



8.14	98 DOW STREET, PORT MELBOURNE
LOCATION/ADDRESS:	98 DOW STREET, PORT MELBOURNE
RESPONSIBLE MANAGER:	GEORGE BORG, MANAGER CITY DEVELOPMENT
AUTHOR:	ELIEZER HASEN, URBAN PLANNER
TRIM FILE NO.:	PF17/268305
ATTACHMENTS:	1. Objector map 2. Advertised plans 3. Discussion plans 4. 3D Render Visualisations 5. Revised shadow diagrams
WARD:	Gateway
TRIGGER FOR DETERMINATION BY COUNCIL:	More than 16 Objections
APPLICATION NO:	242/2017
APPLICANT:	3rd Dimension Developments PTY LTD
EXISTING USE:	Dwelling
ABUTTING USES:	Dwellings
ZONING:	General Residential Zone (GRZ)
OVERLAYS:	Development Contributions Plan Overlay I (DCPOI)
STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL	Expired

PROPOSAL

Alterations and additions to the existing dwelling including the construction of a second floor addition (three storey dwelling) on a lot less than 500m².

I. EXECUTIVE SUMMARY

- 1.1 It is proposed to construct a new second floor level to the existing two storey dwelling on the subject site. The additional floor level would allow an additional living room and bedroom with a small balcony facing Dow Street.
- 1.2 The proposed second floor level would abut the private open space (balconies) of two apartments to the southwest at Nos. 205/88 and 206/88 Dow Street.
- 1.3 The application has received 18 objections, which relate to amenity impacts and neighbourhood character.





- 1.4 The applicant submitted discussion plans on 22 August, 2017, to address some of the concerns raised by Council Officers and objectors. The plans have no formal status, but were provided for ‘discussion purposes’ and propose to reduce the overall wall height by 150mm, reduce the overall building height by a minimum of 400mm, setback the balcony from the front of the site to 2.1m (increase of 900mm) and reduce the roof pitch. If Council were minded to support the application, the modifications outlined in the discussion plans could form part of any permit conditions.
- 1.5 A consultation meeting was held on 16 October and attended by all Gateway Councillors, Planning Officers, applicants and nine objectors. The consultation did not result in any changes being made to the proposal although the discussion plans were reviewed.
- 1.6 It is recommended that the application be supported subject to conditions as the proposal would be consistent with the existing neighbourhood character and would not result in unreasonable amenity impacts to the neighbouring properties.

2. RELEVANT BACKGROUND

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

Application No.	Proposal	Decision	Date of Decision
664/1994	Construction of a dual occupancy	Approval	13 February 1995

3. PROPOSAL

- 3.1 It is proposed to construct a new second floor (third storey) above the existing two levels of an existing dwelling, which would comprise a similar footprint as the existing ground and first floor levels on a lot less than 500m².
- 3.2 There would be no changes to the ground floor level and minor internal changes and a larger front balcony at the first floor level.
- 3.3 The proposed second floor addition would be built boundary to boundary, other than the lightwell located on the southern boundary which matches the size (1.8m in length by 0.8m in width) and location of the existing lightwells at the lower levels. The addition would measure 4.64m in width by 14.75m in length (with the exception of the lightwell to the south) for a total area of approximately 68m².
- 3.4 The addition would be setback 8.48m from the rear boundary and 1.2m from the front boundary. A balcony and canopy would be located within this front setback area.





