



**6.2** **103 BEACH STREET PORT MELBOURNE**

**LOCATION/ADDRESS:** **103 BEACH STREET PORT MELBOURNE**

**EXECUTIVE MEMBER:** **KYLIE BENNETTS, GENERAL MANAGER, CITY GROWTH AND DEVELOPMENT**

**PREPARED BY:** **SCOTT PARKINSON, PRINCIPAL PLANNER**

**1. PURPOSE**

- 1.1 To determine an application to amend a planning permit to redesign the building, add an additional storey (resulting in a five-storey building), increase the number of dwellings from 12 to 22, modify the façade and building envelope, delete the food and drinks premises and increase in the floor area of the supermarket, add an additional level of basement with an increase in parking provision from 30 to 51 spaces and internal changes.

**2. EXECUTIVE SUMMARY**

<b>WARD:</b>	Gateway
<b>TRIGGER FOR DETERMINATION BY COMMITTEE:</b>	More than 16 objections
<b>APPLICATION NO:</b>	673/2015/C
<b>APPLICANT:</b>	Urbis
<b>EXISTING USE:</b>	Supermarket
<b>ABUTTING USES:</b>	Apartment block Railway building Light rail
<b>ZONING:</b>	Comprehensive Development Zone (Schedule 1)
<b>OVERLAYS:</b>	Environmental Audit Overlay (EAO) Environmental Significance Overlay (Schedule 4)
<b>STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL</b>	Expired

- 2.1 Planning Permit 673/2015 issued by VCAT on 6 February 2017, allowed for the construction of a three-storey building containing a supermarket and restaurant at ground level and 14 dwellings above and a reduction of the car parking and loading bay requirements.



- 2.2 A s72 Amendment application (673/2015/A) was approved by Council on 7 January 2020. The s72 Amendment involved a significant redesign of the building involving new architects (Wood Marsh) and involved the following changes:
- 2.2.1 Addition of an additional storey (from three storeys to four storeys).
  - 2.2.2 Reduction in the number of dwellings (from 14 to 12).
  - 2.2.3 The rearrangement of the basement car park including the modification of car parking spaces and the layout of the basement.
  - 2.2.4 The reduction of the clearance height of the cantilevered building that is to sit above the shared path on the eastern side of the site.

### 3. INTERNAL CHANGES.

- 3.1 An amendment (673/2015/B) was approved on 18 November 2020. This application was associated with the Wood Marsh scheme and involved minor changes and reconfigurations that were required to have plans endorsed for the development. The changes that were made did not require public notification.
- 3.2 The application that is now being considered is a new amendment application that involves a significant change from the current approval. It involves a redesigned building from new architects (Carr Architecture) which incorporates several significant changes. These main changes include the following:
- 3.2.1 Addition of a further storey (which would result in a five-storey building).
  - 3.2.2 An increase to the number of dwellings from 12 to 22.
  - 3.2.3 Modifications to the façade and building envelope.
  - 3.2.4 The deletion of the food and drinks premises and associated increase in the floor area of the supermarket.
  - 3.2.5 The addition of an additional level of basement with an increase in parking provision from 30 to 51 spaces.
  - 3.2.6 Internal changes.
- 3.3 The Victorian planning system recognises that a permit holder's intentions may change over time. Rather than requiring a new permit application to be made every time a change is proposed, Section 72 of the Planning and Environment Act 1987 allows applicants to apply to the responsible authority for an amendment to a permit and associated plans. The assessment of this application is confined to the proposed changes to what has already been approved.
- 3.4 An application to amend a permit under Section 72, including any plans, drawings or other documents approved under a permit, follows the same process as an application for a permit. It has the same requirements for giving notice etc.



- 3.5 Following notice of the application, Council received 26 objections and 15 letters of support. The objections related to character and quality of the area, height and bulk, overshadowing, traffic and parking, loading, relocation of the substation, noise impacts from the terraces and concerns about conflict between cyclists and pedestrians using the shared path.
- 3.6 The changes sought in the amendment application would allow for a mixed-use development similar in scope to the existing approval, which would continue to provide an appropriate response to State and Local Planning Policy Framework.
- 3.7 The redesigned building by Carr Architecture incorporates several design changes. The newly designed building is a significant redesign to the current Wood Marsh approval. The overall design is still considered to be a high-quality architectural building that would have a positive impact on the surrounding area.
- 3.8 Subject to additional setbacks to the sides of the building at level 3 and 4, the proposed increase in height to a five-storey building is considered an acceptable change. It would be an appropriate fit within the context of the surrounding area where it is located within the commercial and leisure precinct of Beacon Cove where it would sit between sites to the east and west that will accommodate large and tall buildings.
- 3.9 The provision of car parking for the residential dwellings satisfies the car parking provisions of the Comprehensive Development Zone and Clause 52.06 (Car Parking proviso of the Planning Scheme). The reduction in the car parking for the commercial tenancies is considered acceptable given the sites strategic location and the availability of public transport in the immediate area.
- 3.10 It is considered that the changes proposed in the amendment application are acceptable, subject to modifications to the conditions of the existing permit. It is recommended that Council issues a Notice of Decision to Amend a Planning Permit.

