staff, rather than for customers. This is a sensible approach, as providing the general public with access to a private basement car park can create safety issues; in addition, the uses are unlikely to be destination uses (customers would typically be in the area already, rather than driving to the Site to specifically visit the use), thus they would generate minimal customer parking. ; ultimately, the proposed rates are considered to be acceptable.

A detailed assessment in terms of winter shadows has been provided at section 13.4 of the Report; ultimately, they are considered to be acceptable.

the application before Council is a fresh application which relies on the consent of Mirvac to comply with the covenant. It is further noted that Mirvac have indicated their consent will be forthcoming, once they have a set of approved plans to reference in any consent.

12.9 Save Port Melbourne Gateway:

The development would result in excessive shadows to the foreshore, bike and walking areas in winter, it would not satisfy the DDO requirement to 'minimise shadow'. The shadowing conflicts with State and Local Policy which require that no part of the foreshore be shadowed between 10am and 4pm on 22 June. VCAT refused the London Hotel application based on less overshadowing noting it would not result in community benefit. It should also be noted that the bike and walking paths are misclassified as have no public access; they are open to public access.

The proposal will increase traffic, contributing to congestion; existing cars may also seek to undertake U-turns on Beach Street, further exacerbating the situation.

The development will exacerbate parking pressure, the 28 non-allocated cars should be used to provide customer parking.

Concern that the gym will not be available to the public.

The plans breach the covenants onsite nor do they comply with the VCAT approved plans to vary the covenant (VCAT Ref: P764/2013). Nor has permission been granted from Mirvac.



The plans need to comply with the DDO in all respects.

Planning Officer response:

An assessment in terms of winter shadows is provided against the DDO at section 13.4 of the Report, the shadows are considered to be acceptable within the context of the relevant planning controls. The VCAT decision referred to relates to different planning controls, which are not relevant to this application. It is further noted that application 1220/2016, for the London Hotel site, was supported by VCAT.

As per section 11.2 of the Report, Council's Traffic Engineer has reviewed the application and found it to be acceptable with regard to traffic impacts. With regard to the potential for U-turns, signs can be introduced restricting such turns, if they prove to be problematic.

As per the assessment at section 13.10 of the Report, parking provisions are considered to be acceptable.

The gym is proposed to be for public use.

Prior to the commencement of development, the developer would be required to obtain Mirvac's consent, thereby complying with the covenant. If consent is not forthcoming, the development will not be able to proceed; as such there would be no breach.

12.10A consultation meeting was held on 23 March 2021. The meeting was attended by Ward Councillors, applicants, objectors and Planning Officers. The issues raised at the meeting are reflected in the proceeding summary of objections. Following the meeting, amended plans were submitted pursuant to section 57A of the *Planning and Environment Act 1987*, the changes are described at section 5 of the Report.

12.11 It is considered that the objectors do not raise any matters of significant social effect under Section 60(1B) of the *Planning and Environment Act 1987*.

Support

12.12 The proposal has received 11 letters of support, which are summarised as follows:

- *The design response is excellent and appears to address the majority of previous concerns*
- *There is widespread support for the proposal*
- *The plans address previous concerns about height, bulk, community facilities, traffic congestion and overshadowing*
- *It is an excellent site and well located to public transport, beach and shops and should be developed*
- *The development will present the right impression to visitors from cruise ships*
- *The development will become an iconic site next to the beach*
- *The development will improve the community in terms of shops, gym and public areas*
- *The existing site is degraded*
- *Port Melbourne is looking 'tired', the development will bring needed 'energy' to the area*
- *Overshadowing has been addressed, it refers to 'minimisation' only, some level of shadow is inevitable*



- *Visitor parking is unlikely to be an issue*
- *There is parking available on Station Pier*
- *The developer is the same developer that built the complex at the exhibition centre, which is a quality build*
- *Maintenance of the original structures and facilities is unrealistic*

13. OFFICER'S ASSESSMENT

13.1 Strategic Justification

State Planning Policy Framework

Victorian planning policy generally seeks to facilitate increased development densities in accessible locations, where proximate to jobs, shops, services, facilities, amenities, infrastructure and public transport. Highly accessible locations are typically associated with being capable of accommodating higher densities, while locations with limited accessibility are typically more suitable to less intensive development.

This principle is reflected in the Planning Scheme at Clauses 11.03-1S (Activity centres), 11.03-2S (Growth areas), 16.01-1S/1R (Housing Supply/Housing supply – Metropolitan Melbourne), 16.01-2S (Housing affordability), along with *Plan Melbourne 2017-2050*. *Plan Melbourne 2017-2050* is underpinned by nine principles, including the '20-minute neighbourhoods' concept (essentially giving people the ability to meet most of their daily needs within a 20-minute/ 800 metre one-way walk from home).

Clause 17 seeks to promote economic development with a view to providing a strong, innovative and diverse economy where all sectors are critical to economic prosperity; to support employment; to meet the needs of the community for retail, entertainment and other commercial services; to support tourism, maximising associated economic, social and cultural benefits. These principles are reflected in Clauses 17.01-1S/1R (Diversified economy), 17.02-1S (Business), 17.04-1S (Facilitating tourism) and 17.04-1R (Tourism in Metropolitan Melbourne).

Local Planning Policy Framework

Clause 21.04-1 seeks to accommodate the City of Port Phillip's growth in appropriate areas and provides five categories for growth being 'minimal residential growth' (within the Heritage Overlay), 'limited residential growth', 'incremental residential growth', 'moderate residential growth' and 'substantial residential growth' (proximate to major activity centre or within the Fishermans Bend Urban Renewal Area).

The policy seeks to provide significant opportunities for new residential development in designated locations which have the capacity for change, and which offer highest accessibility to public transport, shops, and social infrastructure; the majority of new residential development should be directed to preferred housing growth areas such as 'Substantial Residential Growth Areas' and 'Moderate Residential Growth Areas'.

'Substantial Residential Growth Areas' are defined in the Planning Scheme as follows:

Strategically appropriate locations for higher density residential development (being proximate to major activity centre or within the Fishermans Bend Urban Renewal Area) which provide new housing opportunities as part of the renewal of precincts and large sites. They offer the potential for more intensive development through the creation of a new built form character.



The Site is considered to fall within the 'Substantial Residential Growth' category given it is a strategically important location at the Port Melbourne waterfront and Station Pier, it directly adjoins the tram/light rail to the west, it is located approximately 150m from the edge of the Bay Street Major Activity Centre and it is a large site which offers opportunities of a more intensive development through the creation of new built form. The site is therefore well located to accommodate higher density and increased built form.

Clause 21.06-4 (Port Melbourne and Garden City) identifies the vision for Port Melbourne to include *Station Pier and the Waterfront Precinct act as a world class passenger shipping gateway to Melbourne* and that for the Beacon Cove Commercial and Mixed Use Area *Encourage new tourism, recreation and entertainment uses abutting the foreshore.*

Strategic Directives of the Zone

The purpose of the Mixed Use Zone is, amongst other things:

- *To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.*
- *To provide for housing at higher densities.*

Conclusion

The proposal is considered to have strong strategic support from the Planning Scheme, which has a consistent theme of increasing residential density at strategic locations and within close proximity to jobs, services and public transport – the Site achieves all of these criteria. The proposal would provide ongoing economic benefit in the form of new commercial space, supporting a diverse economy, job creation, services to the local community and tourism. It is further noted that the proposal would achieve the express purposes of the Mixed Use Zone.

The specific site response is considered in the following sections of the Report.

13.2 Mixed Use Zone (MUZ)

Purpose and requirements of the zone

The purpose of the zone is, amongst other things:

- *To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.*
- *To provide for housing at higher densities.*
- *To encourage development that responds to the existing or preferred neighbourhood character of the area.*

The Schedule to the MUZ does not specify an objective or a maximum height.

The proposal is in accordance with the purpose and requirements of the zone, as follows:

- The proposal would result in a suitable mix of residential and commercial uses, providing for a range of commercial uses which would support the locality.
- Approximately 926sqm of retail space is proposed; the majority of the space has a direct interface with the public realm; the proposed use of 'retail' is broad in definition, allowing for a range of uses to be implemented onsite, as determined by the market; the spaces have high ceilings and multiple entrances, ensuring they are adaptable and capable of being broken up in to a number of smaller tenancies.
- Including the 'retail use' mentioned above, a food and drink premises is proposed (approximately 150sqm) with direct interfaces with the public realm, including an



alfresco area; a 675sqm gym is proposed which would have direct street frontage and would be connected to a 306sqm wellness centre; the use mix would be diverse and would serve the locality/community.

- The applicant also makes the point that the townhouses fronting Beach Street have the potential to be used as home offices, given their private entries, direct from the street.
- Given the scale of the development, the extent of commercial space proposed along with the diversity of uses (including the flexibility afforded by the broad land use definition of 'retail'), the proposal would result in a local activity hub.
- The development would result in medium to high density housing.
- With regard to responding to existing and preferred neighbourhood character, there are a number of policy instruments and controls relevant in making this assessment (primarily DDO23), these are assessed in the following sections of the Report.

A development must also meet the requirements of Clause 58, which are assessed below.

Impact of proposed uses

The proposed uses, being retail, shop, food and drink and gym (restricted recreation) are considered to be generally compatible with the proposed residential use along with the existing/surrounding residential properties.

The MUZ provides the following decision guidelines in relation to the use:

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The objectives set out in a schedule to this zone.*
- *Any other decision guidelines specified in a schedule to this zone.*

Given there are no objectives or decision guidelines set out in the schedule to the zone, the relevant assessment criteria are Clause 65 and the Municipal Planning Strategy and the Planning Policy Framework. Of relevance to this application is the *effect on the amenity of the area*.

In terms of existing residential properties, the closest properties are approximately 35m from the respective uses and separated by Beach Street.

To mitigate the potential impact of these uses, conditions are recommended on any permit that issues which limit the following:

- *Offsite* amenity impacts in terms of transporting goods; and, the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
- *Restrictions* on opening hours and the number of patrons.
- *Restrictions* of external music and public address systems.
- The requirement to address issues of noise and vibration from the gym use, in the updated Acoustic Report.

13.3 Neighbourhoods - Clause 21.06

The neighbourhoods policy details key planning challenges, visions and strategies for particular neighbourhoods.

At Clause 21.06-4, the 'key planning challenges' speaks to considering noise impacts from the port operations, to ensure appropriate noise mitigation is utilised in new development and



to ensure any new development accommodates the long-term protection of port operations, infrastructure and associated storage facilities. These 'challenges' are considered under the DDO at section 13.4 of the report and under the ESO at section 13.6 of the Report.

In addition to the above, the following local strategies are relevant to the proposal (strategies in *italics* and officer response below, in normal text):

- *Encourage new tourism, recreation and entertainment uses abutting the foreshore.*

While setback slightly from the foreshore, the proposal is considered to contribute towards the desired tourism, recreation and entertainment type uses.

- *Ensure the traffic impacts associated with the development of Waterfront Place and growth in visitation numbers to Station Pier are considered.*

Traffic impacts are considered at section 13.10 of the Report.

- *Manage the residential interface in Beacon Cove with future development along the foreshore, including Princes Pier, to minimise conflicts.*

A detailed assessment is provided in the following sections of the Report; ultimately, the development is not considered to result in any undue conflict.

- *Ensure new residential development provides for acoustic protection for future residents and incorporates appropriate measures to ensure noise levels in bedrooms do not exceed 30 dBA and 45 dBA in living areas.*

This requirement is repeated under the DDO, thus the assessment is provided at section 13.4 of the Report.

13.4 Design and Development Overlay – DDO23

DDO23 is a site specific control on the land at 1-7 Waterfront Place. The DDO contemplates a mixed use development of up to 10 storeys, which achieves architectural design excellence, noting its history and 'gateway to Melbourne' siting; which gives back to the community in terms of pedestrian links, widened footpaths and public open space; which provides for a range of land uses; and, to respond appropriately to its complex surroundings, including the operation of the port, the localised climate conditions and impacts on the foreshore.