- 3.5 The wall height of the addition would be between 8.95m and 9.2m above natural ground level as a result of the topography of the land. The overall building height including the roof ridgeline would be between 9.9m and 10.15m. The floor to ceiling heights of the addition would be 2.7m, matching the levels below.
- 3.6 A solid boundary wall exists on the north boundary of the terrace to the adjoining property at Apartment 205/88 Dow Street. The plans provided indicate the height of this wall at 1.8m above finished floor level of the neighbouring terrace, however a site visit has confirmed the height of this wall is 1.68m above finished floor level. This difference of 120mm would result in the proposed second floor addition along the southern boundary projecting 1.02m above the existing boundary wall, rather than 900mm as outlined on the advertised plans. As a result of this error, the applicant has provided updated shadow plans to reflect the correct height of the boundary wall (refer to Attachment 5).
- 3.7 No change is proposed to the existing on-site car parking arrangements (one car space accessed from the rear laneway), site coverage or permeability given the proposal relates to a second floor addition.
- 3.8 Services proposed include a solar hot water system on the northwestern side of the roof ridge, and an air conditioner condenser unit within the proposed lightwell.
- 3.9 Discussion plans were submitted by the applicant on 22 August 2017. The purpose of these plans was to highlight changes the applicant was willing to make to address some of the concerns raised by the objectors. The plans have not been formally substituted, therefore these discussion plans have no standing other than as a basis of discussion for possible further changes. These plans were circulated to all objectors on 8 September 2017 showing the following amendments to the plans:
- Second floor balcony increased by 900mm in depth to 2.1m.
 - Overall footprint of revised second floor reduced by approximately 3.5m², for a new total footprint of approximately 63m².
 - The floor to ceiling height of the new second floor reduced by 150mm from 2.7m to 2.55m.
 - Overall building height reduced to 9.5m at the front of the site and 9.75m to the rear.
 - Pitch of proposed gable roof form decreased by five degrees from 20 degrees to 15 degrees.

Refer Attachment 3.



The discussion plans formed part of the conversation at the consultation meeting. However, the objectors did not consider that the plans fully addressed their concerns (refer paragraph 8.3 below).

If Council was minded to support this application, the changes offered could be included as conditions on any approval.

4. SUBJECT SITE AND SURROUNDS

- 4.1 The subject site is located on the south-eastern side of Dow Street, between Graham Street and Rouse Street, Port Melbourne. The site is rectangular in shape, with a frontage to Dow Street of approximately 4.65m and a depth of approximately 23.23m, with a total area of approximately 113m². The fall of the land is 250mm over the course of the site from the front (west) elevation to the rear (east) elevation.
- 4.2 The subject site is currently developed with a two storey contemporary townhouse, which received a planning permit for its construction in 1995. The townhouse, currently painted in a red/ochre colour, is one of a pair with 98A Dow Street and was developed at the same time as the application site under Planning Permit 664/1994. Both sites contain a similar layout, with the dwellings constructed close to the front boundary, a similar ground and first floor footprint, and paved private open space at the rear with vehicle access from Legon Street for one off-street parking space, which is proposed to remain. The existing dwelling results in a site coverage of 61%.
- 4.3 The adjoining property to the southwest (88 Dow Street) is developed with a five storey building containing 24 dwellings, constructed in 2013. The building is of a contemporary style, with a high degree of articulation to Dow Street. The terrace of Apartment 205/88 Dow Street directly abuts the existing roof of the front half of 98 Dow Street, with a 1.68m high boundary wall separating the two. Apartment 206/88 Dow Street adjoins the rear half of 98 Dow Street, but is setback from the shared boundary by approximately 1m.
- 4.4 A row of four double storey dwellings of varying ages and building styles are located to the immediate northeast of the subject site, with single storey cottages continuing further northeast along Graham Street, to the beginning of the Heritage Overlay Schedule 1 area.
- 4.5 To the rear of the site are a row of seven, contemporary, two storey townhouses fronting Legon Street, as well as two single dwellings fronting Esplanade West which back onto Legon Street
- 4.6 The surrounding area is characterised by medium-density development in the form of four to five storey apartment developments to the north, south and west of the subject site.

5. PERMIT TRIGGERS





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

<i>Zone or Overlay</i>	<i>Why is a permit required?</i>
Clause 32.08 General Residential Zone	<ul style="list-style-type: none"> A permit is required to extend a dwelling on a lot less than 500m² pursuant to Clause 32.08-3. A development must meet the requirements of Clause 54.
Clause 45.06 Development Contributions Plan Overlay Schedule 1	<ul style="list-style-type: none"> 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. 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. Exemptions from payment of development contributions apply in cases of home renovations and alterations, and where there is no substantial increase in the number of persons that would be on the property. This is discussed later in the report.

