



6.1 [223 ROUSE STREET, PORT MELBOURNE - PDPL/01298/2021](#)

LOCATION/ADDRESS: 223 ROUSE STREET, PORT MELBOURNE

EXECUTIVE MEMBER: BRIAN TEE, GENERAL MANAGER, CITY GROWTH AND DEVELOPMENT

PREPARED BY: MARTIN COOKSLEY, SENIOR URBAN PLANNER

1. PURPOSE

- 1.1 To consider and determine planning permit application PDPL/01407/2021 for the construction of a six-storey mixed use development with rooftop deck and basement car stacker, containing 7 dwellings and an indoor recreation facility at ground floor: a reduction in the car parking requirements.

2. EXECUTIVE SUMMARY

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| WARD: | Gateway Ward |
| TRIGGER FOR DETERMINATION BY COMMITTEE: | More than 16 objections |
| APPLICATION NO: | PDPL/01407/2021 |
| APPLICANT: | JGK Investments Pty Ltd |
| EXISTING USE: | Indoor recreation |
| ABUTTING USES: | Retail, residential |
| ZONING: | Mixed Use Zone (MUZ) |
| OVERLAYS: | Design and Development Overlay (DDO1-2) Development Contributions Plan Overlay (DCPO1) Environmental Audit Overlay (EAO) |
| STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL | Expired |

- 2.1 The application proposes the construction of a six-storey mixed-use apartment building. Seven apartments would be provided within the building comprising a mix of two and three bedroom dwellings. At ground floor, an Indoor Recreation Facility is proposed as per the existing use at the site. The development is designed with full site coverage with three upper levels stepping in from both Rouse Street to the north and Donaldson Street to the west.
- 2.2 Vehicle access to the site would be from Donaldson Street and would access a car stacker containing 8 car spaces for the dwellings.
- 2.3 The proposal involves the demolition of the existing warehouse building. The site is not located within a Heritage Overlay, nor is it identified in the Port Phillip Planning Scheme as having "heritage significance" outside of the Heritage Overlay and therefore does not require a planning permit for demolition.



- 2.4 The application was advertised and received 16 objections. The concerns raised related to a broad range of issues including overall building height and mass, traffic and pedestrian safety along Donaldson Street, location of the waste collection point, overlooking, overshadowing, lack of transition from heritage areas, non-compliance with design objectives of the Design and Development Overlay, loss of views noise, construction impacts and impact on property values.
- 2.5 A Consultation Meeting was held on 24 January 2023. The meeting was attended by all Ward Councillors, the applicant, objectors and planning officers. The meeting did not result in any formal changes to the proposal.
- 2.6 A Section 57A application was submitted to remove the proposal to 'remove a restrictive covenant' on 6 October 2023. No changes were made to the proposed use or buildings and works. The covenant was removed through Supreme Court processes outside of the planning application process. As a result of the Supreme Court process, the applicant requested that Council place the application on hold from February 2023 to October 2023.
- 2.7 The proposal is consistent with the strategic direction outlined by the Port Phillip Planning Scheme which has a consistent theme of increasing residential density at strategic locations and within proximity to jobs, services and public transport.
- 2.8 Built form on this site is subject to a Design and Development Overlay (DDO1), which controls the design and built form of new development. For DDO1 this includes requirements for the absolute height of any building and the preferred height within 5 metres of the street.
- 2.9 The proposed building is largely compliant with the requirements of the Design and Development Overlay. It would meet the absolute building height specified for the site, however would not meet the preferred height within 5m of a road boundary.
- 2.10 The preferred height exists to ensure a human scale street wall is achieved. It is considered that the effective setbacks of 3m from Rouse Street and 0.9m from Donaldson Street would be reasonable given the constraints of the site and as the design would achieve the objectives of the Design and Development Overlay.
- 2.11 The proposal would generally comply with the objectives of Clause 58, with some conditions required to address accessibility requirements to achieve Standard D18.
- 2.12 The proposal would increase traffic generation given the additional car parking for the development. However, it is considered that the increase in traffic during peak hours are a low volume that could be safely accommodated within the surrounding neighbourhood.
- 2.13 The application proposes a reduction of 2 car spaces, but this is considered acceptable in consideration of the promotion of sustainable transport and limiting the impact on the surrounding road network.
- 2.14 The proposal provides waste collection provisions that would not affect the operation of the surrounding public realm.
- 2.15 There are a few unresolved built form matters that are reasonable to address through a condition to provide amended plans. Such matters include the deletion and making good of the existing crossover to Rouse Street, the deletion of the tilt door to Rouse Street, the provision of traffic management measures to the accessway of the stacker,



the provision of 1 visitor bicycle space, and some minor internal changes to adhere to the objectives of Clause 58.

- 2.16 Beyond built-form matters, the proposal is highly resolved. It achieves acceptable parking outcomes, sound traffic management outcomes, acceptable ESD and WSUD outcomes (subject to conditions), and reasonable waste management outcomes (subject to conditions).
- 2.17 The development would deliver a net community benefit to its site and surrounds subject to the conditions forming part of this recommendation. It would improve housing supply in a central location that is highly accessible to public transport, goods, services, public open spaces, and in a highly strategically supported area for high density development.
- 2.18 The proposal is recommended for approval, subject to the conditions below.

3. RECOMMENDATION

- 3.1 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.
- 3.2 That a Notice of Decision to Grant a Permit be issued for the construction of a six-storey mixed use development with rooftop deck and basement car stacker, containing 7 dwellings and an indoor recreation facility at ground floor; a reduction in the car parking requirements at 223 Rouse Street, Port Melbourne
- 3.3 That the decision be issued as follows:

Amended Plans Required

- 1 Before the use or development starts, 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 prepared by Jam Architects titled "*223 Rouse Street, Port Melbourne VIC Apartment Development*", Project No 2123, Plans No's as TP00 to TP25, dated 19 August 22 and Council date stamped 2 September 2022, but modified to show:
 - a) The deletion of the tilt panel glazed door to the Indoor Recreation Facility, replaced with a standard door and window set.
 - b) The removal of the existing crossover to Rouse Street, and made good to match the footpath, kerb and channeling.
 - c) The addition of a window or opening to the wall on the south side of the car stacker entry, of a format sufficient to provide visibility to Donaldson Street.
 - d) The provision of convex mirrors to provide sightlines from the car stacker, installed within the property boundary.
 - e) Provide pedestrian access to the car stackers that does not require access from the carriageway of Donaldson Street.
 - f) Provide a footpath or accessway parallel to- Donaldson Street from the Entry Lobby to Rouse Street.



- g) Provide 1 visitor bicycle space for residential use.
- h) Demonstrate all bicycle spaces are to be installed in accordance with Australian Standards, ensuring each space has a clear 1.5m access aisle.
- i) All plant, equipment and domestic services (including air conditioning, heating units, hot water systems, etc.) which are to be located externally.
- j) Acoustic attenuation measures to be used for all apartments.
- k) Identify the location of toilets to dwellings in order to comply with Table D7 in Standard D18.
- l) Identify the width of entry doors to Apts 01, 03, 05 and 06 to comply with Standard D18.
- m) Provide effective external lighting to Donaldson Street and the rear lane at ground level.
- n) Any changes required pursuant to Condition 4 (Sustainability Management Plan)
- o) Any changes required pursuant to Condition 11 (Waste Management Plan)
- p) Any changes required pursuant to Condition 12 (Landscape Plan)
- q) Any changes required pursuant to Condition 18 (Wind Assessment)
- r) Any changes required pursuant to Condition 19 (Vehicle Crossing Removal)

No Alterations

- 2 The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason without the prior written consent of the Responsible Authority.

No Change to External Finishes

- 3 All external materials, finishes, and colours as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

Sustainable Management Plan

- 4 Concurrent with the endorsement of plans, a Sustainable Management Plan (SMP) must be submitted to and approved by the Responsible Authority. Upon approval the SMP will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the SMP to the satisfaction of the Responsible Authority. Amendments to the SMP must be incorporated into plan changes required under Condition 1. The report must be generally in accordance with the SMP prepared by Frater Consulting Services dated 5 April 2022 but updated to address the following:
 - a) Provide a STORM report achieving a score of 100%.
 - b) Ensure all bathrooms and ensuites have access to an openable window or openable skylight or exhaust fan with humidity sensors.
 - c) Indicate commitment to heating and cooling systems to meet a 4-star minimum or equivalent.



- d) Provide clear statement of commitments to reflect provisions of Water 1.1 Water Efficiency Features.
- e) Provide a tap and floor waste to each dwellings POS, preferably connected to the rainwater tank.
- f) Provide details of proposed roof materials. Light reflective colours should be selected to reduce heat gain.
- g) A minimum of 20% of the cement must be replaced with supplementary cementitious material (SCM), 50% recycled aggregate and 50% recycled water.
- h) All fabricated structural steelwork to be supplied by a steel fabricator/contractor accredited to the Environmental Sustainability Charter of the Australian Steel Institute and minimum of 60% of all reinforcing bar and mesh is produced using energy-reducing processes in its manufacture

Incorporation of Sustainable Design Initiatives

- 5 The project must incorporate the sustainable design initiatives listed in the endorsed Sustainable Management Plan to the satisfaction of the Responsible Authority.

Implementation of Sustainable Design Initiatives

- 6 Prior to occupation of the development approved under this permit, an ESD Implementation Report (or reports) from a suitably qualified person or company, must be submitted to and endorsed by the Responsible Authority. The Report must confirm that all ESD initiatives in the endorsed SDA/SMP and WSUD report have been implemented in accordance with the approved plans to the satisfaction of the Responsible Authority. The ESD and WSUD initiatives must be maintained throughout the operational life of the development to the Satisfaction of the Responsible Authority.

Implementation of Water Sensitive Urban Design Initiatives

- 7 The initiatives in the endorsed Water Sensitive Urban Design (WSUD) Response must be fully implemented. These initiatives must be maintained throughout the operational life of the development to the satisfaction of the Responsible Authority.

Stormwater Treatment Maintenance Plan

- 8 Prior to the endorsement of plans under condition 1 of this permit, a Stormwater Treatment Maintenance Plan detailing the on-going maintenance of the stormwater treatment devices must be submitted to and approved by the Responsible Authority, addressing the following points;
 - a) A full list of maintenance tasks for each device,
 - b) The required frequency of each maintenance task (e.g. monthly, annually etc.),
 - c) Person responsible for each maintenance task.

The Stormwater Treatment Maintenance Plan can be part of the Water Sensitive Urban Design (Stormwater Management) response, or can be contained in a



stand-alone manual. When approved, the STMP will be endorsed and will form part of this permit.

Construction Management Water Sensitive Urban Design

- 9** The developer must ensure that throughout the construction of the building(s) and construction and carrying out of works allowed by this permit;
- No water containing oil, foam, grease, scum or litter will be discharged to the stormwater drainage system from the site;
 - All stored wastes are kept in designated areas or covered containers that prevent escape into the stormwater system;
 - 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.
 - No mud, dirt, sand, soil, clay or stones are washed into, or are allowed to enter the stormwater drainage system;
 - 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.