To guide a development within this complex and prominent environment, the DDO sets out six themes at Section 1.0 - Design Objectives, these themes are expanded open and refined at Section 3.0 - Design Requirements', which specifies the discretionary and mandatory requirements of the DDO. The six themes are outlined below together with a full assessment against the design requirements. Figure 1 of the DDO provides an indicative built form outcome for the site, within the context of the DDO design requirements.

Figure 1



Figure 8: Depicting Figure 1 of DDO23

Assessment against the Design Requirements of DDO23

Theme A – ‘engaging, accessible’

Design Objectives:

- To increase pedestrian permeability and encourage movement through the site at ground level.
- To activate ground floor frontages by designing buildings that can accommodate a range of land uses that are appropriate to site interfaces.
- To reduce the dependence on cars as the primary mode of transport for residents and visitors.

Design Requirements:

A1: Pedestrian connections	Assessment:
<p>Development of the site must provide a direct pedestrian laneway linking Beach Street and Waterfront Place, between the heritage Station building and new built form on the western edge of site. (Mandatory)</p>	<p>Satisfied: A pedestrian laneway would be provided along the west boundary, in accordance with this requirement.</p> <p>This requirement interrelates with the final design requirement of A1 which requires, amongst other things, 24 hour public access to the laneway and for the laneway to be 5m wide.</p>



<p>Building frontages to Waterfront Place must be set back 2m from the property boundary, to allow for widening of the footpath. (Mandatory)</p>	<p>Satisfied subject to condition: The building frontage to Waterfront Place would be setback 2m from the southern boundary.</p> <p>However, architectural corner features would encroach slightly into the requirement as would a planter associated with the central/southern public open space. Should a permit issue, a condition will require all buildings at ground floor to be setback 2m from the southern boundary, including the architectural corner features and the planter.</p> <p>This requirement interrelates with design requirement D4 which allows balconies to extend beyond the building line provided the ground floor is setback 2m; as such, the mandatory component of the requirement relates to the ground level setback.</p>
<p>Buildings located at the western boundary of the site must provide for a ground level east-west pedestrian access way that creates a visual connection between the tram stop, the central courtyard space and the north/south pedestrian laneway. (Mandatory)</p>	<p>Satisfied: An east-west pedestrian link would be provided in accordance with the requirement.</p> <p>This requirement interrelates with the final design requirement of A1 which requires, amongst other things, 24 hour public access to the link and for the link to be 5m wide.</p>
<p>Pedestrian linkages through the site must be designed so as to provide unrestricted access to the public on a 24-hour basis. They should be straight and direct, providing a clear line of sight through the walkways and must be a minimum of 5m in width. (Mandatory)</p>	<p>Satisfied: For the avoidance of doubt, it is highlighted that while the requirement in its entirety is 'mandatory', there is an element of judgment required to ascertain compliance with the second criteria, by reason of the usage of 'should' i.e. <i>They should be straight and direct, providing a clear line of sight through the walkways and must be a minimum of 5m in width.</i></p> <p>It is also important to understand what a 'pedestrian linkage' is in the context of the controls; the relevant pedestrian linkages are the north/south laneway along the western boundary of the site; and, the east/west linkage that is required to link the aforementioned laneway with the central courtyard space. There is no requirement for the two areas of open space (northern courtyard and central/southern courtyard) to be connected.</p> <p>With regard to the first criteria, the 'pedestrian linkages' are designed so as to provide unrestricted access to the public on a 24-hour basis.</p> <p>With regard to the second criteria, the east/west linkage is straight and direct, providing a clear line of sight through the walkway and achieves a minimum width of 5m. However, it is noted that</p>



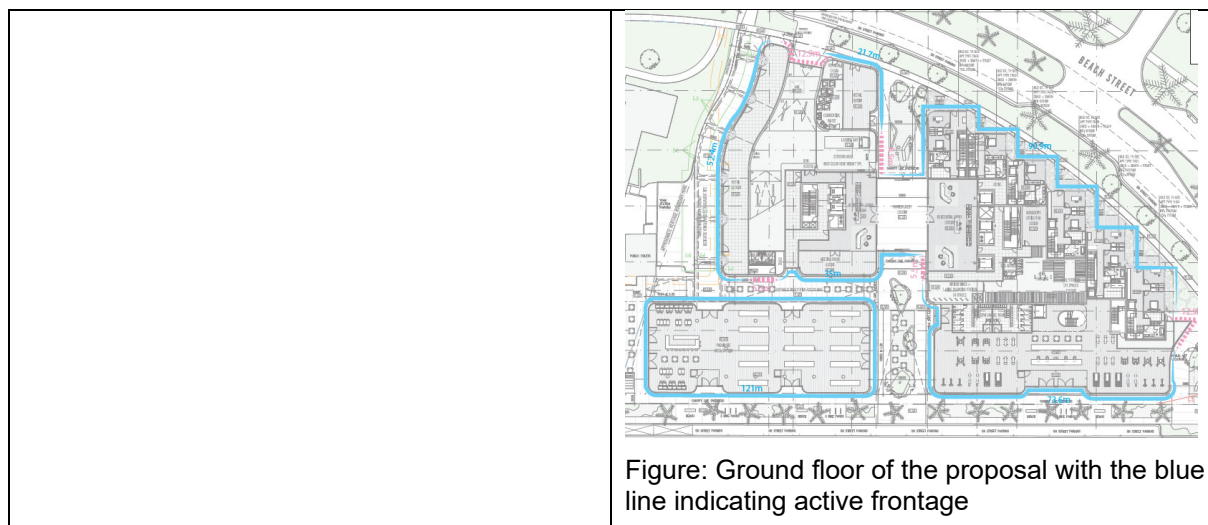
	<p>this link is an underpass, having no views to the sky; as such, there would be little to no benefit from having planter boxes and seating in this area, they would simply disrupt pedestrian and loading movements. A condition on any permit would require the removal of the seating and planter boxes within the east/west pedestrian linkage.</p> <p>With regard to the north/south laneway, this would provide a 'direct' link based on origin and destination rather than a straight line, it would achieve a minimum width of 5m along with a clear line of sight through the laneway from all key vantage points i.e. from the northwest corner of the food and drink premises, views along the full length (both directions) of the laneway would be achieved; from the northern entrance of the food and drink/providore, views would be available for the northern extent of the laneway and also easterly, through the east/west linkage. Furthermore, an alternate route would effectively see the laneway continued through the building, providing a direct sightline through the glass façade. The angled building overhang (over the alfresco area) would contribute to appropriate way finding to the pedestrian link; it would also be discoverable from the north, from the tram terminus along with anyone entering the Site from the south (whether from the east/west linkage or directly).</p> <p>Overall, the design response is considered to be acceptable and in compliance with the mandatory requirements.</p>
<p>A2: Access</p>	<p>Assessment:</p>
<p>Built form should provide multiple pedestrian entries to all street frontages.</p>	<p>Satisfied: Multiple pedestrian entries are proposed to all street frontages.</p>
<p>Ground floor level of new built form should be at the same level as the outside ground level, or no more than 300mm higher, to allow easy transition between buildings and the abutting footpaths.</p>	<p>Satisfied: It is not practicable for the entirety of the ground floor level to be at, or no more than 300mm above, ground level. This is in part due to minimum floor levels requirements of Melbourne Water, to address future sea level rise and coastal inundation; and, due to natural variations in natural ground level.</p> <p>However, the entries (with the exception of the town houses) into the building are typically within the vicinity of 300mm of ground level or less. With regard to the town houses, their main entrances are roughly 600mm above adjacent</p>



	ground level, relying on steps; however, these are private residences and they would also benefit from step free access, as provided by their private lifts from the basement.
Vehicle entrances, loading/deliveries area and utilities/infrastructure along the building frontage should be minimised, and, where provided these elements should be subtly integrated into the building façade.	Satisfied: The basement entry and loading area have been minimised to the extent practicable to enable safe vehicle movements. They have been co-located, providing a single vehicle access point for the entire development, the entrance would be appropriately integrated into the building façade and would be flanked by areas of active frontage. With regard to utilities, these would have a minimal impact upon the building frontage, being largely located within the basement or at roof level.
Vehicle access to any on-site car parking or loading bays should be from Beach Street and should allow for all turning movements to/from the vehicular entry to the site.	Satisfied: The vehicle access to the basement car parking levels and onsite loading bays would be from Beach Street. Swept paths have been provided which demonstrate that all vehicles accessing the site, including 8.8m long medium rigid vehicles, can safely enter and exit the Site; in addition, vehicles would be provided sufficient manoeuvring space to ensure vehicles can enter and exit the site in forward gears. Council's Traffic Engineers have reviewed the application and raise no objection to the vehicle access, as per the comments at section 11.2 of the Report.
Frontages to Beach Street, between the roundabout and north/south pedestrian link should be set back between 1m and 3m from the street frontage, to allow for a small 'verandah' or terrace space between the building frontage and the street boundary.	Satisfied: Beach Street would be fronted by townhouses with a staggered setback; the setback would range from approximately 0m to 5m. Each townhouse would be provided with a small courtyard/terrace within the setback; the aforementioned area would ensure public and private spaces are appropriately delineated.
A3: Public Spaces	Assessment:
The layout of buildings on the site must provide for the creation of a ground level courtyard space. (Mandatory)	Satisfied: Two areas of public open space (courtyards) would be provided at ground level. The areas are generous in size, being approximately 177sqm to the north and 304sqm to the central/southern space; the areas are highly accessible; suitably 'open', having minimum dimensions of approximately 9.7m; and, would be provided with seating areas and landscaping.



<p>New public spaces must be open to the sky and visible from the surrounding streets, while being mindful of wind and other microclimate considerations. Spaces should be located and oriented to receive reasonable direct sunlight access. (Mandatory)</p>	<p>Satisfied: Both areas of public space would be open to the sky and highly visible from surrounding streets.</p> <p>With regard to the central courtyards, these would achieve walking and comfortable standing criterion, with the majority of wind directions achieving standing criterion. It is noted that the 1-7 Waterfront Place is naturally subject to high wind conditions, thus some level of wind must be accepted. Furthermore, the criterion are based on peak gust speeds with a probability of exceedance of 0.1%, thus wind conditions will naturally be lower of calmer days. A more detailed wind assessment is provided at Design Requirement B9.</p> <p>With regard to sunlight access, the northern space has a northerly aspect which is optimal. The southern space has a southerly aspect; however and as mentioned above, the northern boundary of the southern space is a single storey link, thus it would have a minimal impact upon direct sun light for the majority of the space.</p>
<p>A small public space should be provided at the eastern 'point' of the site, close to the roundabout. This public space should be activated by public art or a small kiosk/pavilion building to define the site's 'point' or edge to the roundabout.</p>	<p>Satisfied: The eastern point of the Site would be characterised by a small 'parklet' which would accommodate the public art contribution.</p>
<p>All public space should be within 0.5m of natural ground level.</p>	<p>Satisfied: Public open space would be within the vicinity of 0.5m of natural ground level.</p>
<p>A4: Connections</p>	<p>Assessment:</p>
<p>Ground floor building frontages should be designed to maximise interaction between the buildings and the public realm.</p>	<p>Satisfied: The ground floor of the building would largely comprise commercial uses open to the public, the building would accommodate a significant extent of active frontage along with numerous entrances to all frontages.</p>



Theme B – ‘responsive’

Design objectives:

- *To meet the overshadowing controls are achieved if a marker or terminal vista is provided to the easternmost point of the site marking the entry to Beacon Cove when approaching the site from Beaconsfield Parade and Beach Street east of the site.*
- *To distribute building mass in a configuration appropriate to site interfaces and adjoining built form.*
- *To respond positively to the heritage Railway Station building.*
- *To respond positively to the wider maritime context and heritage of the locality.*
- *To positively address the adjoining streets and spaces of the public realm.*
- *To respond appropriately to significant views across the Port Melbourne waterfront.*
- *To ensure built form intended for residential uses (and other noise sensitive uses) in the vicinity of Port infrastructure includes appropriate acoustic measures to attenuate noise to a level suitable for living or sleeping.*
- *To achieve an appropriate balance of sunlight and shade in the public realm.*
- *To respond effectively to localised wind and other microclimate considerations.*