6. PLANNING SCHEME PROVISIONS

6.1 State Planning Policy Frameworks (SPPF)

The following State Planning Policies are relevant to this application:

Clause 11 Settlement

Clause 15 Built Environment and Heritage

Clause 16 Housing

Clause 18 Transport

6.2 Local Planning Policy Frameworks (LPPF)

Clause 21.03 Ecologically Sustainable Development, including

Clause 21.03-1 Environmentally Sustainable Land Use and Development

Clause 21.04 Land Use, including

Clause 21.04-1 Housing and Accommodation

Clause 21.05 Built Form, including

Clause 21.05-2 Urban Structure and Character





- Clause 21.05-3 Urban Design and the Public Realm
- Clause 21.06 Neighbourhoods, including
 - Clause 21.06-4 Port Melbourne and Garden City

The following Local Planning Policies are also relevant to this application:

Clause 22.12 Stormwater Management

6.3 Particular Provisions

The following Particular Provisions are relevant to this application:

- Clause 54 One dwelling on a lot
- Clause 65 Decision Guidelines

7. REFERRALS

7.1 Internal referrals

The application was referred to Council's Urban Design Officer for comment. The comments included below are discussed in detail in Section 9.

I have no issue with three story development in this location. The additional height and mass are acceptable in this location. The gable roof in combination with the restrained detailing and materials of the rear façade results in a successful and distinct elevation. However the stunted and heavy awning high up on the front façade does not complement the gable roof and undermines the simple profile, giving the building the impression of having a 'monobrow'. The purpose of the awning is unclear and should be reconsidered. We generally support the proposal as an appropriate development in this context with the following condition-reconsideration of the awning high up on the front façade.

Planner's Comment:

The concerns raised by Council's Urban Design Officer are noted. The awning/canopy would be too prominent on the façade of the design, and would offer little practical benefit by way of shading given its 600mm depth. It is recommended that the awning/canopy be deleted (refer recommended **Condition 1a**).

7.2 External referrals

The application was not required to be externally referred.

8. PUBLIC NOTIFICATION/OBJECTIONS





- 8.1 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 (75 letters) and directed that the applicant give notice of the proposal by posting two notices on the site for a 14 day period, in accordance with Section 52 of the Planning and Environment Act 1987.
- 8.2 The application has received 18 objections. The key concerns raised are summarised below (officer comment will follow in italics where the concern will not be addressed in Section 10):
- The proposal exceeds the 9m maximum building height recommended by Standard A4 of Rescode.
 - The gable roof of the addition should be changed to a flat roof in order to reduce overshadowing of adjoining properties.
 - The proposal would result in a stark, tall, skinny building which would not be consistent with the neighbourhood character.
 - The proposal would result in excessive visual bulk.
 - The proposal would result in overlooking of neighbouring properties.
 - The proposed southwestern boundary wall would dominate the neighbouring private open space of Apartment 205/88 Dow Street.
 - The proposed design to the façade needs improvement.
 - The proposed design as a whole, with a lack of recessive form and a mock heritage roof, does not suit the streetscape and needs improvement.
 - The proposed second floor should be recessed further back from the front of the property in order to fit in better with the streetscape.
 - The shadow impacts of the proposed addition would limit sunlight to the private open space of Apartment 205/88 Dow Street.
 - Side and rear boundary setbacks do not comply with Rescode.
 - The upper floor should be set back in line with the neighbouring building at Apartment 205/88 Dow Street.
 - A front setback of 5m to the third storey would reduce the harshness of the built form.
 - The location of the proposed air conditioner condenser unit could result in excessive noise to the adjoining properties.
 - The proposal will result in lower adjoining property values.
This is not a valid planning consideration.
 - The additional building height would block views of the city skyline to properties to the southwest.



Various Tribunal decisions have confirmed that there is no legal right to a view other than those prescribed within the planning scheme.

- Initial shadow diagrams provided were inaccurate.

The shadow diagrams initially provided with the application were inaccurate. However Council officers have recently received revised shadow diagrams which respond to these inaccuracies (refer Attachment 5).

- Approving a non-recessed third storey would encourage future developers to apply for non-recessive third and fourth storeys.

Each application is assessed on its own planning merits. What future developers may or may not apply for is not within Council's control.

- No precedent exists for a 4.65m wide frontage without a recessive third storey.

The interrelation between building widths and upper storey setbacks is not necessarily significant in determining the success of a design. These are only two factors among many which must be balanced in the assessment of a building.

- The addition would make the building more than twice as high as its width.

As above, the interrelation between a building's height and width is not necessarily significant in determining the appropriateness of a design.

- Box shaped forms are generally discouraged by planners and architects.

Council does not have a planning policy on box shaped forms. Each application is assessed on its individual merit including how its particular design responds to its context.