Urban Art Plan

- 10** Before the development starts, excluding bulk excavation, site preparation, soil removal, site remediation, retention works, footings, ground beams and ground slab and temporary structures, 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.

Waste Management Plan

- 11** Concurrent with the endorsement of plans, an amended Waste Management Plan based on the City of Port Phillip's Waste Management Plan Guidelines for Developments must be submitted to and approved by the Responsible Authority. Upon approval the WMP will be endorsed as part of the planning permit. Amendments to the WMP must be incorporated into plan changes required under Condition 1. The report must be generally in accordance with the SMP prepared by RB Waste Consulting Service dated 10 November 2021 but updated to address the following:
- Commercial tenants to have 1 x 120L waste and 1 x 240L recycling bin and separated from residential bins. Private waste management services will be required for any additional waste generation from the commercial tenancy.
 - Allocate a bin for food/green waste.
 - Allocate space for a glass bin.
 - Correctly match the number of bins from the WMP to the plans.
 - A chute system is required for the residential building (above 5 storeys).



Once submitted and approved, the waste management plan must be carried out to the satisfaction of the Responsible Authority.

Landscape Plan

- 12** Before the development starts (other than demolition or works to remediate contaminated land), a 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 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, 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) Water sensitive urban design;
 - h) Planting in locations to the satisfaction of the Responsible Authority.

Completion of Landscaping

- 13** 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.

Landscaping Maintenance

- 14** The landscaping as shown in 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.

Car Parking and Bicycle Parking Layout

- 15** Before the use or occupation of the development starts, the area(s) set aside for the parking of vehicles and bicycles and access lanes as shown on the endorsed plans must 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.
 - e) Line marked to indicate each car space, visitor space, bicycle space, loading bay and/or access lane.



- f) Clearly marked to show the direction of traffic along access land and driveways.

All to the satisfaction of the Responsible Authority.

Piping, Ducting, Service Units

- 16 All service pipes/service units (excluding down pipes, guttering and rainwater heads) must be concealed from view from the public realm and any screening devices suitably integrated into the design of the building to the satisfaction of the Responsible Authority.

Walls on or facing the boundary

- 17 Before the occupation of the development allowed 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.

Wind Assessment

- 18 Before the development starts, a suitably qualified person must undertake a comprehensive wind tunnel test of the entire development and a Wind Climate Assessment Report to the satisfaction of the Responsible Authority must be provided for the written endorsement of the Responsible Authority. 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.

Vehicle Crossings – Removal

- 19 Before the occupation of the development allowed by this permit, all disused or redundant vehicle crossings, must be removed and the area re-instated with footpath, nature strip and kerb and channel at the cost of the applicant/owner as well as any on street parking signage and line marking changes and to the satisfaction of the Responsible Authority.

Noise limits

- 20 The level of noise emitted from the Indoor Recreation Facility must not exceed the permissible levels specified in Division 1 and 4 of Part 5.3 - Noise, of the Environment Protection Regulations 2021 to the satisfaction of the Responsible Authority.

A report prepared by a suitably qualified professional demonstrating compliance with the requirements of this condition must be submitted prior to the commencement of the use.

Hours of Operation



- 21** Without the further written consent of the Responsible Authority the use must operate only between the hours of:
- Monday to Friday 6.00am to 8.00pm
 - Saturday 6.00am to 12.00pm
 - Sunday closed

Number of Patrons

- 22** Without the further written consent of the Responsible Authority no more than 10 patrons and 6 staff must occupy the premises during operating hours.

23 Satisfactory Continuation

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

Time for Starting and Completion

- 24** 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.

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.

4. RECOMMENDATION B - AUTHORISE THE MANAGER CITY DEVELOPMENT FOR THE VCAT APPEAL

- 4.1 Authorise the Manager City Development to instruct Council’s Statutory Planners and/or Council’s solicitors for any VCAT application for review, should any be lodged

5. RELEVANT BACKGROUND

The following relevant applications have previously been considered for the subject site:

| Application No. | Proposal | Decision | Date of Decision |
|-----------------|--|----------|------------------|
| 452/2016 | Use of the site for the purpose of an indoor recreation facility (personal training studio and gym), business identification signage, and car parking consent. | Approved | 2 December 2016 |

6. PROPOSAL

- 6.1 The application is for the construction a six-storey mixed use building with basement and roof terrace, comprising 7 dwellings - 4 x two bedroom and 3 x three bedroom – and a 52sqm Indoor Recreation Facility at ground level, with a car stacker (8 car spaces) accessed via Donaldson Street.
- 6.2 The plans which are the subject of this report are the plans prepared by Jam Architects entitled “223 Rouse Street Port Melbourne VIC Apartment Development”, Project No 2123, Plans No’s as TP01 to TP25 dated 18 August 2022 and Council date stamped 2 September 2022.
- 6.3 The proposal is detailed within the following table.


| | Proposal |
|----------------------------|---|
| Site area | 203m ² |
| Type of development | Mixed use development within a 3 storey podium and 6 storey tower, with basement and roof terrace  |
| Land uses | Indoor Recreation Facility (ground floor) Residential Dwellings (First to fifth floor) |
| Demolition | Demolition of all existing buildings and works on site (no permit required). |
| No of dwellings | 7 dwellings over first to fifth floor comprising 4 x two bedroom (76 sqm to 78 sqm) and 3 x three-bedroom dwellings (130 sqm). |
| Setbacks | The podium level would have nil setback to Rouse Street (north), Donaldson Street (west) and the ROW (south) to a scale of three storeys. |

Figure 1: Front (Rouse Street) elevation.



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| | <p>The development would be setback 3.0m from Rouse Street to the north/front of the site, with balconies projecting to within 1.0m of the boundary, for the upper levels (third, fourth and fifth floors).</p> <p>The building would be setback 0.9m to 0.995m on the west elevation for the upper levels.</p> <p>The building would be setback 0.9m from the south elevation for the upper levels, with balconies projecting to the boundary abutting the ROW.</p> <p>No setback is proposed to the east elevation.</p> |
| Podium height | 10.25m in height (RL 13.15m) to the top of the three-storey podium at the rear/south. |
| Tower height | 19.4m (RL 22.3m) to roof level 21.9m (24.8m AHD) to the top of stair access enclosure to roof (architectural feature) |
| Communal facilities | The proposed development would include communal areas to access the dwellings (lobbies, stairs, lift), the entrance lobby containing a waste room and bicycle rack, communal car parking facilities, and basement storage area. |
| Loading bay | <p>No loading bay proposed, but this is supported by Traffic given the impracticality of on-site collection due to the small area of the recreation facility.</p> <p>One waste collection area nominated on the footpath outside Rouse Street frontage.</p> |
| Car parking | <p>A total of 8 car parking spaces would be proposed within the car stacker.</p> <p>All vehicles would enter and egress in a forward direction via Donaldson Street the side of the site from a 9.0m wide by 3.045m deep accessway.</p> |
| Bicycle parking | A total of 4 bicycle rack spaces would be provided – one in the entry lobby and three within the Indoor Recreation Facility. |
| Private open space | <p>Each apartment would be provided with secluded private open space in the form of a balcony ranging in size from 10m² to 12m² accessed from the main living room.</p> <p>The dwelling on the fifth floor (Apt 7) would also have access to a 78m² roof terrace.</p> |
| Storage | Storage to each dwelling has between 7 to 10 cubic metres of storage located within the basement levels. |



6.1 The built form of the development is described as follows:

Basement

6.2 The basement would consist of the car stacker pit and 7 storage cages. A 5000L rainwater tank located below the ground floor would capture runoff from roof area, terraces and downpipes.

Ground floor

6.3 The ground floor would consist of an Indoor Recreation Facility (52sqm) located fronting onto Rouse Street. The premises would have glazed windows and doors facing Rouse Street. A tilt glazed door is also proposed opposite the existing crossover to Rouse Street.

6.4 The main entrance lobby with service cupboards, letterboxes, waste storage room and a bike rack is located at the mid-section of the floor plate, with access to Donaldson Street to the west via swinging entrance doors and a 1.5m wide recess.

6.5 The entrance to the car stacker would be located at the rear of the floor plate, with a 9.0m wide accessway, recessed 3.045m, with entry and egress from Donaldson Street.

First and Second Floors

6.6 The first floor would accommodate 2 x 2-bedroom apartments (Apt 01 and Apt 02). Each would have an external balcony – one on the north elevation and one on the south elevation.

6.7 The second floor would also accommodate 2 x 2-bedroom apartments (Apt 03 and Apt 04) with the same layout as the first floor, and balconies in the same location.

6.8 Nil setback would be provided from the side boundaries for the ground, first and second floors.

Third, fourth and fifth floors

6.9 The third floor would accommodate a 3-bedroom apartment (Apt 05). The apartment would have two external balconies to the north elevation and south elevations.

6.10 The fourth floor would also accommodate a 3-bedroom apartment (Apt 06) with the same layout as the first floor, and balconies in the same location.

6.11 The fifth floor would also accommodate a 3-bedroom apartment (Apt 07) with the same layout as the first floor, and balconies in the same location.

Roof

6.12 The roof level would contain a lift and stair core, and a 78m² roof terrace allocated to Apt 07 on the fifth floor.

6.13 The proposal would have a maximum building height of 19.4m above natural ground level, and 21.9m above natural ground level including the architectural features to the roof.

6.14 A varied palette of materials and finishes are proposed and would include metal cladding, rendered cladding, face brickwork, painted concrete, clear and translucent glass with aluminium frames, clear glass balustrades, perforated metal, vertical powder-coated metal screens and fibre cement sheet.



Figure 1: 3D Render of 223 Rouse Street proposal.

- 6.15 A copy of the Assessment Plans is contained within **Attachment 1**.
- 6.16 The application was placed on hold at the request of the applicant from February 2023 to October 2023 to allow the applicant to undertake processes to remove the restrictive covenant via the Supreme Court.
- 6.17 The application was amended under Section 57A of the Planning and Environment Act 1987. The amendment did not include any changes to the plans, with the change to the application being the deletion of the restrictive covenant removal from the proposal only.
- 6.18 All objectors were notified of the change to the proposal via email, sent 10 October 2023, and were given 7 days to provide further responses to their initial objections.