Design Requirements:

B1: Podium Height and Massing	Assessment:
<p>As shown in Figure 1 to this Schedule, building height for the podium must not exceed 3 storeys and 12 metres. (Mandatory)</p>	<p>Satisfied subject to condition:</p> <p>Note: At Clause 73.01 of the Planning Scheme, building height is defined as <i>the vertical distance from natural ground level to the roof or parapet at any point.</i></p> <p>The podium level would be no more than 3 storeys and the majority would be no more than 12m in height (not including the parapet); however, due to variations in ground level, there is a point to the southern elevation which would equate to 12.039m in height. While this level of noncompliance is minor, the applicant has</p>



	<p>provided a height annotation which categorically exceeds the mandatory limit of 12m.</p> <p>In addition, the applicant has included parapets to the podium which would exceed the 12m height limit.</p> <p>As such, it is recommended to include a condition on any permit that issues, which would require the podium to be reduced in height to ensure it does not exceed 12m (likely requiring the removal of the parapets).</p> <p>With regard to the balustrades (associated with the terraces/balconies) upon the podium level, these are not included within the building height measurement, as per the definition at Clause 73.01 (provided above).</p>
<p>Massing and location of built form must generally be in accordance with Figure 1 of this Schedule.</p>	<p>Satisfied: The massing and built form is generally in accordance with Figure 1 of the Schedule (DDO23). In addition to the indicative built form depicted by Figure 1, the proposal would split the building in half, further breaking up the mass of the building and responding to other design requirements of the DDO.</p>
<p>B2: Tower height, siting and massing</p>	<p>Assessment:</p>
<p>Development must not exceed a maximum height of 10 storeys and 35 metres (inclusive of the podium and exclusive of rooftop services).</p> <p>(Mandatory)</p>	<p>Satisfied subject to condition: The proposal generally complies with the mandatory building height of 10 storeys and 35 metres, exclusive of rooftop services.</p> <p>However, included within the 'roof top services' are rooms (roofed and enclosed) upon the roof level. While the intention of these rooms may be to house services, they are nonetheless considered a storey in their own right. As such, the rooms will need to be removed to ensure the development does not breach the 10 storey height limit, it is recommended this be required by condition.</p> <p>With regard to rooftop services, the following exemption at section 2.0 of the DDO is relevant:</p> <p><i>A permit cannot be granted for buildings and works exceeding the maximum height specified in this Schedule other than:</i></p> <p><i>Architectural features such as building services may exceed the maximum height by up to 4 metres providing they do not exceed 10% of the gross floor area of the top building level.</i></p>



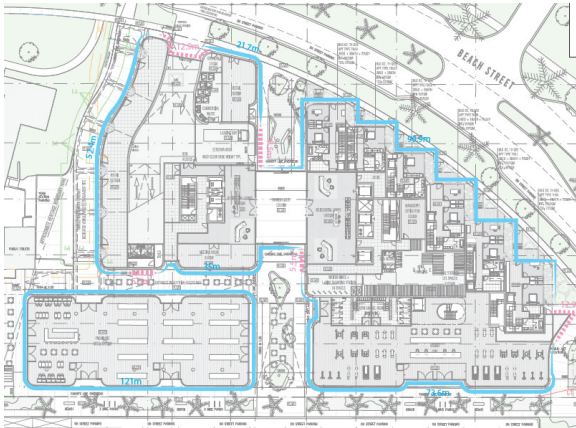
	<p>Based on the above exemption, the western tower has an allowable services area of 53.3sqm while the eastern tower has an allowable area of 33sqm.</p> <p>The eastern tower meets the exemption. However, the western tower would exceed the allowable area, with services equating to approximately 89sqm.</p> <p>A recommended condition would require it to be demonstrated that architectural features, such as building services, that exceed the maximum building height, do not exceed the height by more than 4 metres and do not exceed 10% of the gross floor area of the top building level.</p>
<p>Development above 3 storeys (and 12 metres) must be set back a minimum of 8 metres in addition to any ground level setback.</p> <p>(Mandatory)</p>	<p>Satisfied subject to conditions: The height component of this requirement coincides with the mandatory height limit of the podium level, as prescribed by requirement B1. It effectively requires the tower elements to be setback 8m from the ground floor setback.</p> <p>The applicant has indicated the required 8m setback with a red outline, with the intention being that the tower levels are entirely sited with the red line envelope. The majority of the tower interfaces (including architectural features which project from the façades) comply with the requirement.</p> <p>However, to the eastern corner of the development, the tower setback appears to be mistakenly measured from property boundary as opposed to the ground level setback. This results in the lower levels of the tower at this location encroaching into the setback requirement by approximately 1m.</p> <p>In addition to the above, it is evident that canopies along the southern tower elevations and to the eastern corner extend beyond the aforementioned red outline.</p> <p>It is recommended to include a condition which would require all setbacks to be in compliance with the requirement.</p> <p>With regard to the balustrades (associated with the terraces/balconies) upon the podium level, these elements of development benefit from the exemption at design requirement D4, which states <i>Balconies may extend beyond the building line along the Waterfront Place frontage, if the ground floor is setback 2m from the site boundary.</i> The development would accommodate a 2m setback from Waterfront</p>



	Place at ground floor, thus it benefits from the exemption.
The maximum height and siting of any tower form must be generally in accordance with Figure 1 of this Schedule.	Satisfied: The maximum height and siting of the towers are generally in accordance with Figure 1 of the Schedule (DDO23).
Any tower form should use design techniques to avoid a monolithic or bulky appearance. This should include separation into two tower forms with an average separation of 10 metres.	<p>Satisfied: The building would effectively be split in half by the two areas of public open space located centrally within the Site, this separation would carry through all upper levels resulting in a building/tower separation of approximately 9.6m.</p> <p>In addition to the building separation, a number of the other built form responses and design techniques would effectively focus the massing and minimise visual bulk. The sweeping curved facades would limit the overall building volume visible from any one vantage point. The tiered tower forms would result in more slender towers as height increases. The curved architectural features which rise vertically up the façades would both break up the façade and draw the eye upward, accentuating the vertical emphasis of the building and provide a visual cue to give the appearance of taller and more slender towers. The extensive use of glazing provides a 'lightness' to the upper levels.</p>
Adequate separation between towers must be provided to achieve visual privacy and sufficient daylight to habitable room windows, reduce visual dominance and building bulk, and ensure wind impacts are minimised.	<p>Satisfied: Separation between the towers is 9.6m which is considered to be adequate.</p> <p>The Planning Scheme seeks to limit overlooking within a distance of 9m, the tower separation exceeds this distance.</p> <p>Daylight to habitable rooms to the internal elevations, is considered to be acceptable, this is supported by the daylight study provided in the applicant's SMP.</p> <p>The tower separation is considered to be sufficient to suitably minimise visual bulk and visual dominance.</p> <p>As per the assessment at design requirement B9, wind impacts are considered to be appropriately addressed.</p>
B3: Railway station interface	Assessment:
The scale and massing of any new development must be sensitive to the heritage rail station and must demonstrate minimal visual impact when	Satisfied: At its closest point, the proposed building would achieve a minimum setback from the heritage rail station building of 11m to the



<p>viewed from the 109 tram terminus. (Mandatory)</p>	<p>podium and 20m to the tower. However, the separation distance between the tower and the majority of the station building would be in excess of 26m.</p>
<p>The location and form of new buildings must reinforce the heritage rail station as a 'stand-alone' building and provide a clear separation in building mass. (Mandatory)</p>	<p>The siting of the proposed building, the separation distances involved and the form of the building, being podium levels with additional 8m setbacks to the tower element, would ensure that the station building is read as a standalone building with a clear separation in building masses.</p> <p>With regard to views from the tram terminus, views toward the building would be looking east and north east. The podium would achieve a separation of 30m from the terminus while the tower would achieve 50m.</p> <p>Given the podium is limited to 3 storeys and 12m in height, a separation of 30m is considered to be sufficient to ensure the visual impact is minimal, as viewed from the terminus.</p> <p>With regard to the tower element, not only would a separation of approximately 50m be achieved, the tiered form of the towers would mean that as height increases, the separation distance from the terminus would also increase, resulting in progressively more recessed views. As per the above, the visual impact is considered to be minimal, as viewed from the terminus.</p>
<p>B4: Maritime heritage</p>	<p>Assessment:</p>
<p>Building design, materials and public art should reflect and respond to the maritime heritage and character of this location in a refined and authentic way, and avoid 'themed' or pastiche techniques.</p>	<p>Satisfied: The building design and materials are considered to be high quality, forming a cohesive relationship which respond well to the maritime heritage and character.</p>
<p>Public art must be integrated with new built form and public spaces on the site, to reflect and respond to the history, heritage and character of the location in accordance with Clause 22.06 of this planning scheme.</p>	<p>The contemporary materials together with the vertical and horizontal banding through the building result in a pattern and rhythm reminiscent of the residential levels of a cruise ship, while the extending canopies evoke images of a ship's bridge. The response is both subtle and tasteful, achieving a high quality design in its own right while still paying homage to the maritime environment; and, while avoiding the traps of 'themed or pastiche techniques'.</p> <p>The materiality is light in colour and largely reflective of sand and stone, suitable for this coastal environment.</p>

	<p>The Victorian Design Review Panel (VDRP) considered the scheme to be a generally well-conceived, coherent design that would be responsive to the maritime character, site constraints and planning framework. They advised that the architectural expression is resolved and works well in the maritime context with the form having an air foil like quality, achieving a contemporary nautical look.</p> <p>With regard to public art, the design is yet to be put to Council. This is normal practice given it is a detailed design matter that does not need to be resolved prior to the issue of a permit. As such, it is considered appropriate to require the public art response by way of condition, on any permit that issues. With regard to the location, this has been nominated on the plans to be within the eastern 'parklet', which is in accordance with design requirement A3.</p>
<p>B5: Activation and integration</p>	<p>Assessment:</p>
<p>Where car parking is contained within the podium levels, it must be sleeved with activated spaces or the facade designed with high quality architectural screening to completely disguise the car park use of the areas. (Mandatory)</p>	<p>N/A: No car parking is proposed at the podium level.</p>
<p>The design of ground level frontages, including frontages to through site pedestrian links, should provide for activated frontages for at least 80% of frontages.</p>	<p>Satisfied: Active frontage would make up 90% of the frontage.</p>  <p>Figure: Ground floor of the proposal with the blue line indicating active frontage</p>
<p>Building design should incorporate weather protection for pedestrians on the Waterfront Place frontage.</p>	<p>Satisfied: A canopy is proposed to this frontage in accordance with the requirement.</p>