- 8.3 A consultation meeting was held on 16 October 2017 which was attended by the Mayor and Ward Councillors, Planning Officers, Permit applicant and client, and nine objectors.
- 8.4 The consultation meeting did not result in any changes being made to the proposal.
- 8.5 It is not considered that the number of objections raises an issue of significant social effect under Section 60 (1B) of the Planning and Environment Act (1987).

9. OFFICER'S ASSESSMENT

9.1 Local Policy/Neighbourhood Character

In determining the character of the local area, the site should be considered in the context of this section of Dow Street between Rouse Street and Graham Street. This character can be broadly divided into large lots containing contemporary apartment developments of between three and nine storeys (located on most of the western side of the street, and the southern part of the eastern side), and single dwellings on small lots (located mainly on the northern part of the eastern side). While some of these smaller dwellings are older timber cottages, none of the properties fronting onto this section of Dow Street are within a heritage overlay.



The subject site is located between the larger five storey apartment block to the south, and the two storey dwellings to the north. Increasing the height of the subject site by one storey provides a transition from the one and two storey built forms located to the north and the five storey form located immediately to the south. This transition would be improved through the use of complimentary finishes and materials consistent with the five storey building to the south at 88 Dow Street, as will be further discussed.

The proposed addition would maintain the transition in building heights between the single storey cottages found further northeast of the subject site, the row of five, two storey dwellings (which includes the subject site) and the five storey building at 88 Dow Street, which marks the start of generally larger scale built form to the foreshore. The fact that the subject site is juxtaposed between the row of two storey dwellings and the five storey building means that a third storey addition would provide an appropriate transition between the heights of these buildings and would respect the existing neighbourhood character.

The massing of the proposed design and its proposed front and side setbacks would generally be in keeping with the hard street edge of the existing dwelling and neighbouring two storey buildings, as well as elements of the ground, first and second floors of the building opposite at 93 Dow Street. The proposed second floor addition would be responsive to the bulk of the neighbouring five storey building at 88 Dow Street, and the rendered columns at 95 Dow Street and concrete panels at first and second floor levels at 93 Dow Street opposite the subject site. High boundary walls are an established feature of the immediate area. The proposed massing and setbacks are therefore consistent with the character of the area.

The façade of the proposed addition would be detailed through the use of a balcony, glass doors and canopy to provide an adequate level of visual interest. The use of a balcony projecting beyond the front wall would provide some depth to the façade, although as discussed in Section 8.1 the awning could undermine the building design and roof profile.

The proposed finishes and colours (light grey wall colours and dark aluminium window frames and balustrades) would effectively associate the building with its neighbour at 88 Dow Street which employs similar finishes and colours, rather than its current pair at 98a Dow Street. This is appropriate given that the three storey scale would appropriately respond to the adjoining five storey apartment building.

The proposed simple pitched roof form would be acceptable. Council's Urban Design Advisor noted that "*the gable roof in combination with the restrained detailing and materials of the rear façade results in a successful and distinct elevation*". The streetscape does not include consistent roof forms, therefore there is no particular style that would be more appropriate in this context.

9.2 **Amenity – Clause 54 (Rescode)**





Rescode is used to assess direct amenity impacts that may flow from a proposal, especially in terms of shadowing, setbacks, access to light and overlooking. The Clause 54 assessment shows that the proposal would either comply with or exceed the following standards:

A1, Neighbourhood character, A2, Integration with the street, A3, Street setback, A5, Site coverage, A7, Energy efficiency protection, A8, Significant trees, A10, Side and rear setbacks, A12, Daylight to existing windows, A13, North facing windows, A15, Overlooking, A16, Daylight to new windows, A17, Private open space, A19, Detail design, A20, Front fences.

Where a variation to the Rescode standard is required, the variation can be justified as follows:

Permeability

The existing permeability on this site is 7%, and does not change as a result of the proposal. While the on-site permeability would not achieve the current recommended standard, the provision of a 500L water tank within the courtyard would achieve the relevant ResCode objective, as it would reduce the impact of increased stormwater runoff and facilitate on-site stormwater infiltration. Furthermore, this level of permeability is consistent with other properties in the surrounding area, many of which have small rear gardens that include paved/covered hard surfaces. A variation is therefore considered acceptable in this instance.