7. SUBJECT SITE AND SURROUNDS

| Description of Site and Surrounds | |
|-------------------------------------|---|
| Site Area | <p>203m²</p> <p>The site is roughly rectangular in shape with a 9.2m wide boundary to the north on Rouse Street and 22.8m long boundary to the west on Donaldson Street.</p> |
| Existing building & site conditions | <p>A single storey former industrial building constructed of brick. The building is currently occupied by an restricted recreation facility (Gym).</p> <p>The building contains a brick façade with a flat, featureless brick parapet and a metal roof that slopes from east to west. The dwelling abuts a brick boundary wall to the east, and is surrounded by road</p> |



| | |
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| | <p>reserve on the remaining three sides – Rouse Street to the north/frontage, Donaldson Street to the west and a ROW to the south.</p> <p>The front façade contains a solid pedestrian door, a large metal roller door with a single crossover to Rouse Street and a single frosted glass window. The side façade (facing Donaldson Street) contains 5 frosted glass window sets and an air-conditioning unit. The rear contains a single pedestrian door, a smaller rollerdoor and 4 frosted glass windows.</p> |
| <p>Surrounds/neighbourhood character</p> | <p>The site is located in the area designated by Schedule 1 to the Design and Development Overlay - the Port Melbourne Mixed Use Growth Area.</p> <p>The Port Melbourne Mixed Use Growth Area is defined by a mixed character that combines the existing heritage maritime and industrial built form with contemporary medium rise development, with an eclectic mix of architectural styles.</p> <p>In the immediate neighbourhood, built form reflects the mixed character defined by the DDO.</p> <p>The site is located within the principal public transport network and is in immediate walking distance to a large number of public transport services. This includes the 109 Tram Service (Beacon Cove Light Rail station, 550m walk) and the 234 and 236 Bus Services (Garden City to Queen Victoria Market) which depart from Graham Street (290m) or Beach Street (400m).</p> <p>Immediately to the east, between the subject site and Nott Street, are repurposed single storey industrial buildings similar to that at the subject site. There are no interfacing habitable rooms or private open space to these buildings.</p> <p>To the west, opposite Donaldson Street and through to Stokes Street are two storey contemporary and three storey Heritage buildings that are used for residential purposes. POS and habitable rooms of 227 and 229 Rouse Street are located opposite the street from the subject site at ground, first and second floors.</p> <p>To the south, abutting Dorcas Street to the west is the Portview Square residential development of two storey townhouses. The rears of 16 to 20 Portview Square contain POS and habitable rooms which interface with the subject site (at ground and first floor) opposite the street.</p> |

Immediately to the south opposite the ROW is a six-storey contemporary residential building. Beyond to the south are the six to eight storey residential buildings that have a frontage to Beach Street and Nott Street. A row of habitable room windows are located between first and fifth floors directly facing the ROW and opposite the subject site, with balconies facing to the west over Donaldson Street.

Opposite the subject site is a contemporary residential apartment development with a scale of six storeys, with a three storey podium. Habitable room windows and POS do face the subject site from these buildings; however, they are located at a minimum of 30m from the subject site across the street reserve.

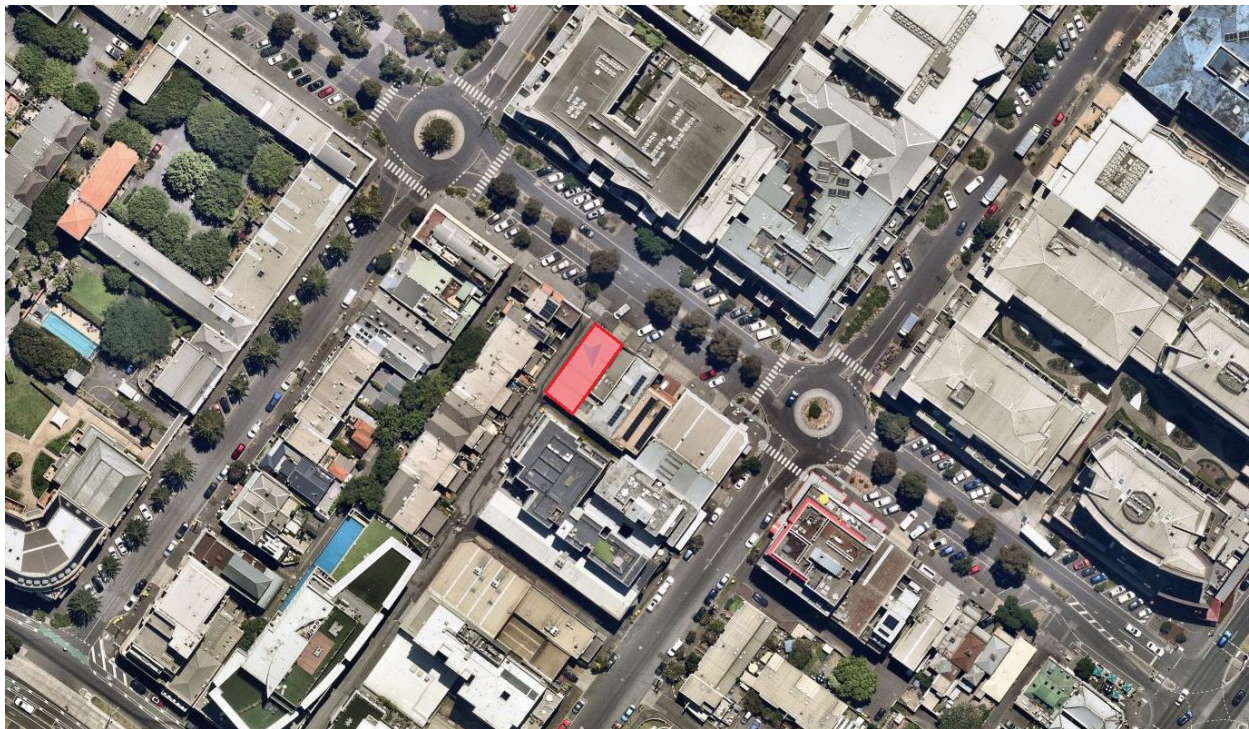


Figure 2: Aerial view of the neighbourhood with site highlighted in red



Figure 3: Photograph of frontage of the subject site as viewed from opposite side of Rouse Street



Figure 4: Photograph of the rear of the subject site as viewed from Donaldson Street.



Figure 5: Rear interface of the Portview Square fronted properties, viewed from Donaldson Street

8. PERMIT TRIGGERS

The following zone and overlay controls apply to the site, with planning permission required as described.

| Zone or Overlay | Why is a permit required? |
|--|---|
| <p>Clause 32.04 Mixed Use Zone (MUZ)</p> | <p><u>Use</u> Pursuant to the table of uses at Clause 32.04-2, <u>a permit is required</u> for Leisure and Recreation (other than informal outdoor recreation). Indoor Recreation Facility is nested below Leisure and Recreation pursuant to Clause 73.04-6.</p> <p><u>Buildings and Works</u> Pursuant to Clause 32.04-6, <u>a permit is required</u> to construct or extend a residential building. An apartment development of five or more storeys, excluding a basement, must meet the requirements of Clause 58.</p> |
| <p>Clause 43.02 Design and Development Overlay</p> | <p>Pursuant to Clause 43.02-2, <u>a permit is required</u> to construct a building or construct or carry out works.</p> <p>Buildings and works must be constructed in accordance with any requirements in a schedule to this overlay.</p> |



| | |
|---|---|
| Schedule 1 (DDO1) | A permit may be granted to construct a building or construct or carry out works which are not in accordance with any requirement in a schedule to this overlay, unless the schedule specifies otherwise. |
| <p>Clause 45.03 Environmental Audit Overlay (EAO)</p> | <p>Pursuant to Clause 45.03-1, before a sensitive use (residential use, child care centre, kindergarten, pre-school centre, primary school, even if ancillary to another use), children's playground or secondary school commences or before the construction or carrying out of buildings and works in association with these uses commences:</p> <ul style="list-style-type: none"> • A preliminary risk screen assessment statement in accordance with the Environment Protection Act 2017 must be issued stating that an environmental audit is not required for the use or the proposed use; or • An environmental audit statement under Part 8.3 of the Environment Protection Act 2017 must be issued stating that the land is suitable for the use or proposed use; or • A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970; or • A statement of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970 stating that the environmental conditions of the land are suitable for the use or proposed use. <p>The basement and ground level are not sensitive land uses – sensitive uses would start at level 1 of the proposed building. <u>Therefore, an environmental audit is not required.</u></p> |
| <p>Clause 45.06 Development Contributions Plan Overlay Schedule 1 (DCPO1)</p> | <p>Pursuant to Clause 45.06-1, a permit must not be granted to subdivide land, construct a building or construct or carry out works until a development contributions plan has been incorporated into this scheme.</p> <p>This does not apply to the construction of a building, the construction or carrying out of works or a subdivision specifically excluded by a schedule to this overlay.</p> <p>A permit granted must:</p> <ul style="list-style-type: none"> • Be consistent with the provisions of the relevant development contributions plan. |



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| | <ul style="list-style-type: none"> • Include any conditions required to give effect to any contributions or levies imposed, conditions or requirements set out in the relevant schedule to this overlay. <p><u>Schedule 1 identifies that a development contributions plan has been incorporated for this area.</u></p> |
| <p>Clause 52.06 Car Parking</p> | <p>Pursuant to Clause 52.06-3, a permit may be granted to reduce or to waive the number of car spaces required by Table 1 of Clause 52.06-5.</p> <p>As a change of use is proposed, the car parking requirements for dwelling must be considered.</p> <p>A dwelling has a requirement of 1 space for each one or two bedroom dwelling (4 spaces required for the 4 x two bedroom dwellings) and 2 spaces for each three or more bedroom dwelling (6 spaces required for the 3 x three bedroom dwellings). There are no visitor parking requirements as the site is within the Principal Public Transport Network Area.</p> <p>This requires a total provision of 10 car spaces.</p> <p>The proposal includes 8 car parking spaces; Therefore, <u>a permit is required</u> under this Clause for a reduction of 2 spaces.</p> <p>Indoor Recreation Facility is not specified in Table 1 of Clause 52.06-5 as a land use with an applicable car parking rate. Therefore, pursuant to Clause 52.06-6, before a new use commences or the floor area or site area of an existing use is increased, <u>car parking spaces must be provided to the satisfaction of the responsible authority</u>. Consent must be granted for the car parking waiver associated with the Indoor Recreation Facility.</p> |
| <p>Clause 52.34 Bicycle Facilities</p> | <p>Pursuant to Clause 52.34-1, a new use must not commence, or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land.</p> <p>A permit may be granted to vary, reduce or waive any requirement of Clause 52.34-3 and Clause 52.34-4.</p> <p>Pursuant to Table 1 to Clause 52.34-5, the use of a dwelling (in developments of four or more storeys) requires 1 resident space for each 5 dwellings. (7 dwellings would require 1 resident spaces when rounded down)</p> <p>Pursuant to Table 1 to Clause 52.34-5, the use of dwelling (in developments of four or more storeys) would require 1</p> |