B6: Port Melbourne Waterfront	Assessment:
<p>Built form massing should be configured to provide differing visual experiences when viewed from different locations in the Port Melbourne waterfront area.</p> <p>Development must demonstrate complexity, variation and layering of forms, rather than simplistic, bold or bulky forms. This may be achieved through the use of building stepping, recesses, and bends or folds in facades.</p>	<p>Satisfied: The development achieves suitable levels of complexity, variation and layering which minimises bulk; this has been discussed in the earlier design requirements of the DDO.</p> <p>The bulk of the towers would be most pronounced when viewing the development directly from the south; however, from this perspective the building gap would also be at its widest. Oblique views of the development, while minimising the visual break, would reveal the tiered and recessed form of the towers.</p>
B7: Station pier interface	Assessment:
<p>Any development intended for residential or other sensitive uses must include acoustic protection for future occupiers and be designed and constructed to ensure noise levels do not exceed:</p> <ul style="list-style-type: none"> • 30dBA in any bedrooms; and • 45 dBA in living areas, when the port facilities are in full operation. <p>A report prepared by a suitably qualified acoustic specialist must be provided to demonstrate that this requirement has been achieved.</p> <p>(Mandatory)</p>	<p>Satisfied subject to condition:</p> <p>As per section 11.2 of the Report, the applicant provided an Acoustic Report which was reviewed by an Acoustic Consultant on behalf of Council. The report included recommendations to ensure the internal noise criteria could be met.</p> <p>While Council's Acoustic Consultant were satisfied that the criteria was achievable, they suggested further noise monitoring be undertaken and that further details of mitigation measures be provided. As such, should a permit issue, recommended conditions would require an updated Acoustic Report informed by further monitoring which demonstrates that the building will meet the internal criteria set out by the DDO (as a minimum).</p>
B8: Sunlight and shadows	Assessment:
<p>Development must not cast a shadow beyond the southern kerb line of Waterfront Place between the hours of 9:00am and 3:00pm at the September equinox.</p> <p>(Mandatory)</p>	<p>Satisfied: The development would not cast a shadow beyond the southern kerb line of Waterfront Place between the hours of 9:00am and 3:00pm at the September equinox.</p>
<p>Development should minimise overshadowing beyond the southern kerb line of Waterfront</p>	<p>Satisfied: There are a number of factors at play when determining compliance with this standard. Firstly, it is noted that the requirement is discretionary, stating that development <i>should</i></p>



<p>Place between the hours of 9:00am and 3:00pm at the June solstice.</p>	<p>minimise overshadowing. Secondly, whether shadows are 'minimised', is ultimately a matter of judgement. It is clear, based on the planning controls, that a 10 storey development which delivers medium to high density housing has been contemplated for the Site, it is within this context that the term 'minimised' must be viewed. Furthermore, it must be acknowledged that some level of shadows are inevitable from any development, particularly one of 10 storeys in height. Lastly, 21 June (winter solstice) is the day where the sun is lowest in the sky, thus the longest shadows will be cast; reduced shadows will be seen for the rest of the year, including immediately prior to and post 21 June. Additionally, it is considered that the expectation for direct sunlight should be tempered at 21 June.</p> <p>Shadows would largely fall upon car parking areas to the south and the landscaped areas in and around the carparks; however, shadows would also fall upon the footpath, bicycle track, a public seating area overlooking the beach and upon a small portion of the beach itself.</p> <p>The most significant shadowing would occur at 9am; however, the majority of the shadow at this time would fall on the parking areas. Beyond 9am, relatively small areas of the bicycle track and footpath would be cast in shadow, these are transient areas with any users of the areas passing through the shadow relatively quickly. From 1pm onwards the seating area would be largely unaffected. The areas of beach in shadow are considered to be minimal at all times.</p> <p>As previously mentioned, the term 'minimised' must be viewed in the context of the planning controls; within this context, the winter shadows are considered to be appropriately 'minimised' for the following reasons:</p> <ul style="list-style-type: none">- The development would comply with the mandatory shadow controls at equinox (assessed above).- The development would not 'maximise' shadows at equinox i.e. the shadows would be setback from the kerb line at all times of the day, with considerable setbacks emerging from 10am onwards.- A two tower approach has been utilised, allowing light through the centre of the building.
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	<ul style="list-style-type: none"> - Bulk has been effectively minimised in accordance with the other design requirements of the DDO, including 8m tower setbacks and a tiered form (increasing the setback from the southern kerb line as height increases). - The built form is generally in accordance with Figure 1 of the Schedule (DDO23), which is indicative of the envisaged built form for the Site. - It is evident within the solstice shadow diagrams that a significant portion of the shadows are cast from the podium alone, which is only 3 storeys in height. This highlights that the tiered form of the towers has been remarkably effective in terms of minimising further shadow. <p>All things taken together, the winter shadows are considered to be minimised and acceptable.</p>
<p>Public spaces on the site should be located to maximise opportunities for optimal solar access.</p>	<p>Satisfied: All public areas would be located to maximise solar access.</p> <p>The northern public space has a northerly aspect which is optimal. The central/southern space has a southerly aspect; however, the northern boundary of the southern space is a single storey link, thus it would have a minimal impact upon direct sunlight for the majority of the space.</p> <p>The parklet would have an easterly and north-easterly aspect which is acceptable.</p>
<p>Buildings should be configured and designed to minimise negative amenity impacts of shadows on the public realm and other publicly accessible areas.</p>	<p>Satisfied: As per the assessments above, shadows at equinox would not extend beyond the southern kerb line and winter shadows would be appropriately 'minimised'.</p>
<p>Solar access to key building frontages should be maximised, such as areas identified for outdoor dining, community uses and residential outdoor spaces.</p>	<p>Satisfied: The east, north and west frontages would receive significant sunlight. Furthermore, the separation between the two halves of the building would ensure appropriate light penetration centrally within the building.</p>
<p>Direct solar access to residential dwellings should be maximised.</p>	<p>The southern frontages would receive less direct light; however, this is an inevitable consequence of a southerly aspect; the tiered form of the towers would ensure light is maximised to the south facing terraces.</p> <p>Direct solar access has been maximised as far as practicable.</p>



B9: Wind and microclimate	Assessment:
<p>Building forms should be designed to minimise wind impacts on the public realm and other outdoor spaces. Enclosing publicly accessible spaces is an appropriate design solution to wind mitigation.</p>	<p>Satisfied:</p> <p>A wind tunnel model (1:400 scale) of the development and surroundings was constructed and tested using simulated natural wind, the findings and mitigation strategies were reported upon in the submitted wind report. It is noted that the wind tunnel study did not rely on existing or proposed vegetation to assist with wind mitigation.</p> <p>The activity criterion is based on peak gust speeds with a probability of exceedance of 0.1%.</p> <p>The wind conditions at all test locations were found to be within safety criterion for all wind directions.</p> <p>To Waterfront Place, Beach St and the north/south laneway walking criterion would generally be achieved, mitigation measures include the single storey link connecting the two halves of the building, canopies and connecting the pavilion component to the main building. To the southeast along Beach Street (near the roundabout) wind levels would be above walking criterion but within waterfront criterion.</p> <p>With regard to the central courtyards, these would achieve walking and comfortable standing criterion, with the majority of wind directions achieving standing criterion.</p> <p>Wind conditions for balconies and terraces were found to be on or within walking comfort criterion for all wind directions and within stationary activities criteria for many wind directions.</p> <p>It is noted that the existing wind conditions in and around the Site are above walking criterion for many locations and wind directions.</p> <p>It is noted that the 1-7 Waterfront Place is naturally subject to high wind conditions, thus some level of wind must be accepted. Furthermore, the criterion are based on peak gust speeds with a probability of exceedance of 0.1%, thus wind conditions will naturally be lower on calmer days. Given the above, the development is generally considered to address the impact of wind.</p> <p>However, it is noted that the Wind Report has not been updated following the receipt of amended plans (S57A); as such, a condition is recommended to require an updated Wind</p>



	Report which takes into account any requirements of condition 1, should a permit issue.
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Theme C – ‘mixed’

Design Objectives:

- *To design for a broad range of land uses within the development, especially at the lower floor levels.*
- *To configure ground floor frontages to respond to the varied site interfaces, allowing for appropriate land uses.*
- *To provide a built form that encourages residential diversity within the development.*

Design Requirements:

C1: Constructing flexible spaces	Assessment:
<p>Development on the site should be designed to accommodate a broad range of land uses, including:</p> <ul style="list-style-type: none"> • retail and food and beverage spaces • community uses, such as meeting rooms, gymnasium, childcare or other facilities • small commercial office/studio spaces • townhouses or home/office units • residential apartments • shared amenities • accessible green roof spaces. 	<p>Satisfied: The development would be suitable to accommodate a broad range of land uses, including:</p> <ul style="list-style-type: none"> - Retail. - Food and drink. - Gym. - Meeting room. - Town houses. - Town houses suitable for use as home offices. - Apartments. - Shared amenities. <p>It is further highlighted that the commercial spaces are highly adaptable (by virtue of high ceilings, numerous entrances and adaptable floor plates), thus they could accommodate additional uses in accordance with market demand.</p>
C2: Dwelling diversity	Assessment:
<p>Any residential development must provide a mix of dwelling sizes, including 1, 2 and 3-4 bedroom dwellings, within the development to encourage a diversity of household types, including families.</p> <p>(Mandatory)</p>	<p>Satisfied: The proposed mix of dwelling types is as follows:</p> <ul style="list-style-type: none"> - 38 x 1bed units. - 54 x 2bed units. - 19 x 3bed units. - 1 x 4bed unit. - 1 x 5bed unit. - 6 x townhouses (2 to 4bed).

Theme D – ‘contributory’

Design Objectives:

- *To increase pedestrian connectivity and access through the site.*
- *To ensure the site edges enhance the streetscape amenity.*



- *To incorporate locally-appropriate landscaping and planting within built form and public spaces on the site.*
- *To balance passive surveillance and activation with residential privacy and views, through façade and balcony design.*

Design Requirements:

D1: Pedestrian safety	Assessment:
<p>Built form at the laneway entrances should be sited to ensure clear and inviting view lines into laneway space.</p>	<p>Satisfied: As previously assessed, sightlines through the laneways are considered to be acceptable.</p>
D2: Streetscape	Assessment:
<p>Built form must be set back a minimum of 2 metres from the property boundary at Waterfront Place to create a widened footpath. (Mandatory)</p>	<p>Satisfied subject to condition: The building frontage to Waterfront Place is, for the most part, setback 2m from the southern boundary. However, architectural corner features and a planter associated with the central/southern public open space would encroach into this 2m setback. Should a permit issue, a condition will require the full 2m setback from the boundary be achieved.</p> <p>This requirement interrelates with design requirement D4 which allows balconies to extend beyond the building line provided the ground floor is setback 2m; as such, the mandatory component of the requirement relates to the ground level setback.</p>
<p>Built form to the western site boundary (adjacent to the historic rail station) must be configured to enable the creation of a widened pedestrian space running north- south. (Mandatory)</p>	<p>Satisfied: A 5m wide laneway is proposed, in accordance with this requirement.</p>
<p>Building design and interface with Waterfront Place (the southern site boundary) should contribute to the public realm by creating an appropriately shaded, high quality, and activated streetscape.</p>	<p>Satisfied: The interface with Waterfront Place would provide a 2m setback to allow for a widened footpath; an overhead canopy would ensure appropriate weather protection; and, the frontage would be highly 'activated'.</p>



<p>The pedestrian space to the western boundary is to be activated at ground floor and may enable intermittent service vehicle access to the rear of the historic rail station building. The pedestrian space should to create a direct line of sight from Beach Street (north) to the Waterfront Place and the landscaped buffer of the Station Pier environs to the south.</p>	<p>Satisfied: The western laneway would be appropriately activated by way of considerable retail frontage, frontage with the food and drink premises and associated alfresco area and it would be intersected by the east/west pedestrian linkage. As per the assessment at Design Requirement A1, the sight lines are considered to be acceptable.</p>
D3: Greening buildings	Assessment:
<p>Buildings should include façade planting or 'green walls' to enhance the appearance and thermal/water conservation performance of new buildings.</p>	<p>Satisfied subject to condition: Considerable planting is proposed throughout the site, including planting along the edges of the balconies; creepers growing along the arbor and down the façade of the western retail units; a green wall to the first and second floor levels above the food and drink premises, to the northern elevation; a significant extent of green roof to the podium level.</p> <p>It is noted that while the submitted landscape plan is useful to indicate the extent of planting, it is lacking detail and does not reflect the aforementioned façade and green wall planting (which is shown on the development plans). As such, and should a permit issue, additional details would be required on the landscape plan by way of condition.</p>
<p>Significant rooftop and/or podium spaces should incorporate appropriate landscaping/planting, that are visible from the street where possible.</p>	
D4: Balconies	Assessment:
<p>Balconies may extend beyond the building line along the Waterfront Place frontage, if the ground floor is set back 2 metres from the site boundary.</p>	<p>Satisfied: The ground floor is setback 2m from the property boundary and the only overhang relates to balconies.</p>
<p>At the Beach Street frontage, balconies should be contained within the site boundaries. (Mandatory)</p>	<p>Satisfied: The balconies would not extend beyond the site boundaries.</p>
<p>Upper level balconies should not overhang or protrude more than 0.5 metre into new pedestrian laneways through the site.</p>	<p>Satisfied: Balconies would not overhang the western laneway.</p> <p>The east/west pedestrian linkage would not be overhung by balconies; however, it is beneath the building itself. As per previous discussions, the east/west pedestrian linkage is acceptable as currently proposed.</p>



Balcony designs and profiles should help to add interest, detail and human scale to the facades.	Satisfied: Recessed balconies are interspersed throughout the façade, contributing the articulation and a sense of depth to the façade; the use of balconies at all levels reinforces a human scale to the building, even to the upper levels of the towers.
Balcony balustrades should provide for views out from internal spaces, as well as appropriate privacy for residents.	Satisfied: Balustrades would be approximately 1.1m in height and clear glazing, allowing for appropriate outlook. With regard to privacy, separation distance in excess of 9m would be provided between balconies and windows.
Balconies and terraces on the lower 3-5 floor levels should contribute to opportunities for passive surveillance and visual interaction with the public realm.	Satisfied: Numerous balconies would overlook the public realm, contributing to passive surveillance.