Building height

The proposed addition would increase the height of the building from 7.15m to 10.15m. While this would exceed the standard by 1.15m, it would still be considered to respect the existing neighbourhood character given the proposal would achieve an appropriate transition in built form between the double storey dwelling to the north and higher built form to the south (five storey building). In addition, the discussion plans offer to reduce the overall building height to between 9.5m–9.75m (due to the slope of the land) and would result in a variation between 500-750mm. This is considered to be a minor variation given the proposed building height would respond to the existing neighbourhood character. A variation is considered appropriate in this instance (refer to **Condition 1c**).

Walls on boundaries

The Rescode standard recommends the length of a boundary wall for this site to be 13.6m.

Southern Boundary

The proposed wall on boundary would measure 12.89m in length, thus complying with the standard.

Northern Boundary



The proposed wall on boundary would measure 14.7m in length, exceeding the standard by 1.1m. It is noted that the overall wall length would not be altered under this proposal.

However, if the offer of the applicant to reduce the length of the proposed wall by 900mm as per the discussion plans is accepted, this would reduce the overall length to 13.8m, therefore reducing the variation required from 1.1m to 200mm. If Council was of a mind to support this change it could be incorporated as a condition on permit (refer to **Condition 1e**).

The overall height of the walls would be 9.2m and would not meet the standard, given the recommended maximum height should be 3.6m.

A variation is considered to be appropriate for the following reasons:

- The northern boundary wall would abut the roof of 98a Dow Street and therefore would not result in any unreasonable residential amenity impact to this neighbour.
- The southern boundary wall would abut Apartment 205/88 Dow Street, which contains a large terraced/balcony area with a boundary wall height of 1.68m. This existing boundary wall would moderate the impact of the proposed wall on this boundary, which would project 1.02m above the existing boundary wall. Given the effective wall height would measure 2.7m, this would not be considered to result in an unreasonable amenity impact, and would be consistent with the adjoining neighbouring properties. Furthermore, the reduction in height of this wall to 2.55m as shown on the discussion plans would further reduce any perceived visual bulk from the adjoining dwelling at Apartment 205/88, given the wall height could be reduced a further 150mm (refer to **Condition 1c**).

In addition, the decision guidelines for the Walls on Boundaries objective at Clause 54.04-2 state that the extent to which walls on boundaries are part of the neighbourhood character must also be considered. As discussed above, boundary walls are an established feature of the neighbourhood character, and recent Tribunal decisions have confirmed that this must be considered in any assessment (refer to *Fasso v Port Phillip CC [2017] VCAT 1438* as per the discussion on overshadowing, below). A variation to the standard for length and height of the boundary walls is therefore considered acceptable in this context.

Overshadowing

Council officers have recently received revised shadow diagrams which correct the height of the existing boundary wall on the terrace of Apartment 205/88 Dow Street, and also include the offer to reduce the height of the building, as shown on the discussion plans (Attachment 3). The revised shadow diagrams were recently received and have not been circulated to all objectors and are included at Attachment 5.

The neighbouring property at Apartment 206/88 Dow Street has approximately 10m² of private open space in the form of a terrace on the north elevation. Shadow diagrams indicate that this terrace would not receive any additional shadow as a result of the proposal.



The neighbouring property at Apartment 205/88 Dow Street has approximately 50m² of private open space in the form of a terrace. In order to comply with the standard, the terrace would need to receive 37.5m² of sunlight for five hours between 9am and 3pm on 22 September. The terrace currently does not achieve the amount of sunlight required by the relevant standard, as it only receives the required 37.5m² of sunlight for three hours (12 Noon, 1pm and 2pm) on 22 September. The current shadows result from the existing 1.68m high boundary wall, the 1m high solid balustrade to the west elevation of the terrace, and the timber slat screen of a similar height to the eastern elevation separating the terraces of Apartments 205 and 206.

The terrace can be broadly divided into two sections- the wider northeastern section accessible from the northeastern sliding door of the living/meals room, and the narrower western section facing onto Dow Street, accessible from sliding doors of the kitchen and a bedroom. The additional shadow impacts generated by the proposed addition would affect the wider northeastern section of the terrace, while the narrower western section would remain unaffected by the addition.