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| | <p>visitor space per 10 dwellings. (7 dwellings would require 1 resident spaces)</p> <p>Pursuant to Table 1 to clause 52.34-5, the use of Minor Sports and Recreation Facility would require 1 employee space per 4 employees, and 1 visitor space to each 200sqm of net floor area (6 staff and 52sqm would require 2 spaces).</p> <p>The proposal includes 4 bicycle racks and therefore <u>a permit is not required</u> for the reduction.</p> |
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9. PLANNING SCHEME PROVISIONS

9.1 State Planning Policy Frameworks (SPPF)

The following State Planning Policies are relevant to this application:

Clause 11 Settlement

11.03-1S Activity Centres

11.03-1L-01 Activity Centres

11.03-1L-02 Bay Street Major Activity Centre

11.03-2S Growth areas

Clause 15 Built Environment and Heritage

15.01-1S Urban Design

15.01-1L-02 Urban design

15.01-2S Building design

15.01-2L-01 Building design

15.01-2L-02 Environmentally Sustainable Development

15.01-2L-03 Urban art

Clause 16 Housing

16.01 Residential Development

16.01-1S Housing supply

16.01-1L-01 Housing diversity

16.01-16-02 Location of residential development

Clause 17 Economic Development

17.02-1L Mixed use and office areas

Clause 18 Transport

18.01-3S Sustainable and safe transport

18.01-3L-01 Sustainable and safe transport in Port Phillip

Clause 19 Infrastructure

19.03-3S Integrated Water Management



- 19.03-3L Stormwater Management
- 19.03-5S Waste and resource recovery
- 19.03-5L Waste and resource recovery

9.2 **Other relevant provisions**

Clause 52.06 Car Parking

Clause 58 Apartment Developments

Clause 65 Decision Guidelines

Clause 72.04 Incorporated documents

- Australian Standard AS/NZS 2890.1:2004, Parking Facilities - Off-street car parking (Standards Australia, 2004)
- Principal Public Transport Network 2017 (Victorian Government, 2017)
- Principal Public Transport Network Area Maps (Victorian Government, August 2018)
- City of Port Phillip Neighbourhood Character Map (December 2021) (Part of Port Phillip Heritage Review)
- Port Melbourne Mixed Use Area Development Contributions Plan (Streetscape Works) (July 1999)

Clause 72.08 Background documents

- Plan Melbourne 2017-2050: Metropolitan Planning Strategy (Department of Environment, Land, Water and Planning, 2017).
- Plan Melbourne 2017-2050: Addendum 2019 (Department of Environment, Land, Water and Planning, 2019).
- Act and Adapt – Sustainable Environment Strategy 2018-28 (City of Port Phillip, 2018)
- Bay Street Activity Centre Structure Plan Parts 1 and 2 (City of Port Phillip, May 2014)
- City of Port Phillip Activity Centres Strategy (City of Port Phillip, 2006)
- City of Port Phillip Activity Centres Strategy Implementation Plan 2007 (City of Port Phillip, 2007)
- City of Port Phillip Council Plan 2017-2027 (City of Port Phillip, 2017)
- City of Port Phillip Housing Strategy 2007 to 2017 (City of Port Phillip, 2007)
- City of Port Phillip Water Sensitive Urban Design Guidelines, 2009 (City of Port Phillip, 2009)
- Compliance Guidelines for Clause 22.12 Stormwater Management (City of Port Phillip, 2017)
- Move, Connect, Live: Integrated Transport Strategy (City of Port Phillip, August 2018)



- Port Phillip Design Manual (City of Port Phillip, 2000)
- Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO, 1999)
- Water Sensitive Urban Design – Engineering Procedures: Stormwater (Melbourne Water and CSIRO Publishing, 2005)
- Don't Waste It! - Waste Management Strategy 2018-28 (City of Port Phillip, 2018)

9.3 Relevant Planning Scheme Amendment/s

The following Planning Scheme Amendment(s) is/are relevant to this application:

Amendment C203port

Amendment C203port is a municipal-wide amendment, which:

- Implements the Port Phillip Planning Scheme Audit 2018 and the land use and development directions of Council's adopted strategies and documents, including Act and Adapt – Sustainable Environment Strategy 2018-28, Art and Soul – Creative and Prosperous City Strategy 2018-22; Don't Waste It! – Waste Management Strategy 2018-28, In Our Backyard – Growing Affordable Housing in Port Phillip 2015-25, and Move, Connect, Live – Integrated Transport Strategy 2018-28.
- Updates the Port Phillip Planning Scheme to comply with Victorian Government changes to planning schemes regarding language, format and structure introduced by Amendment VC148.
- Updates local heritage policy to implement new Heritage Design Guidelines, which provide detailed and illustrated guidance on eleven development themes, informed by extensive consultation undertaken in 2019.
- Introduces new local VicSmart planning provisions to enable quicker assessments of some minor types of planning permit applications.
- Removes eleven Incorporated Documents from the Port Phillip Planning Scheme as they are obsolete.

Amendment C203port was approved with changes by the Minister for Planning and was gazetted on 14 April 2023. There are no transitional arrangements in the adoption of C203port. The Planning Scheme Amendment is policy neutral in respect to the majority of the policy changes where it does not alter the meaning of policy previously in the Port Phillip Planning Scheme. Where it is not policy neutral, it gives effect to adopted Council strategies and plans, augments policy by filling a known policy gap and/or responds to a recommendation of the Port Phillip Planning Scheme Audit 2018.

10. REFERRALS

10.1 The application was referred to the following areas of Council for comment

10.2 A summary of the referral comments are provided below. The full responses are found in **Attachment 2**.



11. INTERNAL REFERRALS

| Internal Department | Referral comments (summarised) |
|------------------------------------|---|
| <p>Urban Design Advisor</p> | <p>Comments on Advertised Plans</p> <p>No Objection</p> <p>Referral Overview</p> <p>Council’s Urban Design Officer was generally supportive of the proposal subject to conditions to ensure effective lighting of Donaldson Street and the rear lane, defined ground floor use and an identified waste collection point.</p> <p>Some of the key contents of the Urban Design officer’s comments are as follows:</p> <p><i>From an urban design perspective, the proposed changes are appropriate. They improve the visual presentation of the building and its relationship to adjacent streets and properties – Referral advice dated 16 June 2022.</i></p> <p><i>“The surrounding area continues to change from older, single storey light industrial factories, like the existing building, to taller residential and mixed-use buildings up to six storeys high. The planning scheme recognizes and supports this trend and the application is generally consistent with it”. Referral advice dated 24 January 2022.</i></p> <p><i>The proposal is considered to be generally consistent with the height limits within the DDO.</i></p> <p><u>Planner Comments</u></p> <p>Urban Design have no objection to the proposal and has noted that it is a high quality and elegant design.</p> <p>No issue was raised with regards to the reduced front and side setbacks (with respect to the DDO1-2 preferred and absolute height measures).</p> <p>The activation is considered to be appropriate after the plans responded to the 24 January 2022 by adding a window to the Donaldson Street side of the recreation facility.</p> <p>While not noted in the recent referral advice, the advice dated 24 January 2022 asked to address external lighting. No detail was added to the plans regarding effective lighting of Donaldson Street and the rear lane, and updated plans to reflect lighting positioning will be required as a condition of permit (Refer condition 1 k).</p> |
| <p>City Strategy</p> | <p>Comments on Advertised Plans.</p> <p>City Strategy object to the proposal and have noted:</p> <p>City Strategy are generally supportive of the proposal, subject to the setback from Rouse Street being increased from 3m to 5m,</p> |



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| | <p>relocation of the lower level balconies, and adding an extra window at ground level.</p> <p><u>Planner Comments</u></p> <p>It is noted that the City Strategy department does not support the variation to the discretionary height limit (within 5m of the street). This is discussed in detail later in the report.</p> |
| <p>Waste Management</p> | <p>Comments on Advertised Plans</p> <p>No Objection, subject to conditions</p> <p>Council's Waste officer was generally supportive of the proposal but recommended minor changes to the WMP.</p> <p><u>Planner Comments</u></p> <p>An updated WMP will be required as a condition of permit (Refer condition 1 m) and 11).</p> |
| <p>Environmental Sustainable Development</p> | <p>Comments on Advertised Plans</p> <p>No objection, subject to conditions.</p> <p>Council's ESD officer is generally supportive of the proposal subject to conditions to address the following discrepancies with the SMP:</p> <ul style="list-style-type: none"> • Ensure all bathrooms and ensuites have openable windows or skylights or exhaust fans with humidity sensors. • Amend BESS report to indicate a commitment to specifying heating and cooling systems to meet a 4 star minimum or equivalent. • Minimum 5 star WELS rating dishwashers to be provided as apart of the fit-out to each dwelling • Provide a STORM response • Provide a tap and floor waste to each dwellings POS, connected to the rainwater tank. • Provide details of proposed roof materials. • A minimum of 20% of the cement must be replaced with supplementary cementitious material, 50% recycled aggregate and 50% recycled water. • Provide each unit with 1 bicycle space <p><u>Planner Comments</u></p> <p>The ESD advisor is generally supportive of the application and notes that it almost demonstrates an acceptable outcome. An updated SMP will be required as a condition of permit (Refer condition 1 I) and 4);</p> |



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| Traffic Engineer | <p>Comments on pre-RFI Plans</p> <p>No Objection</p> <p>Council’s Traffic Engineer is generally supportive of the proposal. There were no concerns raised to the accessway and ramp/ headroom. From those comments there were three outstanding issues.</p> <ol style="list-style-type: none"> 1. Sight triangles not provided – in lieu, convex mirrors installed within the property boundary are recommended. 2. Amend pedestrian access the car stacker without walking on the carriageway. 3. Provide a visitor bicycle space, and all bicycle spaces to be installed with Australian standards. <p>Regarding off-street loading facilities, the Traffic Engineer is generally supportive of not providing a loading bay given the constraints of the site and the small floor area of the recreation facility. They note that a Loading Zone cannot be guaranteed if requested in the future, and any Loading Zone request would go through standard Council procedures to change a parking restriction.</p> <p><u>Planner Comments</u></p> <p>The three matters above are to be addressed as a recommended condition to amend the plans (refer conditions 1 c) to 1 f)).</p> |
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11.1 External referrals

The application was not required to be externally referred.

12. PUBLIC NOTIFICATION/OBJECTIONS

12.1 It was determined that the proposal may result in material detriment therefore Council gave notice of the proposal by ordinary mail to the owners and occupiers of surrounding properties, placed a notice in The Age newspaper, and directed that the applicant give notice of the proposal by posting two notices on the site for an 18 day period, in accordance with Section 52 of the Planning and Environment Act 1987.