Theme E – ‘quality’

Design Objectives:

- *To respect and respond to the valued maritime heritage and character of the precinct, in the design of buildings and public spaces on the site.*
- *To deliver buildings which are highly responsive to localised climatic conditions of sea breezes, salty air, precipitation and solar orientation.*
- *To achieve architectural design excellence, through site-responsive, considered and refined design.*

Design Requirements:

E1: Local maritime feel	Assessment:
Built form should ensure the development is ‘of the locality and relates to its heritage, function and the complex nature of the site.	<p>Satisfied: The built form is considered to be responsive to its environment, heritage, function and the complex nature of the Site.</p> <p>The building design and materials are considered to be high quality, forming a cohesive relationship which respond well to the maritime heritage and character.</p> <p>As outlined previously, the contemporary materials together with the vertical and horizontal banding through the building result in a pattern and rhythm reminiscent of the residential levels of a cruise ship, while the extending canopies evoke images of a ship’s bridge. The response is both subtle and tasteful, achieving a high quality design in its own right while still paying homage to the maritime environment; and, while avoiding the traps of ‘themed or pastiche techniques’. As discussed, the VDRP considered the scheme to be a generally well-conceived, coherent design that would be responsive to the maritime character.</p>
Built form should respond to the maritime heritage and character of the area in a way that is subtle, refined and authentic.	



	<p>The materiality is light in colour and largely reflective of sand and stone, suitable for this coastal environment.</p> <p>With regard to responding to the function and complex nature of the Site, it is highlighted that the proposal is considered to achieve all other Design Requirements of the DDO.</p>
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Theme F – ‘adaptable’

Design Objectives:

- *To provide for flexible spaces, capable of accommodating a broad range of household types and sizes, as well as home-working activities and other modes of occupation.*
- *To ensure that development at ground and upper levels is adaptable for a range of uses over time.*

Design Requirements:

F1: Adaptable floor plan	Assessment:
Development should provide dwelling layouts and spaces which are flexible and adaptable to accommodate changing needs and demographics over time.	Satisfied: The proposal includes a range of dwelling layouts which would be adaptable, including apartments with 1 to 5 bedrooms and townhouses.
Development should ensure a mix of dwellings types and sizes are provided to accommodate a range of household types (singles, families, children, students, group share houses etc.) and to contribute to the creation of a diverse community.	Satisfied: As per the assessment at Design Requirement C2, the development would accommodate a range of household types suitable for a range of people, including families.
F2: Flexible spaces	Assessment:
The size, area and shape, structural elements, access and delivery arrangements, and building services of ground floor spaces should be configured for adaptability	Satisfied: The ground level layouts are considered to be highly adaptable, suitable for a range of uses over time.
Floor-to-floor heights, floor levels and threshold details should be designed to allow for a range of uses over time.	<p>Satisfied: Commercial spaces have floor to ceiling heights in the vicinity of 4.7m and floor levels in close proximity to NGL, ensuring they would be suitably adaptable.</p> <p>Dwellings would have suitable floor to ceiling heights in the vicinity of 2.5m to 2.7m.</p>
Any above ground car parking areas should be designed to be adaptable to other uses in the future, through the use of appropriate ceiling heights, the location of service equipment, access and structural configuration.	N/A: No above ground car parking is proposed.



At Section 6.0 – Decision Guidelines, the DDO sets out the following:

Before deciding on an application, the responsible authority must consider, as appropriate:

- *The Design Objectives of this Schedule.*
- *The Design Requirements of this Schedule.*
- *The Design Guidelines 1-7 Waterfront Place (City of Port Phillip 2014).*
- *Whether the proposed design or development is appropriate to the site by virtue of its proximity to the port.*
- *Whether the proposed design or development might impede the long term development and operation of the port.*
- *Whether the proposed design or development has the potential to expose people unnecessarily to any off-site impacts associated with the 24-hour, 7 day a week operation of the port.*
- *Whether the siting and design of the proposed development includes appropriate measures to ensure that the amenity of the proposed uses will not be impacted by off-site impacts associated with the 24-hour, 7 day a week operation of the port.*
- *Whether the proposal is compatible with the present and future operation of the commercial trading port as detailed in a port development strategy approved under the Port Services Act 1995.*

Assessment Against the Design Guidelines of DDO23

As per the proceeding assessment, the development is considered to achieve all mandatory and discretionary requirements of the DDO, subject to conditions.

With regard to the development's compatibility with and impact upon the operations of the port, this is discussed under the ESO4, at section 13.6 of the Report. Ultimately, it is considered that subject to achieving the internal noise criteria required under the DDO, the development would be compatible with the port operations.

13.5 Other Built Form and Urban Design Requirements

In addition to Design and Development Overlay 23, built form and urban design responses are guided by a number of policy instruments including the Port Phillip Design Manual Version 3; and, Clauses 15 (Built Environment and Heritage), 21.05 (Built Form) and 22.06 (Urban Design Policy for Non-Residential Development and Multi Residential Development) which generally promote high quality design which is respectful and responsive to its context, and that improves the public realm.

The objectives, strategies and requirements of these policies generally align with and overlap the requirements of the DDO; given a detailed assessment has been provided against the DDO at section 13.4 of the Report, it is not necessary to repeat this detailed assessment against these more broad policies.

With regard to the above policy, it is sufficient to say that the development is well conceived. It has been informed and influenced by the history and character of the area, the surrounding built form, the opportunities and constraints of the Site, and the relevant planning controls. The proposal responds appropriately in terms of overall height, taking the place of a transitional building (in terms of height) within the skyline; massing is well considered to appropriately minimise bulk; the podium and tower typology would provide a robust base, anchoring the building and ensuring a strong presence within the public realm, the towers rising from the podium would be appropriately distinguished, comprising lighter materials with considerable setbacks from the podium edge; the façade treatment is considered to be high quality, being characterised by contemporary architecture and providing significant active



frontage and the resulting improvements to the public realm would be considerable. In particular, the proposed laneways, public open space and widened footpaths. The proposed building is considered to be a positive addition to the area and to fit harmoniously within the emergent character of the Port Melbourne foreshore and skyline.

Notwithstanding the above, Clause 22.06 has some specific requirements which are not covered by the DDO, these specific requirements are considered below as relevant.

Clause 22.06 - Urban Design Policy

This policy applies to new non-residential development and multi-unit residential developments where Clause 55 does not apply (i.e. where it is to be assessed under Clause 58). It is further noted that parts of Clause 22.06 align with and overlap the assessment provided in relation to Clause 58 (Apartments Developments), Traffic and ESD, where there is double up, the assessment has been provided in the following sections of the Report.

The relevant parts of Clause 22.06 are as follows:

Policy	Assessment
Landmarks, Views and Vistas	
<p>Encourage new development to preserve the visual prominence of key landmarks from adjoining streets, foreshore areas and other key public spaces. These landmarks include (but are not limited to):</p> <ul style="list-style-type: none"> – the Melbourne Central Activities District, – maritime structures such as St Kilda Pier, Kerferd Road Pier and Station Pier, – landmarks of cultural significance such as town halls, clock towers, church spires, synagogues, grandstands and hotels, – landmark heritage buildings including the Shrine of Remembrance. the foreshore and adjacent boulevards and promenades, and – public gardens and other key public open spaces. 	<p>Satisfied</p> <p>The siting, bulk, form and massing of the proposal are such that the visual prominence of key landmarks would be appropriately preserved; including at Station Pier and the adjacent heritage Railway Building.</p>
<p>Encourage new development to maintain and enhance important vistas including, but not limited to:</p> <ul style="list-style-type: none"> – along St Kilda Road, particularly towards the Shrine of Remembrance, – the Shrine Vista, – along Bank Street between the South Melbourne Town Hall and the Shrine of Remembrance. 	<p>Satisfied</p> <p>The siting, bulk, form and massing of the proposal are such important vistas would be maintained and enhanced; including from the foreshore, bay and surrounding streets toward the Melbourne CAD and toward the foreshore,</p>



<ul style="list-style-type: none"> - from the foreshore and its piers and the Bay towards the Melbourne CAD skyline, - along the beach front roads and boulevards, towards the foreshore and Port Phillip Bay in both directions, - along local roads and streets to Port Phillip Bay, the Melbourne CAD, Albert Park Reserve and local parks and gardens, - the built form edge of key open spaces, including the foreshore. 	
<p>Urban Art</p>	
<p>Require all new developments where the Total Project Cost* (as shown on the Planning Permit Application Form) exceeds two million dollars to provide an urban art contribution that addresses Principle 1 and 2 of the Urban Art Strategy 2002.</p> <p><u>Principle 1: Responsive Design</u></p> <p>The City of Port Phillip commits to a responsive design approach for the development of Urban Art, which reflects the identity of place, community values and innovation and creativity.</p> <p><u>Principle 2: Integrated Art</u></p> <p>The City of Port Phillip commits to a relational art approach, which will ensure Urban Art Demonstrates appropriate aesthetic appeal, functionality and utility in design development. Within this approach, art emphasises integration (e.g. response, memory and facilitation for 'place-making'), and/or promotes intervention (e.g. provocation, parody and challenge for 'agenda-setting').</p>	<p>Satisfied, subject to condition:</p> <p>Should a permit issue, a condition would be imposed which would require an urban art plan be submitted to Council for approval, with the art to be a minimum value of 0.5% of the total building cost and to be installed prior to occupation of the building.</p>

13.6 Environmental Significance Overlay – ESO4 (Port of Melbourne Environs)

The purpose of the ESO is, amongst other things, *to ensure that development is compatible with identified environmental values.*

The Statement of Environmental Significance for ESO4 is provided as follows:

The overlay manages potential conflicts between land in the port environs and the adjoining Port of Melbourne. Land within this overlay should not be developed for any purpose that might compromise the long term protection and expansion of port operations, infrastructure and associated storage facilities.

The environmental objectives to be achieved for ESO4 are as follows:

- *Minimise the potential for future land use conflicts between the port and port environs.*



- *Ensure that any use and intensity of development in the overlay area does not constrain the ongoing operation and development of the commercial port.*

The decision guidelines for ESO4 are as follows:

Before deciding on an application, the responsible authority must consider:

- *Whether the proposed use or development is appropriate to the site by virtue of the proximity to the port.*
- *Whether the proposed use or development might impede the long term development and operation of the port.*
- *Whether the proposed use or development has the potential to expose people unnecessarily to any off-site impacts associated with the 24-hour, 7 day a week operation of the port.*
- *Whether the siting and design of the proposed use or development includes appropriate measures to ensure that the amenity of the proposed use will not be impacted by off-site impacts associated with the 24-hour, 7 day a week operation of the port.*
- *Whether the proposal is compatible with the present and future operation of the commercial trading port as detailed in a port development strategy approved under the Port Services Act 1995.*
- *Whether the proposal will result in an increase in the number of people affected by noise or road or rail traffic arising from port operations.*
- *Whether the proposal will result in an increase in the number of people affected by exposure to risk to health or life arising from port operations.*

The proximity to the port was one of the key issues considered by the planning panel for Planning Scheme Amendment C104, which is the amendment that introduced the Design and Development Overlay 23 to the Site. The panel concluded that:

'allowing dwellings on the Subject Land is unlikely to constrain the operations of the Port. The provisions, including the noise requirements, in DDO23 will ensure that any future development on the Subject Land will minimise the potential for land use conflicts so that the operation of the Port is not constrained. No further measures are needed in DDO23 because a more detailed development proposal will be assessed as part of a permit application. Such an application will include detailed development plans, an acoustic assessment and other supporting information so that stakeholders, including the PoMC, are well informed when participating in the process.' (Page 42 of the Panel Report for Amendment C104 to the Port Phillip Planning Scheme, 28 February 2014).