An assessment of the impact from the proposal on the amount of sunlight received to this terrace is provided in the table below:

Shadow to terrace of Apartment 205/88 Dow Street (50m² total area):

Time	Existing shadow	Proposed shadow (advertised plans)	Total increase (advertised plans)	Proposed shadow (discussion plans)	Total increase (discussion plans)
9am	36m ² (72%)	44m ² (88%)	8m ² (16%)	44m ² (88%)	8m ² (16%)
10am	29m ² (58%)	36m ² (72%)	7m ² (14%)	36m ² (72%)	7m ² (14%)
11am	18m ² (36%)	25m ² (50%)	7m ² (14%)	24m ² (48%)	6m ² (12%)
12pm	12m ² (24%)	19m ² (38%)	7m ² (14%)	16m ² (32%)	4m ² (8%)
1pm	12m ² (24%)	18m ² (36%)	6m ² (12%)	15m ² (30%)	3m ² (6%)
2pm	12m ² (24%)	21m ² (42%)	9m ² (18%)	14.5m ² (29%)	2.5m ² (5%)
3pm	16m ² (32%)	21m ² (42%)	5m ² (10%)	17m ² (34%)	1m ² (2%)

As outlined in the table above, the changes shown on the discussion plans would reduce the shadow impacts to the adjoining terrace of Apartment 205/88. If Council was minded to support this application, the changes offered could be incorporated as conditions on any approval [Refer recommended **Condition 1c, 1d and 1e**].

While the proposal would increase the amount of overshadowing to the terrace of Apartment 205/88, it is considered that it would still meet the objective at Clause 54.04-5, as follows:

To ensure buildings do not unreasonably overshadow existing secluded private open space.





The decision guidelines for this objective require the consideration of:

- Existing sunlight penetration to the secluded private open space of the existing dwelling.
- The time of day that sunlight is available to the secluded private open space of the existing dwelling.
- The effect of a reduction in sunlight on the existing use of the secluded private open space.

The Tribunal has considered on many occasions the challenges of compliance with each or all of the ResCode standards on small lots in the inner city. In the recent VCAT decision for the construction of an addition to a dwelling in the General Residential Zone (Fasso v Port Phillip CC [2017] VCAT 1438) the Tribunal stated:

“24. The review site is located within a highly urbanised, residential context and consequently any consideration of Clause 54 noncompliance and amenity impacts generally, must be undertaken having regard to reasonable amenity expectations arising from the site’s highly urbanised context.

25. This is a locality in which dwelling site coverage is relatively high and walls on boundaries are commonplace. Consequently, reduced levels of daylight to habitable rooms, increased overshadowing of private open spaces and visual bulk impacts represent typical conditions.

26. Compliance with each or all of the standards of Clause 54 is uncommon in this neighbourhood. Most if not all existing dwellings would not achieve that outcome.

27. In circumstances where Clause 54 standards are not met, I am required to be satisfied that the relevant objectives of Clause 54 are achieved. The review site’s location within a highly urbanised context is relevant to my consideration of these matters.”

The same principles can be applied to this proposal, given the site’s location in a highly urbanised context. While some of the standards are not met, the relevant objectives are and therefore variations are considered acceptable in this instance.

9.3 **Water Sensitive Urban Design**

A WSUD report has been submitted. The following water sensitive urban design features are proposed:

- 500L water tank.

The proposal receives a STORM rating of 100%, which is satisfactory.

9.4 **Environmentally Sustainable Design**

Pursuant to Clause 22.13, since the proposal relates to a dwelling with a gross floor area between 50m² and 1000m², a Sustainable Design Assessment is not a mandatory



requirement. An Environmentally Sustainable Design report was not submitted with the application.

9.5 Development Contributions Plan Overlay

This application would result in an additional living room and bedroom, and would not be considered to result in a substantial increase in people on the property. As such the exemption criteria of Schedule 1 apply, and the requirements of the Development Contributions Plan Overlay do not apply to this application.

10. COVENANTS

The applicant has provided a Register Search Statement confirming that there is no restrictive covenant on the title for the subject site known as Lot 2 of Plan of Subdivision 335075Y [Parent Title Volume 10202 Folio 658].

11. OFFICER DIRECT OR INDIRECT INTEREST

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

12. OPTIONS

- 12.1 Approve as recommended
- 12.2 Approve with changed or additional conditions
- 12.3 Refuse - on key issues

13. CONCLUSION

- 13.1 The proposal involves the construction of a second floor addition above the existing two storey dwelling. The subject site is located between predominantly larger scale (five storey) built form, and smaller scale (two storey) form.
- 13.2 The scale, massing and overall design of the addition would be respectful of the neighbourhood character, blending in with the adjoining larger built form, and providing an appropriate transition between the existing buildings on either side of the site.
- 13.3 The proposal would meet the majority of Rescode standards with the exception of Standards A4 (Building height), A6 (Permeability), A11 (Walls on boundaries), and A14 (Overshadowing). Variations are considered appropriate in this instance.
- 13.4 Therefore it is recommended that a Notice of Decision to grant a permit, subject to conditions, be supported.