12.2 The application has received 16 objections. The key concerns raised are summarised below (officer comment will follow where the concern will not be addressed in Section 13 of this report):

| Neighbourhood Character |
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| • Overall building height and scale is excessive. |
| • Design does not positively contribute to the neighbourhood. |
| • Does not appropriately respond to the Design and Development Overlay (DDO1-2) |
| • Insufficient setbacks at upper floors. |
| • The scale would dominate nearby heritage buildings (Swallow factory complex) |



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| <ul style="list-style-type: none"> The height is not in keeping with the 2-3 storey scale of the Portview Square townhouses. |
| <ul style="list-style-type: none"> Building height exceeds 19.5m height control. Comment: The height of the development meets building height controls. 19.5m is the absolute maximum height in DDO1-2; however, concessions are made for architectural features pursuant to the DDO of up to 4m above the building height. |
| <ul style="list-style-type: none"> Development not at an appropriate human scale when considering Donaldson Street. |
| <ul style="list-style-type: none"> Lack of passive surveillance and activity to Donaldson Street |
| Amenity Impacts |
| <ul style="list-style-type: none"> Noise, dust and disturbance during construction. Comment: Building work can sometimes affect adjoining properties. An owner who is proposing building work has obligations under the Building Act to protect an adjoining property from potential damage from their work. If building work is close to or adjacent to adjoining property boundaries, then the relevant building surveyor may require the owner to carry out protection work in respect of that adjoining property. This is to ensure that the adjoining property is not affected or damaged by the proposed building work. Protection work provides protection to an adjoining property from damage due to building work. It includes but is not limited to underpinning of adjoining property footings, including vertical support, lateral support, protection against variation in earth pressures, ground anchors, and other means of support for the adjoining property. This process is not controlled or overseen via the planning process and regulations. It is a matter addressed at the building permit stage. |
| <ul style="list-style-type: none"> Overlooking |
| <ul style="list-style-type: none"> Overshadowing |
| <ul style="list-style-type: none"> Loss of views Comment: Loss across adjoining properties is not a planning consideration. |
| <ul style="list-style-type: none"> Noise impacts emanating the gym and normal residential uses. |
| Traffic |
| <ul style="list-style-type: none"> Traffic Congestion along Donaldson Street |
| <ul style="list-style-type: none"> Add burden to on-street car parking |
| <ul style="list-style-type: none"> Waste collection from Donaldson Street Comment: Waste collection would be via the Rouse Street frontage. |
| <ul style="list-style-type: none"> Pedestrian safety on Donaldson Street. Comment: Donaldson Street is a back-of-house street that services the rear of properties on Rouse Street, Nott Street, Bay Street and Portview Square, with characteristics akin to a lane. In any instance, mirrors are recommended to deal with sight issues with ingress and egress from the car stacker. |
| <ul style="list-style-type: none"> No parking provided for non-residents. (Visitors). |
| <ul style="list-style-type: none"> Increased burden on vehicle movements within Donaldson Street |



| Landscaping |
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| <ul style="list-style-type: none"> No landscaping shown. Comment: A landscaping plan is required as a permit condition – however, it is noted that the site is constrained by its small lot size, and any contribution to landscaping is considered to be an improvement on the existing conditions. Refer to recommended condition 1 n) and 12. |
| Other |
| <ul style="list-style-type: none"> Excavation and construction may cause structural damage to neighbouring buildings. Comment: Structural impacts associated with excavation and construction are matters considered under a Building Permit assessment. |
| <ul style="list-style-type: none"> Missing information Comment: the missing information matters listed on the objection were without basis as the east and north elevations were provided, and the location of rubbish bin collection and storage was provided. The covenant has been removed via Supreme Court proceedings, and a landscape plan will be required as a condition of any permit granted. |
| <ul style="list-style-type: none"> Impact on property values Comment: Loss of property values is not a planning consideration. |

12.3 A Consultation Meeting was held on 24 January 2023. The meeting was attended by Ward Councillors, the applicant, objectors and Planning Officers. The meeting did not result in any formal changes to the proposal.

12.4 The application was placed on hold at the request of the applicant from February 2023 to October 2023 to allow the applicant to undertake processes to remove the restrictive covenant via the Supreme Court. Following this, the application was amended under Section 57A of the Planning and Environment Act 1987 to delete the removal of the restrictive covenant from the proposal.

12.5 All objectors were notified of the change to the proposal via email, sent 10 October 2023, and were given 7 days to provide further responses to their initial objections. No further objections were received.

12.6 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..

13. OFFICER'S ASSESSMENT

13.1 The key matters raised in the assessment of this application along with the submitted grounds for objection are as follows:

- **Is the application consistent with the Planning Policy Framework (PPF)?**
- **Is the proposed use consistent with the Mixed Use Zone?**
- **Is the application consistent with the Design and Development Overlay Schedule 1-2?**
- **Does the proposal satisfy the requirements of Clause 58?**



- **Would the proposal result in any unreasonable amenity impacts to surrounding properties?**
- **Would the development provide an acceptable level of internal amenity for residents?**
- **Are the proposed car parking and access arrangements acceptable?**
- **Are the waste management arrangements acceptable?**
- **Does the proposal achieve best practice water sensitive urban design and environmentally sustainable design?**
- **Are the proposed urban art arrangements acceptable?**

13.2 Is the application consistent with the Planning Policy Framework (PPF)?

Relevant PPF objectives and strategies are summarised in Section 8 of this report. Relevant objectives are thematically organised in the PPF. For convenience and brevity, these themes will be discussed separately below.

Clause 11 – Settlement

Broadly, Clause 11 seeks to facilitate sustainable development that takes full advantage of existing settlement patterns and investment in transport, utility, social, community, and commercial infrastructure and services.

More specifically, Clause 11.03-1L-02 provides policy guidance on development within the Bay Street Major Activity Centre. It seeks to ensure the continued development of the Bay Street Major Activity Centre as a multi-functional and sustainable bayside activity centre, a local civic and community hub with a strong sense of identity and community, and a wide range of goods and services, for locals and visitors.

Strategies contained within Clause 11.03-1L-02 seek to, amongst other things:

- *Reinforce the distinct and contrasting urban character of the different precincts of the Bay Street Major Activity Centre*
- For housing:
 - *Concentrate housing growth (with some at higher densities) in the following listed areas:*
 - *The mixed use area (south of Graham Street).*
 - *Facilitate a new contemporary higher-rise character in the mixed use area south of Graham Street while respecting remaining significant heritage places.*
 - *Protect residential amenity and character at the interface between the mixed use 'growth' area and established 'sensitive' residential areas south of Graham Street (generally between Dow Street and Stokes Street) through a transition down in building scale as indicated on the Built Form Framework Plan in the Bay Street Activity Centre Structure Plan (City of Port Phillip, 2014).*

The proposal supports these strategies. Council policy is supportive of increased residential density in strategic locations (such as the Port Melbourne Growth Area). This area represents an area that is proximate to jobs and services and is well serviced by public transport. The development would represent a high-quality design response



for the Bay Street Major Activity Centre and would be appropriately scaled and designed in accordance with the building height framework plan of the *Bay Street Activity Centre Structure Plan*. Much of the Structure Plan has translated into DDO1, a full assessment of the proposal against the DDO1-2 is provided later in this report and will address this strategy in more detail.

It follows that the proposal is consistent with Clause 11 and represents an acceptable location for high density residential development subject to the more specific requirements of the DDO1-2 being met.

Clause 15 – Building Environment and Heritage

Clause 15 broadly seeks to ensure land use and development appropriately responds to its context, achieves architectural and urban design excellence, and achieves best practice sustainable development outcomes.

Clause 15 is relevant insofar as it pertains to urban design and building design outcomes. The broad objectives contained in Clause 15 are give specific guidance through the local policies at:

- Clause 15.01-1L-02 Urban Design
- Clause 15.01-2L-01 Building Design
- Clause 15.01-2L-02 Environmentally Sustainable Development
- Clause 15.01-2L-03 Urban Art

These policies are exhaustive and involve some level of duplication for sites affected by specific built-form control such as the DDO1-2 and Clause 58. As such, they will not be specifically addressed later in this report with exception of Clause 15.01-2L-03 (Urban Art) which is discussed below.

No urban art submission has been made despite the estimated cost of works exceeding the threshold trigger of Clause 15.01-2L-03. This is a standard approach for larger applications that opt to defer the urban art requirements to conditions of permit should one be issued.

This standard approach is applicable in this instance. Should a permit be recommended for granting, it will contain relevant urban art conditions to ensure the requirements of Clause 15.01-2L-03 are met.

Subject to urban art conditions and the findings of more detailed assessments against the applicable local policies outlined above, the proposal would be consistent with Clause 15.

Clause 16 – Housing

Clause 16 broadly seeks to provide for housing diversity, the efficient provision of supporting infrastructure, long term sustainability of new housing, and affordable housing.

Clause 16.01-1S seeks to facilitate well-located, integrated, and diverse housing and to encourage the development of well-designed housing that provides a high level of internal and external amenity and supports a range of income groups in well-services locations. Clause 16.01-1L-02 supports this objective and identifies the site as a substantial residential growth area.



Clause 16.01-1L-01 seeks to provide for a mix of dwelling sizes and provides for accessible and adaptable for a wide diversity of people.

Clause 16.01-1L-02 seeks to accommodate the City of Port Phillip's growth in appropriate areas.

The policy seeks to direct housing growth to designated locations that have the greatest capacity for change, and that offer highest accessibility to public transport, shops, and social infrastructure while maintaining the heritage, neighbourhood character and amenity values of established residential areas that have limited potential for housing growth. To achieve this, the strategy seeks to direct development to preferred housing growth areas.

According to Clause 16.01-1L-02, the site would be best represented as a 'Substantial Residential Growth' area. This is defined in the Planning Scheme as follows:

Substantial residential growth within strategic sites and renewal precincts located proximate to a Major Activity Centre and/or the Principal Public Transport Network (PPTN), including the Fishermans Bend Urban Renewal Area, and that are to a height, scale and massing that respects the built form context surrounding the strategic site/renewal precinct.

The site is located within an area that would be considered a 'Substantial Residential Growth' category given its location on within the Bay Street Major Activity Centre and proximity to the Principal Public Transport Network area. This is an area where settlement should be maximised given its ease of accessibility and ability to accommodate more intensive built-forms, subject to compliance with the Design and Development Overlay requirements and the urban design local policy.

The site represents a highly strategically supported location that can support high-density residential development

Clause 18 – Transport

Clause 18, as it relates to this application, is relevant as it seeks to:

- Support higher intensity development within the principal public transport network
- Support development that encourages the use of active and sustainable transport
- Support development that maximises use of existing public transport infrastructure
- Plan for an adequate supply of car parking considering existing and potential modes of access including public transport, the demand for off-street car parking, road capacity, and potential for demand management of car parking
- Prioritise vehicle access from rear laneways over street frontages
- Support development that enables loading and unloading wholly within the site boundaries and accessible via the rear of a building or low pedestrian environments and simultaneously accommodates incoming and outgoing residents

The proposal is highly supported under these objectives. It is located within the PPTN in a highly accessible location that would contribute greatly to personal and sustainable



transport options inclusive of public transport. It provides reasonable on-site parking via the side street in a car parking stacker and some bicycle parking provisions.