Significant weight must be given to the introduction of the DDO and the Site's rezoning to a Mixed Use Zone, both of which envisage residential use on the Site. Therefore, the principle of the development, of this nature and of a density envisaged under the DDO, is clearly considered to be acceptable and would not impede upon the objectives of the port. The key here is the specific site response and ultimately whether any noise impacts emanating from an operating port can be appropriately mitigated.

The development will be required to meet suitable internal noise criteria stipulated by the planning controls. Under the DDO, criteria of 30dBA in any bedrooms and 45 dBA in living areas would be required. Under Clause 58, criteria of 35dBA in any bedrooms and 40 dBA in living areas would be required. As such, the more restrictive criteria should be required, being 30dBA in any bedrooms; and 40 dBA in living areas.

With regard to the decision guideline *Whether the proposal will result in an increase in the number of people affected by noise or road or rail traffic arising from port operations*, the applicant has provided the following responses:



- *The development will accommodate additional persons on the land as the current site has no occupants. This outcome was accepted by Council and DELWP when the site was rezoned and included a new DDO for a 10 storey mixed use building. The provisions of the DDO provide a required response we meet as demonstrated in the report.*
- *The port should be complying with SEPP N-1 requirements at existing residential properties near to site. If compliance is achieved at these existing properties, compliance will be achieved at the future development.*

In addition to the above response, Council's Acoustic Consultant commented as follows:

- *There are already several other existing residences proximate the subject land, and while the number of people affected would naturally increase, it would not have a material impact to Port operations because of the existing residents.*

As per the proceeding assessment, the decision guidelines have been considered and the proposal is deemed to be acceptable, subject to appropriate conditions if supported, regarding its proximity to and impact upon the port.

With regard to traffic impacts, these are assessed at section 13.10 of the Report.

13.7 Environmental Audit Overlay

Within the western portion of the Site, two small areas of the Site are covered by the EAO.

The purpose of the EAO is, amongst other things, to *ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination.*

The EAO has the following the requirements:

Before a sensitive use (residential use, child care centre, pre-school centre or primary school) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, either:

- *A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or*
- *An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.*

As such, should a permit issue, appropriate conditions will impose the relevant requirements.

13.8 Sustainable Design - Clauses 22.12 (WSUD) and 22.13 (ESD)

As per section 11.2 of the Report, Council's ESD Advisor reviewed the application along with the supporting documents, they have advised that they are satisfied with the sustainable design initiatives subject to conditions.

The applicant has proposed to achieve a BESS rating of 70%, which is considered to be 'design excellence' and is to be commended (noting that standard best practice is a BESS rating of 50%). Numerous initiatives are proposed to achieve 'design excellence' including enhanced insulation within the building fabric, external shading, solar panels, rainwater harvesting and reuse, water and energy efficient fittings, recycling, appropriate passive design, landscaping and a commitment to purchase 'green power' for the whole development to achieve carbon neutral on electricity for the whole development.

Conditions will be included on any permit that issues to ensure the initiatives are delivered.

13.9 Encumbrances on the Titles

There are a number of encumbrances on the titles which are considered as follows.

Easements

The following easements affect the Site:

- E-2: Sewerage; south east corner. This easement benefits land in PS 336475B and South East Water Limited.
- E-4: Powerline; west boundary. This easement benefits CitiPower Ltd.
- E-5: Powerline; west boundary. This easement benefits CitiPower Ltd.
- E-5 and E-6: Way and drainage; west boundary. These benefit lots 1, 2 and 3. Lot 1 does not form part of this application, it is known as 101 Beach Street
- E-7: Drainage with accompanying rights for erection and maintenance of eaves and guttering; between lots 2 and 3 (centrally within the Site). This easement benefits lot 3 (which forms part of the Site).

The applicant has provided the following information in relation to easements:

Easement	Purpose	Location	Changes	Comment
E2	Drainage	Eastern corner (Lot 3)	None	Building and basement will not disturb this easement.
E4	Powerline	Western boundary (Lot 2)	None	Building and basement will not disturb this easement The height (4.5m) of the canopy over the easement is not considered to disturb the rights of the beneficiaries.
E5	Powerline, Way & Drainage	Western boundary (Lot 2)	None	Building and basement will not disturb this easement The location of the bollards and the height (4.5m) of the canopy over the easement is not considered to disturb the rights of the beneficiaries.
E6	Way & Drainage	Western boundary (Lot 2)	None	Building and basement will not disturb this easement. The location of the bollards and the height (4.5m) of the canopy over the easement is not considered to disturb the access rights of the land at 101 Beach Street.
E7	Drainage & rights of erection & maintenance of eaves & guttering.	Central (between Lots 2 & 3)	Removed through consolidation	This change does not form part of the planning application.



The response is considered to be acceptable. With regard to easement E7, while its removal does not form part of the proposal, it is clear that it will need to be removed to facilitate the development; as such, any permit that issues will include a condition requiring its removal.

Covenants

The Site is affected by covenants V074097S (5/11/1997), PS344341D (29/05/1997), W413729L (17/11/1999). The restrictions applied to the land by these covenants are outlined in section 8 of the Report; important, all three covenants include a clause that states their respective restrictions apply, except with the written consent of Mirvac or its nominee.

Key to the wording of the covenants is that with the relevant consent of Mirvac or its nominee, the restrictions do not apply; as such, the covenants are not the type of restrictions that would prevent the grant of a permit. The grant of a permit would not inherently authorise anything that would breach the covenant, provided a condition on any permit required Mirvac’s consent prior to the permit being acted upon.

Given the above, it is recommended to include a condition on any permit that issues, to obtain the relevant consent of Mirvac or its nominee, or, to remove the covenant, prior to acting upon the permit. This is consistent with the approach applied by VCAT in application (VCAT references) P1335/2016 & P1753/2016 and outlined in the order dated 22 December 2016; the decision related to 103 Beach Street which is affected by a covenant with the same stipulation of ‘except with the written consent of Mirvac or its nominee’.

The applicant has provided a letter from Mirvac’s representatives advising that it is their intention to provide written consent following the issue of a planning permit. The rationale being that any consent would be specific to any approved plans. Given the consent can be required by condition, the response is acceptable.

13.10 Traffic and Carparking

Parking rates

Clause 52.06 requires parking to be provided at different rates depending on the number of bedrooms a dwelling has and depending on the land use. The relevant parking rates and proposed provisions are outlined in the table below. It is noted that given the Site is located within the PPTN there is no requirement for residential visitor parking.

Use	Rate	Area/Number	Required	Provision	Shortfall/Surplus
One and two-bedroom dwelling	1 space per dwelling	92	92	93	+1
Three or more bedroom dwelling	2 spaces per dwelling	27	54	54	0
Residential visitors	N/A	119 dwellings	0	10	+10
Food and drink / shop (Retail)	3.5 spaces to each 100 sqm	926 sqm	32	13	-19



Gymnasium and wellness centre	N/A (To Council's satisfaction)	981 sqm	N/A	10	+10
Unassigned	N/A	N/A	N/A	28	+28
			178	208	+30

Table 1: Parking rates and provisions

The proposal generates a total parking requirement of 178 spaces; 208 spaces are proposed which exceeds the relevant requirements. However, while the total number of spaces would exceed requirements, there is a specific shortfall in relation to food and drink / shop (retail), due to the way parking has been allocated.

Effectively, there is a total surplus of 30 spaces; notwithstanding, there is a shortfall of 19 spaces specific to the food and drink / shop (retail) uses, given less spaces have been allocated to these uses.

10 spaces would be allocated to the gymnasium/wellness centre which does not have a specified parking rate under the Planning Scheme. 10 spaces would be allocated to residential visitors, albeit there is no requirement for visitor parking under the Planning Scheme. In addition to the above, a further 28 spaces would be unassigned.

The applicant has advised that the unassigned 28 spaces would be allocated to residential and commercial uses on an as needs basis; this is a sensible approach given the exact needs of each tenancy won't be known until they start operating. A buffer of some 28 spaces will ensure adequate parking would be available.

With regard to the gymnasium/wellness centre, as the parking rates are not specified in the Planning Scheme, the parking provision will need to be to Council's satisfaction, noting this use is likely to generate some level of parking. The applicant has provided a detailed analysis in their Traffic Report, estimating a peak demand of 3 spaces per 100sqm, this would equate to a peak parking demand of 29 spaces. Ten (10) spaces have been allocated to this use which would be for staff. As such, there is a potential for overspill parking of up to 19 spaces. Peak demand for the gymnasium/wellness centre is likely to be prior to and after normal business hours on weekdays and at any time during the weekends. Councils traffic engineers have reviewed the Traffic Report and raise no concerns with the findings or methodology.

With regard to the required 32 spaces in relation food and drink / shop (retail) uses, it is intended that 13 spaces would be provided for the needs of staff, while a shortfall of 19 spaces would effectively relate to customer parking. Based on empirical parking studies undertaken by Ratio, the Traffic Report states that average car parking generation in relation to staff parking, are typically 1 space per 100sqm, this would equate to 9 spaces; given 13 spaces are proposed this is considered to be acceptable. With regard to the customer rates, the applicant has provided the following comments in relation to parking demand, at section 14.3 of their Traffic Report:

“Based on the empirical evidence, and in consideration of the site's location, access to alternative transport and other factors, it is considered that the application of a rate of 3.0 spaces per 100sqm of floor area inclusive of 1.0 space per 100 sqm generated by staff,



provides a suitable estimate of the retail and food & drinks parking generation for the proposal.”

As per the above, the peak overspill parking relating to the food and drink / shop (retail) uses are estimated to be 18 spaces. Peak demand for the food and drink / shop (retail) uses is likely to be during normal business hours on weekdays and at any time during the weekends.

The combined overspill parking at peaks times (for the food and drink/shop uses and the gymnasium/wellness centre) is up to 37 spaces. This is considered acceptable in this instance, for the reasons outlined in the following assessment relating to reduced parking rates.

Assessment of the reduced parking rates

Contextually, the site is located within the Principal Public Transport Network Area PPTN) and is within walking distance to a number of centres, services, facilities and modes of public transport and cycling.

Tram route 109 is immediately adjacent to the development and provides direct routes to Flinders Street Station and also provides connections (prior to Flinders Street Station) to Tram route 96, providing access south to Middle Park and St Kilda. Bus route 236 travels in both directions along Beach Street. Bus routes 234, 606 and 235 are also within comfortable walking distance. Bicycle paths are present along Beach Street, providing cycle access along the foreshore.

When assessing an application to reduce the parking requirements, it must be highlighted that there is strong policy support for addressing traffic congestion, limiting greenhouse emissions, and encouraging a modal shift to more sustainable transport options as per Clauses 16.01-1S (Integrated Housing), 16.01-2S (Location of Residential Development), 21.04-1 (Housing and Accommodation), 18.01-2S (Transport System), and 18.02-2R (Principal Public Transport Network); this is particularly relevant in areas with good access to public transport.

On this basis, a balanced outcome needs to be achieved acknowledging the impact of any parking reduction while promoting reduced vehicle ownership and the dependence on cars as a mode of transport.