14. RECOMMENDATION - NOTICE OF DECISION

- 14.1 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.





- 14.2 That a Notice of Decision to Grant a Permit be issued for the construction of alterations and additions to the existing dwelling including a second floor addition (three storey dwelling) on a lot less than 500m² at 98 Dow Street, Port Melbourne.
- 14.3 That the decision be issued as follows:

1 Amended Plans Required

Before the 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 submitted with the application referred to as TP01-TP6 Rev C, date stamp received 27/3/17, and SH1-SH4 Rev D, date stamp received 8/5/17, prepared by 3rd Dimension Developments, but modified to show:

- a) The deletion of the canopy above the balcony to the front elevation of the second floor addition.
- b) The air conditioner unit relocated from the second floor lightwell to the ground floor rear yard of the property.
- c) The floor to ceiling height of the second floor reduced to a minimum of 2.55m in height, for a maximum overall building height of 9.75m.
- d) The roof pitch reduced from 20 degrees to 15 degrees.
- e) The front setback of the second floor addition increased to a minimum of 2.1m from the front boundary.
- f) Cross section elevation drawings of the screens to the southern first floor window. The drawings must:
 - o Be drawn to scale and fully dimensioned;
 - o Clearly delineate any solid parts of the screen and any louvre or batten parts of the screen;
 - o Clearly illustrate how any louvre or batten system may allow horizontal or upward views but will prevent downward views to neighbouring properties;
 - o Show the exact width and thickness of each louvre or batten, the exact spacing between each louvre or batten and a section detail from behind the screen demonstrating that direct views of adjacent private open space are precluded, while allowing outlook horizontally and upward from the balcony and/or window.
- g) All plan and elevation drawings fully dimensioned, including natural ground level, floor levels, and incremental and total wall and building heights and lengths, with heights to be expressed to Australian Height Datum (AHD) and/or reduced levels.
- h) A full schedule of materials, finishes and paint colours, including colour samples (colour samples in a form that is able to be endorsed and held on file).

2 No Alterations

The development and colours, materials and finishes as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority, unless the Port Phillip Planning Scheme exempts the need for a permit.



3 Incorporation of Water Sensitive Urban Design initiatives

Before the occupation of the development approved under this permit, the project must incorporate the water sensitive urban design initiatives listed in the endorsed Water Sensitive Urban Design Report to the satisfaction of the Responsible Authority, and thereafter maintained to the satisfaction of the Responsible Authority.

4 Privacy Screens Must be Installed

Privacy screens as required in accordance with the endorsed plans must be installed prior to occupation of the building and thereafter maintained to the satisfaction of the Responsible Authority.

5 Walls on or facing the boundary

Prior to the occupation of the building(s) allowed by this permit, all new or extended walls on or facing the boundary of adjoining properties must be cleaned and finished to a uniform standard. Unpainted or unrendered masonry walls must have all excess mortar removed from the joints and face and all joints must be tooled or pointed 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.

6. Piping and ducting

All piping and ducting (excluding down pipes, guttering and rainwater heads) must be concealed to the satisfaction of the Responsible Authority.

7. Time for Starting and Completion

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

- a) The development is not started within two (2) years of the date of this permit.
- b) The development is not completed within two (2) years of the date of commencement of works.

The Responsible Authority may extend the periods referred to if a request is made in writing:

- before or within 6 months after the permit expiry date, where the use or development allowed by the permit has not yet started; and
- within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

Permit Notes:

Building Approval Required

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

Building Works to Accord with Planning Permit

The applicant/owner will provide a copy of this planning permit to any appointed Building Surveyor. It is the responsibility of the applicant/owner and Building Surveyor to ensure that all



building development works approved by any building permit is consistent with this planning permit.

Due Care

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

Days and Hours of Construction Works

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

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

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

Drainage Point and Method of Discharge

The legal point of stormwater discharge for the proposal must be to the satisfaction of the responsible authority. Engineering construction plans for the satisfactory drainage and discharge of stormwater from the site must be submitted to and approved by the responsible authority prior to the commencement of any buildings or works.