More detailed discussion is required of the proposed parking arrangements. There is strong policy support for a minor parking reduction in this location given the highly accessible and central location. However, a more detailed analysis of the proposal and its context is required to determine what level of dispensation is appropriate. This assessment is provided later in this assessment.

Subject to a positive finding with respect to parking, the application would be consistent with Clause 18.

Clause 19 – Infrastructure

Clause 19 is relevant insofar as it pertains to stormwater management. A more detailed discussion of stormwater management is provided later in this section. Subject to a positive finding with respect to stormwater management, it would comply with Clause 19.

13.3 Is the proposed use consistent with the Mixed Use Zone?

The purpose of the zone is, amongst other things is to:

- *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.*
- *To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.*

The proposal is considered to achieve the purpose of the Mixed Use Zone. The proposed development would provide for a predominantly residential building with a commercial component at ground level (Indoor Recreation Facility), increasing housing density in this location. Further, the proposal is considered to respond to the preferred character outlined in the Design and Development Overlay (see discussion at Paragraph 13.4 below).

Pursuant to Clause 32.04-2 (table of uses) a permit is not required under the Mixed Use Zone for the use of land as a dwelling. Given that the use of the land for dwelling is a Section 1 use under the zone, the proposal is consistent with the Mixed Use Zone. The proposal is also consistent with the purpose of the zone where it would provide a diversity of housing types in a site where more intensive residential development is encouraged.

Pursuant to Clause 32.04-2 (table of uses) a permit is required under the Mixed Use Zone for the use of land as Leisure and Recreation (which includes Indoor Recreation Facility). This is a continued land use as the existing building is used as a gym, with the site benefiting from existing use rights.

The proposal is considered to satisfy the decision guidelines of the Mixed Use Zone contained at Clause 32.04-14. The proposal would be generally consistent with the PPF (as discussed in Paragraph 13.2 above). The proposed development would not overshadow any rooftop solar energy systems on dwellings – the closest solar energy



facility located on the roof of 227 Rouse Street which is approximately 8m from the site and located on the roof of a two storey dwelling and oriented directly west of the site. Further, the proposed development would comply with the objectives, standards and decision guidelines of Clause 58. A detailed discussion is contained within the assessment of the proposal under Clause 58 (see Paragraph 13.5 below).

13.4 Is the application consistent with the Design and Development Overlay Schedule 1-2?

The site is located within Area 2 of Design and Development Overlay Schedule 1 (DDO1-2). Area 2 is the area within the western section of the precinct bounded generally between Graham Street to the north, one lot in from Beach Street to the south, Stokes Street to the west and Bay Street to the east. The sub precinct is distinct as a lower rise, predominantly residential area with ground floor activation that compliments the core commercial area surrounding Bay Street. It is a developing area, in transition between the former port-side industrial and commercial area into its preferred mixed use character.

DDO1 outlines several key design objectives. For this application the most relevant design objectives are:

- *To protect and enhance the environment of the Port Melbourne foreshore as an important natural, recreational and tourism asset for the metropolitan Melbourne.*
- *To encourage a built form that responds to the area's significant development opportunities at the same time as respecting those elements that make this area special and distinct from other parts of the municipality such as its seaside ambience, open sky views along Bay Street between Rouse and Beach Street and low rise built form at the street frontage.*
- *To preserve solar access in mid winter to the foreshore including associated bicycle and pedestrian paths, and to Bay Street and Rouse Street.*
- *To achieve a built form that responds to the existing characteristics of Port Melbourne (which include the diversity of lot sizes, built form, design features and the complex grain of the urban fabric).*
- *To achieve an acceptable balance between the opportunity for increased built form, bulk and height and maintaining a reasonable level of residential amenity.*
- *To encourage pedestrian movement and promote active street frontages in the areas between Station Pier and Bay Street Shopping Centre by:*
 - *Requiring flexible building layouts at ground level capable of accommodating a mixture of uses.*
 - *Ensuring that ground floors of new developments at street level are easily accessible and relate well to the street.*
- *To protect the setting, appearance and significance of heritage places by:*
 - *Ensuring that the height and design of new development on sites adjacent to a heritage place does not adversely affect the cultural heritage significance of the heritage place.*
 - *Ensuring that frontage setbacks of new development complement the frontage setbacks of a heritage place on the same site or an adjoining site.*



The proposed development is considered to achieve the above design objectives of DDO1. The development would be located far enough from the Foreshore area so as to not cause any adverse impacts to the Foreshore's environs, including by reducing winter solar access. The development would also respond to the low rise built form character of the surrounding neighbourhood through an appropriate street wall and upper floor setbacks, as is discussed in more detail below. Further, the building is considered to provide reasonable activation with both Rouse and Donaldson Streets through an indoor recreation facility that contains large windows to the street.

The DDO also sets out several key controls for the height and siting of any new development of those sites in Area 2:

- A 0m front setback.
- An effective 10.5m street wall
- 5m setbacks to street boundaries above 10.5m.
- 19.5m absolute maximum height.
- An addition 4.0m of height for architectural features, including building services.
- Architectural features, including balconies, are permitted within the building setbacks specified for DDO1-2.

The outcomes sought by DDO1-2 are as follows:

- *Development responds to the traditional low rise, mixed character of the area's built form.*
- *The area is characterised by a combination of existing heritage maritime and industrial fabric, and new medium-rise contemporary development adding commercial and residential uses.*
- *There is comparatively higher development that does not dominate the lower scale setting of the remainder of Rouse Street.*
- *Development incorporates a 2 – 3 storey podium, with a simple form, masonry finish and 'punched' openings.*
- *Development is built to the street boundary and has an active edge at ground level in Rouse Street, and has a small front setback elsewhere.*
- *Upper levels up to a maximum of 6 storeys are distinct from the podium through setbacks and an expressive and heavily articulated form.*
- *Development contributes to an eclectic mix of architectural styles.*
- *The roof form contributes to a visually interesting skyline.*
- *The foreshore including associated bicycle and pedestrian paths, and to Bay Street and Rouse Street enjoys good solar access in mid winter.*

A detailed assessment of against the objectives and controls of DDO1 and DDO1-2 is contained at **Attachment 3**.

Assessment of DDO1



The proposed building would align with all of the height and siting requirements specified for area DDO1-2 except for the podium / tower setback requirement.

In regard to the overall height the building is proposed at a height of 19.4m. This is lower than the mandatory maximum building height of 19.5m. The DDO specifies that an additional 4m in height is allowed for architectural features including building services. Again, the proposal meets this requirement, where the proposed services and stair and lift cores would have a maximum height of 2.5m.

The building has also been designed to provide a street wall which would comply with the 10.5m high street wall specified by the DDO. The plans showing that a street wall of between 9.95m and 10.25m would be provided where the variation in height is due to the slope of the land. The one requirement that is not met is the 5m setback that is sought between the street wall and the tower. This matter is discussed in greater detail below.

Preferred maximum height less than 5m from any road boundary (10.5m)

The DDO specifies a preferred height of 10.5m for those sites within sub precinct 2 within 5 metres of any road boundary. This is a discretionary control. The proposed development is shown to have a street wall of between 9.95m and 10.25m (owing to the slope of the land); however, the tower above would exceed the preferred maximum height within 5 metres of the road reserve to the buildings overall height of 19.4m. A 3.0m setback is proposed to the north / fronting Rouse Street, while an approximately 0.9m to 0.995m setback is proposed to the west / fronting Donaldson Street.

It regards to its context; the building is proposed on a relatively constrained lot with a width of 9m and a depth of 22.5m. Applying the 5m setback to this building would mean that the floor plates of the upper 3 floors would be 4m in width and 17.5m in length. When adding the building's stair core, landing and lift, each floor plate would be further constrained, resulting in dwellings with compromised internal amenity.

An appropriate contextual example of a building similar to that proposed is the building at 1 Donaldson Street (the rear of 41 Nott Street) which fronts onto Donaldson Street – this building is located directly across the rear lane from the subject site. The setback from Donaldson Street to the 3 upper floors of this building is approximately 3m (according to the feature survey provided at TP02), with balconies projecting to within 1m of the boundary. This building also contains solid balustrades, which makes the building's façade less visible than if the balustrades were of glazing or the like.

While the building would sit amongst other sites that are yet to be developed in accordance with the mixed-use strategic development, it is important to note that the sites that it is grouped with to its east (215 and 217 Rouse Street) are also constrained by their depth of around 22.5m and with similar widths as the subject site. It is likely that these sites, unless the lots are consolidated, would seek some variation to accommodate a more site responsive setback from the street.

One of the key sub-precinct objectives of DDO1 is to:

“To achieve a built form that responds to the existing characteristics of Port Melbourne (which include the diversity of lot sizes, built form, design features and the complex grain of the urban fabric).”

The key issue in determining whether the height of the proposal within 5 metres of the street is acceptable is therefore whether the existing characteristics – including lot size and complex development pattern of the site and neighbourhood – are responded to in



the buildings design. It is considered that this is the case in this instance as the sites size constraints and examples of varied upper-floor setbacks to other buildings in the immediate neighbourhood result in reasonable justification for variation to this discretionary control.

It is noted that Council's City Strategy team do not support a variation to the 5m setback to the Rouse Street frontage. Their position is reliant on the lack of a development higher than 3 storeys fronting the south side of Rouse Street (between Nott and Stokes Streets) – and makes a point of noting the increased impact of the balconies within the setback to within 1m of the boundary as exacerbating the impact. Contextually, it is correct that there are only 3 storey buildings fronting the south side of Rouse Street; however, the buildings west of Donaldson Street are (and should be) responsive to heritage building on the corner of Stokes Street (233 Rouse Street). The sites east of Donaldson Street, including the subject site, should respond to the built form immediately to the south which fronts Nott Street and beyond – an area that contains numerous 6 storey buildings. While the point raised regarding the balconies is acknowledged, it is also reasonable to acknowledge that DDO1 is supportive of balconies within upper-floor setbacks, with no directive as to what an appropriate size or material for the balcony to be designed to. The proposal seeks clear glazed balustrades with limited bulk in the form of flooring and frames, which would present as lightweight. Further, Council's Urban Design team has no issue with the proposed balcony design.

DDO1 and Area 2 do not specify any side setback or equitable development controls, and it is appropriate for the proposed building to be developed directly to the boundary. There are no equitable development issues associated with the development as the only shared property boundary (217 Rouse Street to the east) would interface with a proposed blank wall.

13.5 Does the proposal satisfy the requirements of Clause 58?

As noted above, a full assessment of the proposal against the requirements of Clause 58 is attached at **Attachment 4**.

In summary, the application demonstrates appropriate compliance with the objectives of Clause 58, most of the standards of Clause 58 and the decision guidelines.