It is accepted that the Site and proposed development are well positioned to achieve the aforementioned policy objectives. In this instance there is sufficient justification to reduce the statutory car parking rate due to the Site's proximity to nearby activity centres and public transport as well as strong alignment to state and local policy.

Clause 52.06-7 outlines the considerations the Responsible Authority must have regard to in determining the appropriateness of a car parking reduction, a full assessment against the requirements of Clause 52.06-7 is provided at **Attachment 8**. It is noted that the proposed reduction is considered to be acceptable, with a summary of the findings provided as follows:

- The area is extremely well connected in terms of public transport and cycle networks; it is also within comfortable walking distance to a range of shops, services, jobs and amenities.
- There is strong policy justification to reduce the reliance on cars.
- Theme A of the DDO23 seeks to *reduce the dependence on cars as the primary mode of transport for residents and visitors*.
- Council's Traffic Engineer has reviewed the application, including the submitted Traffic Report, and raises no concerns with the findings or methodology. In addition, they have advised the following: "I am generally satisfied that the



- majority of residents and employees have sufficient long-term parking provision on the site”.
- The proposal exceeds requirements in terms of residential parking.
 - A surplus of 28 spaces would be available onsite, which can be allocated on an as needs basis.
 - The nature of the proposed uses are anticipated to draw a large percentage of their customers from the immediate area (surrounding residents) or from multi-purpose trips (people that have travelled to the area for another purpose). Multi-purpose trips will reduce overspill parking.
 - Overspill parking can be accommodated in the surrounding network, this is supported by the results of multiple parking surveys.
 - The surrounding area is largely controlled by short time (2P and 3P) parking restrictions, this promotes a high turn over of available parking spaces.
 - A generous provision of 163 bicycle parking spaces would be provided.
 - The shortfall in parking would only relate to customer parking, which would not be practical to provide onsite.
 - The previous use is estimated to have had a shortfall of 47 spaces, which exceeds the reduction currently proposed.
 - A recommended condition would require a ‘green travel plan’, promoting a reduced reliance on cars.
 - Due to the above factors, the potential overspill parking of 37 spaces is considered be conservative, the actual overspill parking is likely to be much less.

Design standards and physical infrastructure

The vehicle access is proposed from Beach Street which is both acceptable and the preferred outcome in terms of DDO23. The crossover will require the relocation of the bus stop and shelter, which requires the approval the Department of Transport, it is noted that the proposal has been reviewed by the Department of Transport whom raise no objection subject to conditions.

As per section 11.2 of the Report, Council’s Traffic Engineer has reviewed the application and confirmed that the accessway dimensions, ramp gradients, pedestrian sight lines, height clearances, parking spaces, parking clearances, aisle widths, loading provisions and waste collection are acceptable and generally in accordance with the Planning Scheme; it is noted that the suitability of the layout has been demonstrated by way swept paths.

Traffic generation and impact

As per section 11.2 of the Report, Council’s Traffic Engineer has reviewed the application and advised that the development is not expected to create a significant adverse impact on traffic operations on the surrounding road network.

With regard to the potential for U-turns, the applicant’s Traffic Report advises that U-turn bans can be introduced at the medians in Beach Street to prevent conflict and damage to kerbs and landscaping. Council’s Traffic Engineer has advised that “In the future, if the council officers find any problems at this location that would be causing significant congestion or safety concerns then we could look into introducing a “No U-turn” sign”. This is a sensible approach based on any future observed impact.

Full comments from Council’s Traffic Engineer are provided at section 11.2 of the Report.

Bicycle facilities

As per Clause 52.34 of the Planning Scheme, a total 49 bicycle spaces would be required, comprising 6 spaces for employees, 24 spaces for residents and 19 spaces for visitors. The



development proposes a total of 163 spaces comprising 131 spaces for residents, staff and accredited visitors on the site, 14 spaces for visitors on site and 18 spaces along the footpath on Waterfront Place.

Bicycle storage, shower facilities and changing rooms would be provided in accordance with Clauses 52.34-5 and 52.34-6 which is therefore acceptable.

Conclusion

The traffic, carparking and bicycle parking response is considered to be acceptable. The full comments from Council's Traffic Engineer along with recommended conditions are provided at section 11.2 of the Report.

13.11 Clause 58 Apartment Developments

A full assessment against the requirements of Clause 58 is provided at Attachment 9. The development is considered to meet all objectives of Clause 58 and most standards. Where standards are not met but the objectives are achieved, these are outlined below.

58.03-3 Solar access to communal outdoor open space objective

- To allow solar access into communal outdoor open space.

Standard D8

- The communal outdoor open space should be located on the north side of a building, if appropriate.
- At least 50 per cent or 125 square metres, whichever is the lesser, of the primary communal outdoor open space should receive a minimum of two hours of sunlight between 9am and 3pm on 21 June.

Planning Officer Comments:

Objective met

Both areas of public open space would be open to the sky.

With regard to sunlight access, the northern space has a northerly aspect which is optimal.

The southern space has a southerly aspect; however, the northern boundary is a single storey link, thus it would have a minimal impact upon direct sunlight for the majority of the space.

The applicant hasn't categorically demonstrated that the at least 125sqm of the space would receive a minimum of two hours of sunlight at solstice. However, based on the winter shadow diagrams it appears that the majority of the northern space would receive direct light for at least 2 hours. In addition, parts of the southern space would also receive direct light, particularly at 11am and 12 noon. The response is considered to be acceptable.

58.03-5 Landscaping objectives

- To encourage development that respects the landscape character of the area.
- To encourage development that maintains and enhances habitat for plants and animals in locations of habitat importance.
- To provide appropriate landscaping.
- To encourage the retention of mature vegetation on the site.
- To promote climate responsive landscape design and water management in developments that support thermal comfort and reduces the urban heat island effect.



Standard D10

The landscape layout and design should:

- Be responsive to the site context.
- Protect any predominant landscape features of the area.
- Take into account the soil type and drainage patterns of the site and integrate planting and water management.
- Allow for intended vegetation growth and structural protection of buildings.
- In locations of habitat importance, maintain existing habitat and provide for new habitat for plants and animals.
- Provide a safe, attractive and functional environment for residents.
- Consider landscaping opportunities to reduce heat absorption such as green walls, green roofs and roof top gardens and improve on-site storm water infiltration.
- Maximise deep soil areas for planting of canopy trees.

Development should provide for the retention or planting of trees, where these are part of the urban context.

Development should provide for the replacement of any significant trees that have been removed in the 12 months prior to the application being made.

The landscape design should specify landscape themes, vegetation (location and species), paving and lighting.

Development should provide the deep soil areas and canopy trees specified in Table D2.

If the development cannot provide the deep soil areas and canopy trees specified in Table D2, an equivalent canopy cover should be achieved by providing either:

- Canopy trees or climbers (over a pergola) with planter pits sized appropriately for the mature tree soil volume requirements.
- Vegetated planters, green roofs or green facades

Table D2 Deep soil areas and canopy trees

Site area	Deep soil areas	Minimum tree provision
750 - 1000 square metres	5% of site area (minimum dimension of 3 metres)	1 small tree (6-8 metres) per 30 square metres of deep soil
1001 - 1500 square metres	7.5% of site area (minimum dimension of 3 metres)	1 medium tree (8-12 metres) per 50 square metres of deep soil or 1 large tree per 90 square metres of deep soil
1501 - 2500 square metres	10% of site area (minimum dimension of 6 metres)	1 large tree (at least 12 metres) per 90 square metres of deep soil or 2 medium trees per 90 square metres of deep soil
>2500 square metres	15% of site area (minimum dimension of 6 metres)	1 large tree (at least 12 metres) per 90 square metres of deep soil or 2 medium trees per 90 square metres of deep soil

Where an existing canopy tree over 8 metres can be retained on a lot greater than 1000 square metres without damage during the construction period, the minimum deep soil requirement is 7% of the site area.

Planning Officer Comments:

Objective met



Considerable planting is proposed throughout the site, including; planting along the edges of the balconies; creepers growing along the arbor and down the façade of the western retail units; a green wall to the first and second floor levels above the food and drink premises, to the northern elevation; a significant extent of green roof to the podium level; trees to the front setback of the townhouses; trees to the parklet, public open space areas and alfresco area.

In terms of table D2, the Site would require 15% of its area to be 'deep soil areas'. The Site area is 5,487sqm, thus 15% equates to 823sqm of deep soil areas; approximately 60sqm is proposed (118sqm including the area to the south, albeit the southern area falls short of the 6m minimum dimension requirement).

Notwithstanding the above, the standard allows for equivalent planting to be achieved by way of planters, green roofs, green walls and climbers. As demonstrated by the development plans and landscape plan, suitable levels of planting would be achieved.

It is noted that while the submitted landscape plan is useful to indicate the extent of planting, it is lacking detail and does not reflect the aforementioned façade and green wall planting (which is shown on the development plans). As such, and should a permit issue, additional details would be required on the landscape plan by way of condition.

58.03-7 Parking location objectives

- To provide convenient parking for resident and visitor vehicles.
- To protect residents from vehicular noise within developments.

Standard D12

Car parking facilities should:

- Be reasonably close and convenient to dwellings.
- Be secure.
- Be well ventilated if enclosed.
- Shared accessways or car parks of other dwellings should be located at least 1.5 metres from the windows of habitable rooms. This setback may be reduced to 1 metre where there is a fence at least 1.5 metres high or where window sills are at least 1.4 metres above the accessway.

Planning Officer Comments:

Objective met

Parking would be provided within the basement in accordance with the standard.

With regard to the vehicle access's proximity to habitable windows, there are no dwellings adjacent to the accessway; with regard to the dwellings above, height clearances in excess of 5m are achieved which is considered to be acceptable.

58.04-3 Noise impacts objectives

- To contain noise sources in developments that may affect existing dwellings.
- To protect residents from external and internal noise sources.

Standard D16

- Noise sources, such as mechanical plants should not be located near bedrooms of immediately adjacent existing dwellings.
- The layout of new dwellings and buildings should minimise noise transmission within the site.

- Noise sensitive rooms (such as living areas and bedrooms) should be located to avoid noise impacts from mechanical plants, lifts, building services, non-residential uses, car parking, communal areas and other dwellings.
- New dwellings should be designed and constructed to include acoustic attenuation measures to reduce noise levels from off-site noise sources.

Buildings within a noise influence area specified in Table D3 should be designed and constructed to achieve the following noise levels:

- Not greater than 35dB(A) for bedrooms, assessed as an LAeq,8h from 10pm to 6am.
- Not greater than 40dB(A) for living areas, assessed LAeq,16h from 6am to 10pm.
- Buildings, or part of a building screened from a noise source by an existing solid structure, or the natural topography of the land, do not need to meet the specified noise level requirements.
- Noise levels should be assessed in unfurnished rooms with a finished floor and the windows closed.

Table D3 Noise influence area

Noise source	Noise influence area
Zone interface	
Industry	300 metres from the Industrial 1, 2 and 3 zone boundary
Roads	
Noise source	
Freeways, tollways and other roads carrying 40,000 Annual Average Daily Traffic Volume	300 metres from the nearest trafficable lane
Railways	
Railway servicing passengers in Victoria	80 metres from the centre of the nearest track
Railway servicing freight outside Metropolitan Melbourne	80 metres from the centre of the nearest track
Railway servicing freight in Metropolitan Melbourne	135 metres from the centre of the nearest track

The noise influence area should be measured from the closest part of the building to the noise source.

Planning Officer Comments:

Objective & standard met subject to conditions

The development is sufficiently separated from existing residences to ensure it would not unduly impact them in terms of noise.

The layout of the development is acceptable, ensuring noise sensitive rooms would be appropriately separated from noise sources within the Site. Services are proposed to the roof of the towers and within the basement, which is acceptable.

With regard to the gym use, a recommended condition would require the updated Acoustic Report to address noise and vibration from the use. Conditions are also recommended to prohibit mechanical plant from being located on balconies.