The following sections of the Clause 58 assessment are discussed in detail, generally because a standard has not been met:

Standard D10 – Landscaping

A landscape plan has not been submitted and will be recommended as a condition should a permit be granted.

No trees exist on site at present, and minor landscaping is proposed to the roof terrace.

Refer to recommended conditions 1 n) and 12.

Standard D11 – Access

Council's Traffic Engineer has recommended some minor changes to the layout and access of the car stacker. Compliance with those conditions would determine the access objective as being achieved.

Refer to recommended conditions 1 c) and 1 d).

Standard D13 – Integrated water and stormwater management



Council's Sustainable Design officer has recommended some minor changes to the Sustainability Management Plan. Compliance with those conditions would determine the integrated water and stormwater management objectives as being achieved.

Refer to recommended conditions 1 l) and 4.

Standard D16 – Noise impacts

The location of mechanical plant and acoustic attenuation measures are not identified on the plans. Demonstration of these items need to be included on the plans to demonstrate that the standard has been met.

Refer to recommended condition 1 g).

Standard D17 – Wind impacts

A wind impact assessment has not been provided and will be required as a condition of any permit that may be granted.

Refer to recommended conditions 1 o) and 18.

Standard D18 – Accessibility

A total of 5 of the 7 apartments have been identified as meeting standard D18, as over 50% (58.3%) of the apartments would comply with the standard – subject to conditions applying to any permit issued that identifies the location of toilets as to comply with Table D7 in Standard D18, and the width of entry doors to Apartments 01, 03, 05 and 06 to comply with Standard D18.

Refer to recommended conditions 1 i) and 1 j).

Standard D24 – Waste and recycling

A waste management plan was provided for this application but was considered insufficient by Council's Waste Officer. Should a permit be granted, an amended waste management plan would be required as a condition of that permit, to the satisfaction of the responsible authority.

Refer to recommended conditions 1 m) and 11.

Based on the above and the contents of the Clause 58 Assessment Matrix at Attachment 4, it is considered that the proposal would comply with Clause 58, subject to the conditions outlined above.

13.6 Would the proposal result in any unreasonable amenity impacts to surrounding properties?

The assessment of the proposed development above has determined that the proposed podium and tower form is acceptable with regard to height and proposed setbacks.

The Clause 58 – Apartment Development assessment contained in Attachment 4 of this report also includes assessment of the proposal in terms of amenity impacts to surrounding properties. Clause 58 does not specify setback requirements based on wall or overall building heights. In considering the potential visual bulk it is noted that the DDO includes clear direction for form, scale and setbacks.

It is considered that a building would satisfy the DDO objectives and would ensure that the building would not present as excessive visual bulk when viewed from surrounding properties.



All land surrounding the site is located within the Mixed Use Zone. The site is located at a distance of approximately 70m to the closest property in a General Residential Zone, and approximately 200m to the closest property in a Neighbourhood Residential Zone.

The Mixed Use Zone requires an assessment under Clause 58 of the Port Phillip Planning Scheme; however, external amenity impact assessment in a Clause 58 Assessment is limited. There are amenity impact issues raised in the objections – notably, overlooking, overshadowing, noise (including noise emanating from the gym and normal residential uses), noise, dust and disturbance during construction, and loss of views.

Overlooking

To the rear of the site, the closest residential properties (1 Donaldson Street) is built to the boundary of the ROW at the rear, a separation of approx. 3.2m and face the subject site with windows and the side of balconies. There are also north-facing balconies located 7.5m from the subject site. The properties to the west facing Portview Square interface with the subject site via their rear POS, located opposite Donaldson Street at a distance of approximately 4 metres. A balcony also exists to the rear of 229 Rouse Street located approximately 8m from the subject site. The balconies fronting Rouse Street to 216, 222-224 and 232-242 Rouse Street are located at a minimum of 30m from the subject site and are not considered to be affected. There are no residential properties to the east within reasonable distance.

The following screening measures are proposed:

- South facing balconies/habitable room windows of Apts 01, 03, 05, 06 and 07 – balconies screened by 1.7m high obscured glazed screens. Windows to contain obscured glazing to 1.7m above FFL. This is considered reasonable treatment.
- Roof terrace to Apt 7 – 1.7m high obscured glazed screen to the south elevation would limit views to the southern properties (1 Donaldson Street). A 1m high glass balustrade is proposed to the west elevation behind a 2.7m wide setback to the buildings parapet. This setback would restrict downward views towards the rear of the Portview Square properties and 229 Rouse Street.
- To the west elevation of all apartments – all windows would contain obscured glazing to 1.7m above FFL. The southern balconies would contain 1.7m high obscured glazed screens. 1.0m west facing balustrades to the balconies on the north elevation, however, views to the POS to the west would be obscured by the 1.1m setback from the building's corner. These measures would be considered reasonable.
- Screening measures not required to the north or east due to there being no reasonably located POS to any dwelling (30m to the closest residential property to the north).

It is considered that the screening measures listed above would be considered reasonable.

Overshadowing

The advertised plans detail shadow impacts between 9am and 3pm at the 22 September Equinox.



These parameters are the standard when assessing ResCode (Clause 54 and Clause 55), however, it is critical to note that there is no requirement to assess this development against this matrix. DDO1 has some consideration of overshadowing; however, it is limited to shadow impacts to public realm on the Winter solstice – in particular to the south east side of Bay Street, the south west side of Rouse Street and the south side of the road reserve adjoining the Foreshore.

The shadow plans reveal that the proposed development will only cast shadow to the north facing wall of the 1 Donaldson Street building from 9am to 12pm, and across the roofs of 217 and 219 Rouse Street; no new shadow would cast across the rear POS of the dwellings fronting Portview Square.

1 Donaldson Street:

This site, located opposite the ROW, interfaces to the street (west) with balconies from the first to fifth floors, with windows from the first to fifth floors facing the subject site (north).

At 9am, the shadow cast towards 1 Donaldson Street would largely incorporate existing shadow cast by that building, and shadow towards the windows. At 10am, there would be a large section of new shadow towards the balconies and windows, and at 11am and 12pm, shadow would impact windows.

The north facing balconies further along the laneway are not impacted by shadow between 9am and 3pm on the spring equinox.

With respect to the balconies at the front side of 1 Donaldson Street, which are most impacted at 10am and 11am, the shadow is proposed to predominantly come from the side, and would be largely unaffected in the afternoon hours. Furthermore, the balconies are covered by weather protecting roofs formed by the floor of each balcony above, and are surrounded by solid balustrades and high projecting screens. The impact of the building's new shadow is therefore considered to be limited to the balconies, resulting in the proposed level of overshadowing being acceptable.

The windows on the north elevation are narrow windows that are secondary to the west-facing windows on each level – the impact to these windows are considered to be limited.

Noise, including noise emanating from the gym and normal residential uses

A condition is recommended to ensure that the Indoor Recreation Facility adheres to the noise controls of the *Environment Protection Regulations 2021* (Division 1 and 4 of Part 5.3 - Noise). Further, an acoustic report demonstrating compliance with the *Environment Protection Regulations 2021* is required prior to commencing the use.

Refer to recommended condition 21.

Noise, dust and disturbance during construction

It is acknowledged that construction may have some impact on the quiet enjoyment of affected properties. One who is proposing construction has obligations under the Building Act to protect an adjoining property from potential damage from their work. Protection works may also be required to any construction close or adjoining a development site by the relevant Building Surveyor. Protection work provides protection to an adjoining property from damage due to building work. It includes but is not limited to underpinning of adjoining property footings, including vertical support,

lateral support, protection against variation in earth pressures, ground anchors, and other means of support for the adjoining property.

This process is not controlled or overseen via the planning process and regulations, and is addressed at the Building Permit stage.

Loss of views

The impact of development on the loss of views across the subject site from adjoining or nearby properties is not a planning consideration. A person does not have a right to a view.

13.7 Would the development provide an acceptable level of internal amenity for residents?

An application for the provision of apartment buildings within the Mixed Use Zone is required to be assessed against the objectives, standards and decision guidelines of Clause 58. A development of five or more storeys, excluding a basement, must meet the requirements of Clause 58.

A Clause 58 Assessment forms an attachment of this report. The assessment determines that the proposal would be largely compliant with internal amenity requirements relating to the functional layout of bedrooms and living rooms subject to conditions largely confirming compliance with Accessibility requirements. on the architectural plans. The dwelling sizes range from 76sqm to 130sqm, each would be provided with practical and comfortable living arrangements, and each would have access to POS that meets Standard D20.

13.8 Are the proposed car parking and access arrangements acceptable?

Traffic

The applicant's report and Council's Traffic Engineer are satisfied that the site can accommodate the traffic numbers generated by the development in a safe manner without leading to unreasonable congestion across the site and wider area. The expected traffic generated by the indoor recreation facility is expected to be the same as the existing gym on site, given the size, number of patrons and hours of operation are to remain the same. Further, at a rate of 5 vehicle movements per day to each 2 bedroom dwelling and 6.5 vehicle movements to each 3 bedroom dwelling, the traffic generated by the residential component is expected to create unreasonable traffic issues to Donaldson Street.

Access

Design and Development Overlay 1 seeks to encourage pedestrian movement and promote active street frontages in the areas between Station Pier and Bay Street Shopping Centre.

It is proposed to modify the access arrangements to by providing access to a car parking stacker from Donaldson Street.

Council's Traffic Engineer is supportive of the proposed access arrangements, provided the following is addressed:

- Provide convex mirrors within the property boundary to assist with lack of sight triangles
- Amend pedestrian access to the stacker area without walking on the carriageway



- Provide a visitor bicycle space.

The Traffic Engineer is supportive of the accessway and headroom. The above changes are recommended to be modified via permit conditions. **Refer to recommended conditions 1 c) to 1 d).**

Parking

The proposed development as shown on the assessment plans would contain 7 dwellings split between 4 x two bedroom dwellings and 3 x three bedroom dwellings. The subject site is located within the Principal Public Transport Network (PPTN) and is therefore subject to the applicable parking rate under Column B of Table 1 of Clause 52.06. The proposed standard residential uses generate the following statutory car parking requirement under Table 1 of Clause 52.06:

| Use | Rate | No | Total Required | Total Proposed | Rate per dwelling |
|--------------|---|----|----------------|----------------|-------------------|
| Dwelling | 1 space to each one or two bed dwelling | 4 | 4 | 4 | 1 |
| | 2 spaces to each three + bedroom dwelling | 3 | 6 | 4 | -2 |
| | 0 spaces per visitor to every 5 dwellings for developments of 5 or more dwellings | 0 | 0 | - | - |
| Total | | | 10 | 8 | -2 |

This generates a statutory requirement for a total of 10 spaces. A total of 8 spaces are proposed within the stacker so therefore the proposal seeks approval for a reduction of 2 spaces.

Contextually, the site is located within the Principal Public Transport Network Area and Bay Street Major Activity Centre and is within a very short walking distance to the commercial area of the Bay Street Major Activity Centre. As previously identified, the site is located in close proximity to high quality public transport infrastructure with frequent tram services departing from Station Pier on the 109 Route to Box Hill. The site also has access to numerous car share options as well as access to a main cycle routes along the Foreshore and along the light rail corridor.

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 (Housing), 16.01-2S (Location of Residential Development), 18.01-1L-01 (Land use and transport integration), 18.01-2S (Transport System), and 18.02-2R (Principal Public Transport Network). On this basis, a balanced outcome needs to be achieved acknowledging that the Sustainable Transport Policy explicitly seeks to reduce the high rate of private vehicle ownership within the municipality and subsequently reduce the dependence on cars as a mode of transport.

It is accepted that the site and proposed development is well positioned to achieve the objectives of Council's Sustainable Transport Policy. In this instance there is sufficient justification to reduce the statutory car parking rate due to the site's proximity to nearby activity centres, public transport and alternative forms of 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.

The following table provides an assessment of the proposal against these considerations:

| Clause 52.06-7 Consideration | Assessment |
|---|---|
| The Car Parking Demand Assessment. | A car parking demand assessment was provided. |
| Any relevant local planning policy or incorporated plan. | The proposal is considered to be supported by Council's local planning policy as discussed earlier in this report. |
| The availability of alternative car parking in the locality of the land. | The surrounding on-street car parking is generally restricted and limited to 1-2 hours between 8am and 6pm with limited long-term parking available – generally restricted to the street outside the subject site and between Stokes Street to Nott Street. As such there would be available parking outside of normal business hours. |
| On street parking in residential zones in the locality of the land that is intended to be for residential use. | The surrounding land is zoned as Mixed Use Zone. As described above, the surrounding parking is a mix of restricted and long-term parking. |
| The practicality of providing car parking on the site, particularly for lots of less than 300 square metres. | The subject site is a generally constrained, small site that is limited in its ability to provide onsite parking. The small footprint is capable of containing a stacker and pit; but a larger basement parking system would be impractical. By in large car parking would be provided for the majority of the development with only a small reduction being sought for the 3 bedroom dwellings. |



| | |
|---|--|
| <p>Any adverse economic impact a shortfall of parking may have on the economic viability of any nearby activity centre.</p> | <p>The nearby activity centres are all well served by Public Transport and the proposed car parking reduction is unlikely to have any unreasonable adverse economic impact on these areas.</p> |
| <p>The future growth and development of any nearby activity centre.</p> | <p>Given the minor car parking variation being sought, it is unlikely to have any impact on the future growth of the surrounding activity centres.</p> |
| <p>Any car parking deficiency associated with the existing use of the land.</p> | <p>The existing gym benefits from a car parking rate of 0 – and the rate is not anticipated to change based on the size and scope of the gym proposed at ground level.</p> |
| <p>Any credit that should be allowed for car parking spaces provided on common land or by a Special Charge Scheme or cash-in-lieu payment.</p> | <p>This is not applicable to this application.</p> |
| <p>Local traffic management in the locality of the land.</p> | <p>The immediate area is well controlled for parking during business hours, with maximum parking periods of 1 to 2 hours. These roads are also under Council management who has sufficient ability to control parking restrictions within the area if the need arises.</p> |
| <p>The impact of fewer car parking spaces on local amenity, including pedestrian amenity and the amenity of nearby residential areas.</p> | <p>The reduction of 2 car parking spaces is not considered to be at scale that would have unreasonable impacts on local amenity.</p> |
| <p>The need to create safe, functional and attractive parking areas.</p> | <p>Subject to conditions, the car stacker system is considered to be a safe and functional parking area. Its location to the rear of the side elevation would not detract from primary appearances of the building.</p> |
| <p>Access to or provision of alternative transport modes to and from the land</p> | <p>As discussed earlier in this report the site is located within close proximity to tram services in addition to cycling infrastructure.</p> |
| <p>The equity of reducing the car parking requirement having regard to any historic contributions by existing businesses.</p> | <p>The existing 0 car parking rate for the existing gym would reasonably and equitably translate to the proposed gym at ground level – resulting in negligible impact to the on-street parking network caused by carrying the shortfall.</p> |



The character of the surrounding area and whether reducing the car parking provision would result in a quality/positive urban design outcome.

The reduction in parking would not have any impact on urban design.

In summary, the proposal is considered acceptable with respect to the considerations of Clause 52.06-7 and would bear favourably in granting the proposed car parking reduction. The site is well served by public transport and other sustainable transport options, including car share and bike lanes. The site has a good level of walkability to activity centres and overall, the parking facilities that would be provided for the development would represent an acceptable traffic and parking outcome (subject to conditions).

Bicycle parking/facilities

As per Clause 52.34 of the Planning Scheme sets out the following bicycle parking requirements for the proposed development.

| Use | Rate | No | Required | Proposed |
|--------------------------------------|--|------------------|----------|---|
| Dwelling | 1 space per 5 dwellings for residents | 7 dwellings | 1 | 1 bicycle space provided in lobby. |
| | 1 space per 10 dwellings for visitors | | 1 | |
| Minor Sports and Recreation Facility | 1 employee space per 4 employees | 6 staff | 1 | 3 bicycle spaces provided in Gym. |
| | 1 visitor space to each 200sqm of net floor area | 52sqm floor area | 1 | |
| Total | | | 4 | 4 (1 visitor space not provided for dwellings) |

It is proposed to provide a total of 4 bicycle spaces onsite, which meets the numerical requirements of the Planning Scheme, and is generally considered acceptable. However, a visitor space needs to be provided for the residential component, and



demonstration that the racks meet Australian Standards needs to occur. This is demonstrated in the recommended permit conditions.

Refer to recommended conditions 1 e) and 1 f).

13.9 Are the waste management arrangements acceptable?

The Waste Management Plan and assessment plans identify the location for waste collection as in front of the building on Rouse Street. Some minor changes are recommended to the WMP to gain full support, however, the collection point is considered acceptable.

The minor changes recommended to the WMP before endorsement are set out at **recommended conditions 1 m) and 11.**

13.10 Does the proposal achieve best practice water sensitive urban design and environmentally sustainable design?

ESD and WSUD arrangements are discussed in detail in Section 11 of this report.

Subject to conditions contained in Section 11 the proposal would achieve “Best Practice” in ESD and WSUD arrangements and would be consistent with Clauses 15.01-2L-02 (Environmentally Sustainable Design). and 19.03-3L (Stormwater management).

13.11 Are the proposed urban art arrangements acceptable?

As noted earlier in this report, no formal urban art arrangements have been proposed.

As such, Council’s standard urban art condition will be placed on any permit if one is recommended to be granted.

This will ensure that the requirements of Clause 15.01-2L-03 are satisfied.

14. INTEGRATED DECISION MAKING AND CONCLUSION

- 14.1 Clause 71.02 – integrated decision making 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.
- 14.2 This application seeks approval for a 7 storey mixed use building comprising Indoor Recreation Facility at ground level and 7 dwellings to the upper floors, alongside a reduction of car parking requirements.
- 14.3 Whilst the proposal is strategically supported in terms of high-density development and parking dispensations, it does not meet several key planning controls and policies affecting the site. This includes Clause 16 with respect to housing diversity, the DDO1, and elements of Clause 58.
- 14.4 This report has recommended several conditions to moderate proposed built form to better align the application with the requirements of Clause 58 – in particular with regards to internal amenity.
- 14.5 Further, several conditions are also recommended to ensure traffic, sustainable design, waste management and wind impacts are considered and managed appropriately.
- 14.6 As a result of the above conditions and the broader suite of conditions outlined in the recommendation of this report, the proposal would comply with the requirements of the



Design and Development Overlay (DDO1), Clause 58, and would provide a more equitable and site-responsive development to its context. In regard to the DDO1 requirements, with the proposed conditions, the proposal would provide the following:

- Meet the overall height requirement.
- Meet the street wall requirement.
- Achieve a reasonable podium that appropriately responds to the surrounding neighbourhood and objectives of the DDO.

14.7 Beyond matters addressed through the recommended conditions, the proposal is highly resolved. It achieves acceptable parking outcomes, sound traffic management outcomes, acceptable ESD and WSUD outcomes, and reasonable waste management outcomes.

14.8 Ultimately, the development would deliver a net community benefit to its site and surrounds subject to the conditions forming part of this recommendation. It would improve housing supply in a central location that is highly accessible to public transport, goods, services, public open spaces, and in a highly strategically supported area for high density development.

14.9 It follows that this report recommends that a Notice of Decision to grant a planning permit be issued subject to the recommended conditions.

15. COVENANTS

15.1 As set out earlier in this report, the site was affected by a restrictive covenant but that was removed through a Supreme Court process. Following this process, the title has been updated to no longer include the restrictive covenant.

15.2 The title for the subject site known as Lot 1 of Title Plan 692283H [Parent Title Volume 03149 Folio 647] now has no restrictive covenant.

16. OFFICER DIRECT OR INDIRECT INTEREST

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

17. OPTIONS

17.1 Approve as recommended

17.2 Approve with changed or additional conditions

17.3 Refuse - on key issues

18. CONCLUSION

18.1 The proposal is consistent with the strategic direction outlined by the Port Phillip Planning Scheme where the provision of commercial floor area would contribute to the economy of the local area. The provision of high-density residential development in this location is also supported through strategic policy and it is considered that the proposed dwelling typologies offer a good level of dwelling diversity.

18.2 The proposed building is largely compliant with the requirements of DDO1-2 and importantly would meet the absolute building height specified for the site. The only DDO requirement that would not be met is the preferred height within 5m of a road boundary. It is considered that the amenity impacts on surrounding property and on the



character of the neighbourhood would not be adversely affected by not meeting this requirement.

- 18.3 The proposed dwellings offer a high standard of internal amenity, and each apartment would be provided with areas of private open space and a functional layout.
- 18.4 The application seeks a reduction of 2 car parking spaces, but this is considered acceptable given the site's proximity to nearby activity centres, public transport and alternative forms of transport as well as strong alignment to state and local policy. The proposal would also meet the bicycle provisions required for the Indoor Recreation use and for dwellings; it is however recommended that provision is made within the development to provide 1 visitor spaces for residential use.
- 18.5 The waste collection provisions would be satisfactory, subject to conditions.
- 18.6 Overall, the design recognises and responds to the opportunities and constraints of the site and context and provides an appropriate and well executed response to the site. The proposal is recommended for approval, subject to the conditions outlined at Section 3 of this report

ATTACHMENTS

1. **Advertised Plans**[↓](#)
2. **All referrals**[↓](#)
3. **DDO assessment matrix**[↓](#)
4. **Clause 58 assessment matrix**[↓](#)
5. **Neighbourhood photos**[↓](#)
6. **Town Planning Report**[↓](#)
7. **Urban Context Report**[↓](#)
8. **Zone and overlay map**[↓](#)