As per the Acoustic Consultant's comments at section 11.2 of the Report, the tram/light rail should be treated as 'railway' for the purpose of Table D3, thus the Site is within a 'noise influence area'. It is noted that even if it was found that the tram should not be considered 'railway', it is clear that the port operations along with the tram would generate noise.

Irrespective of the definitions in Table D3, the objectives to the standard remain relevant along with part of the standard that reads *new dwellings should be designed and constructed to include acoustic attenuation measures to reduce noise levels from off-site noise sources*. Given the above, it is



expected that future residents of the development are appropriately protected from offsite noise sources, with the noise levels specified in the standard remaining relevant to ascertain suitable internal amenity.

The applicant submitted an Acoustic Assessment in support of the proposal which takes into account the port operations along with other noise sources such as the tram and traffic; the report found that the development would be in compliance with the internal criteria set out by DDO23, being 30dBA in any bedrooms; and 45 dBA in living areas. The report was reviewed by an acoustic consultant on behalf of Council, their comments are provided at section 11.2 of the Report; ultimately, they determined that while the internal criteria would be achievable, further details should be required by conditions.

However, it is also highlighted that while the DDO provides a more restrictive noise criteria for bedrooms, Clause 58 provides a more restrictive criteria for living areas. The most restrictive of both criteria should be required in the updated Acoustic Report, being 30dBA in any bedrooms; and 40 dBA in living areas.

The standard is considered to be met subject to conditions.

58.05-2 Building entry and circulation objectives

- To provide each dwelling and building with its own sense of identity.
- To ensure the internal layout of buildings provide for the safe, functional and efficient movement of residents.
- To ensure internal communal areas provide adequate access to daylight and natural ventilation.

Standard D18

Entries to dwellings and buildings should:

- Be visible and easily identifiable.
- Provide shelter, a sense of personal address and a transitional space around the entry.

The layout and design of buildings should:

- Clearly distinguish entrances to residential and non-residential areas.
- Provide windows to building entrances and lift areas.
- Provide visible, safe and attractive stairs from the entry level to encourage use by residents.

Provide common areas and corridors that:

- Include at least one source of natural light and natural ventilation.
- Avoid obstruction from building services.
- Maintain clear sight lines.

Planning Officer Comments:

Objective met

The entries are considered to be visible, easily identifiable, provide shelter, a sense of address and a sense of identity for the building. Residential and non-residential entries are clearly distinguishable.

Windows would be provided to the residential lobby and lift areas.

It would not be practicable to provide natural light and ventilation to the common corridors above ground floor level.

The overall design response is considered to be acceptable.

58.05-3 Private open space objective

- To provide adequate private open space for the reasonable recreation and service needs of residents.

Standard D19

A dwelling should have private open space consisting of:

- An area of 25 square metres, with a minimum dimension of 3 metres at natural ground floor level and convenient access from a living room, or
- An area of 15 square metres, with a minimum dimension of 3 metres at a podium or other similar base and convenient access from a living room, or
- A balcony with an area and dimensions specified in Table D5 and convenient access from a living room, or
- A roof-top area of 10 square metres with a minimum dimension of 2 metres and convenient access from a living room.

If a cooling or heating unit is located on a balcony, the balcony should provide an additional area of 1.5 square metres.

Table D5 Balcony size

Dwelling type	Minimum area	Minimum dimension
Studio or 1 bedroom dwelling	8 square metres	1.8 metres
2 bedroom dwelling	8 square metres	2 metres
3 or more bedroom dwelling	12 square metres	2.4 metres

Planning Officer Comments:

Objective met

All dwelling would be provided with balconies which achieve the minimum area requirements. However, some balconies would comprise irregular shapes such that parts of the balconies would fall short of the minimum dimension requirements. Regardless, all balconies would constitute 'usable' space and are considered to be acceptable.

To ensure available space and amenity is not reduced to these areas, conditions are recommended which would prohibit mechanical plant from being located on balconies

58.07-2 Room depth objective

- To allow adequate daylight into single aspect habitable rooms.

Standard D25

Single aspect habitable rooms should not exceed a room depth of 2.5 times the ceiling height.

The depth of a single aspect, open plan, habitable room may be increased to 9 metres if all the following requirements are met:

- The room combines the living area, dining area and kitchen.
- The kitchen is located furthest from the window.
- The ceiling height is at least 2.7 metres measured from finished floor level to finished ceiling level.



The room depth should be measured from the external surface of the habitable room window to the rear wall of the room.

Planning Officer Comments:

Objective met subject to conditions

Apartments within the podium level only achieve floor to ceiling heights of 2.5m; this is the unfortunate consequence of minimum floor level requirements along with a 12m height limit to the podium level, which has resulted in limited floor to ceiling heights.

While 2.5m is an acceptable floor to ceiling height in its own right, an issue arises when viewing the heights in conjunction with the single aspect the room depths, some of which are up to 9.9m.

Daylight modelling was submitted as part of the Sustainable Management Plan (SMP) which also indicated poor light penetration to the deep parts of bedrooms and living areas. However, Council's Sustainable Design Advisor reviewed the SMP and advised that windows with low visible light transmissions (VLTs) have been used and that it would be possible to improve the level of light penetration using glazing with higher VLT.

As such, it is recommended that a condition be included on any permit which requires residential windows within the podium levels be utilised with a VLT exceeding 50%, to achieve best practice in terms of internal daylight levels.

The tower levels have floor to ceiling heights of 2.7m and achieve the relevant criteria.

13.12 Cultural Heritage Management

The Aboriginal Heritage Regulations 2018 are made under, and generally give effect to, the Aboriginal Heritage Act 2006. A Cultural Heritage Management Plan (CHMP) is required under Regulation 7 of the Aboriginal Heritage Regulations 2018; *if -*

- (a) all or part of the activity area for the activity is an area of cultural heritage sensitivity; and*
- (b) all or part of the activity is a high impact activity.*

The activity area is situated within 200m of the high water mark of the coast of Port Philip Bay, and is situated within a geological formation defined as dunes and thus meets the initial criteria to be defined as an area of cultural heritage sensitivity.

However, pursuant to Regulations 31(2) and 40(2), *if part of the land... has been subject to significant ground disturbance, that part is not an area of cultural heritage sensitivity.*

Pursuant to Regulation 5 – Definitions:

Significant ground disturbance means disturbance of -

- (a) the top soil or surface rock layer of the ground; or*
- (b) a waterway –*

by machinery in the course of grading, excavating, digging, dredging or deep ripping, but does not include ploughing other than deep ripping.

The applicant has provided Cultural Heritage Advice prepared by Andrew Long + Associates dated 5 June 2020. This establishes that on the balance of the existing conditions and historical evidence, it is highly likely that significant ground disturbance has occurred over the full extent of the site, and therefore the Site is not an area of cultural heritage sensitivity. Given the Site is not an area of cultural heritage sensitivity, no CHMP is required.

13.13 Future Sea Level Rise and Flood Inundation Risk



Clause 65 of the Planning Scheme requires the responsible authority to consider, amongst other things, the *orderly planning of the area and the degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard*. In this regard, the 2017 Planning for Sea Level Rise (SLR) Guidelines are a relevant consideration. These requirements are applicable irrespective of a relevant planning overlay, such as a Special Building Overlay.

Council's flood mapping for future sea level rise indicates that the Site will be affected by flood inundation and storm surge due to future sea level rise. The Site has a 1% AEP flood level of AHD 2.4m, as per 0.8m sea level rise by the year 2100 due to flood inundation and storm surge.

In applying the SLR Guidelines to the Site, this translates to the following requirements:

- Commercial and Retail floor areas may not be less than the Nominal Flood Protection Level (NFPL) of 2.4m AHD floor level.
- Flood sensitive uses have a 600mm freeboard above NFPL, which is a minimum floor level of 3.0m AHD. This includes areas such as lift lobbies, essential services such as substations and residential uses. The basement driveway should also incorporate a continuous apex at AHD 3.0m.

The development has proposed minimum floor levels in accordance with the above.

14. INTEGRATED DECISION MAKING AND CONCLUSION

Clause 71.02 of the planning scheme requires the decision-maker to integrate the range of policies relevant to the issues to be determined and balance the positive and negative environmental, social and economic impacts of the proposal in favour of net community benefit and sustainable development. When considering net community benefit, fair and orderly planning is key; the interests of present and future Victorians must be balanced; and, the test is one of acceptability.

The proposal would result in a number of positive, neutral and negative impacts, these are outlined below:

Positive

- The proposal is considered to have strong strategic support from the Planning Scheme, which has a consistent theme of increasing residential density at strategic locations and within close proximity to jobs, services and public transport (environmental, economic and social)
- The proposal would achieve the purpose of the zone, providing a clear public benefit by way of contributing to Melbourne's much needed housing stock, adding to diversity/housing choice and increasing density in an accessible location (environmental, economic and social)
- The proposal would achieve the purpose of the zone by way of providing a range of commercial uses which would support the locality (environmental, economic and social)
- The proposal is considered to be well conceived from an urban design perspective, resulting in high quality architecture which would enhance the public realm and skyline at a strategic 'gateway' location (economic and social)
- The proposal would give back to the community in the form of pedestrian links, widened footpaths and public open space (social)
- The development would achieve 'design excellence' in terms of sustainability (environmental, economic and social)



- The proposal would provide a significant oversupply of bicycle parking (environmental, economic and social)
- The proposal has received 11 letters of support (social)

Neutral

- Any offsite amenity impacts arising for the commercial uses can be appropriately mitigated by way of conditions (environmental, economic and social), should the proposal be supported
- The proposal is considered to satisfy all requirements of DDO23 (environmental, economic and social)
- Offsite wind impacts resulting from the development are considered to be acceptable (environmental and social)
- The proposal would see the removal of all vegetation from the Site; however, significant landscaping, including green roofs, would offset this loss (environmental and social)
- The proposal is deemed to be acceptable in relation to its proximity to and impact upon the port (environmental, economic and social)
- Carparking rates are considered to be sufficient, balancing considerations of promoting sustainable transport (encouraging a modal shift towards using public transport, cycling and walking) while not unduly impacting the surrounding network (environmental, economic and social)
- Traffic impacts are not considered to be significant (economic and social)
- Neither the built form nor the use would result in unreasonable offsite amenity impacts to residential properties (social)
- Contamination onsite would be appropriately addressed subject to conditions (environmental and social)
- The development would achieve all objectives and most standards of Clause 58 (environmental, economic and social)
- The development has been designed to account for future sea level rise (environmental, economic and social)

Negative

- While within the tolerances of the planning scheme requirements, the development would result in new winter shadows to the foreshore (social)
- The application has received 37 objections (social)

Summary

The impacts of the development are considered to weigh heavily in the favour of 'positive'. The key negatives relate to winter shadows to the foreshore and public objection, each are addressed in turn:

- While shadows would be cast to the foreshore, they are considered to be minimal and within the tolerances envisaged by DDO23.
- A number of residents have objected to the proposal, which represent a portion of the current community. However, the future community must also be considered, which, given the number of beneficial impacts attributed to the development, are likely to be befitted in turn. Furthermore, it is noted that a portion of the current community have given their support to the proposal.

Viewed holistically and balancing the material considerations along with the interests of present and future Victorians, the proposal is considered to result in a net community benefit



and a sustainable development; for these reasons, it is recommended to approve the application.

15. OFFICER DIRECT OR INDIRECT INTEREST

No officers involved in the preparation of this report have any direct or indirect interest in the matter.

16. OPTIONS

- 16.1 Approve as recommended
- 16.2 Approve with changed or additional conditions
- 16.3 Refuse - on key issues

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ATTACHMENTS

- 1. Location and Photo's
- 2. Development Plans
- 3. Materials and Finishes
- 4. Shadow diagrams
- 5. Landscape Plan
- 6. Urban Context and Design Response Report
- 7. OVGA and VDRP Letter of Advice
- 8. City of Port Phillip Parking Reduction Assessment
- 9. City of Port Phillip Assessment against Clause 58
- 10. City of Port Phillip Internal Referrals
- 11. Objector Map