#### 4. **RECOMMENDATION A - NOTICE OF DECISION TO AMEND A PLANNING PERMIT**

- 4.1 That the Responsible Authority, having caused the application to be advertised and having received and noted the objections, issue a Notice of Decision to Amend a Planning Permit.
- 4.2 That a Notice of Decision to Amend a Permit be issued for the construction of a building and carrying out works in the Comprehensive Development Zone, buildings and works for accommodation - pursuant to the Environmental Significance Overlay, reduction of parking pursuant to Clause 52.06 at 103 Beach Street with the following changes.

##### **Amended Conditions**

The conditions to be (with changes shown for conditions to be deleted as ~~strikeout~~ and new conditions shown in **bold**)



#### Amended Plans Required

- 1 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 two copies must be provided. The plans must be generally in accordance with the advertised plans prepared by Carr Architecture entitled “103 Beach Street Port Melbourne”, plan no’s plan no’s TP-000, TP-101, TP-149 to TP-156, TP-200, TP-201, TP-300, TP-301, TP-302, TP-400, TP-401, TP-402, TP-700 to TP-706, TP-750 to TP-757 and TP-903, all revision 1, dated 11.02.2022. Plans council date stamped 18/02/2022, but modified to show:
  - (a) A minimum 6m<sup>3</sup> storage space dedicated for each apartment within the basement level.
  - (b) All plan and elevation drawings to be 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.~~
  - (c) Any changes required by condition 12 (Sustainable Management Plan).
  - (d) Any changes required by condition 13 (Water Sensitive Urban Design).
  - (e) Any changes required by condition 16 (Waste Management Plan).
  - (f) Any changes required by condition 17 (Landscape Plan).
  - (g) Any changes required by condition 32 (Environmental Audit Overlay).
  - (h) Any changes required by condition 36 (Noise Attenuation for Apartments).
  - (i) 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), must be submitted to the satisfaction of and approved by the Responsible Authority.
  - (j) Deleted (November 2020).
  - (k) Provide full details of indicative internal supermarket layout including location of shelving, aisles and checkouts.
  - (l) Provide full details of all internal and external levels, including the **AHD levels** for the building ground floor relative to surrounding external areas and pedestrian spaces.
  - (m) Double glazing to all external windows of the dwellings.
  - (n) Plans showing two toilets and associated amenities for exclusive use of PTV/ Yarra Trams, located to the north-western portion of the site with access provided from the northern elevation, generally consistent with the plan



referred to as ~~190515\_SK13 Amenities prepared by Wood Marsh and Dated 15 May 2019 TP 151~~ **Ground Floor Plan prepared by Carr Architecture, revision 1 dated 11.02.2022**. Plans are to include detailed design plans to the satisfaction of Yara rams and PTV.

- (o) ~~Modifications to the building to increase the clearance height above the shared path on the eastern side of the building to a 5m height for a width of 1.5m and 3.5m height for the remaining 3.5m width as depicted in the Wood Marsh Plan TP 304 entitled East Façade Tram Interface dated 15/02/2019. No columns for the building must extend into any part of the shared path.~~

**A section plan that shows the entire length of the building above the shared path on the eastern side of the building, clearly showing a clearance height of 3.8 m would be provided above the shared path with details of the locations of columns, planter boxes and planting within the shared path.**

- (p) ~~Details of the surface treatment for the footpath on the northern side of the building and the edge treatment between the footpath and the public car park. Deleted (July 2022).~~
- (q) Details of the materials, finishes and treatments to the paving and the underside of the overhang along the shared path on the eastern side of the building to identify and provide visual interest to the shared path **and provide design methods to slow the speed of cyclists within the shared path**
- (r) The materials schedule amended to detail that the timber for the pergola would be recycled.
- (s) Details of operable windows to bedrooms on levels 1 and 2.
- (t) Elevation plans and the materials schedule amended to include details of the proposed double glazing to windows.
- (u) Deleted (November 2020).
- (v) A notation added to the roof plan to clarify the solar PV unit, including details of capacity.
- (w) Details of electric vehicle charging provision within the basement.
- (x) A notation provided to the water tank in the basement to detail its capacity and that it would be used for toilet flushing and irrigation.
- (y) Deleted (November 2020).
- (z) **A light, reflective colour roof ballast noted on the roof plan and materials schedule.**
- (aa) **The proposed corner splays located adjacent the driveway are kept at**

least 50% clear of visual obstructions and any obstructions are less than 900mm in height.

- (bb) The ground floor plan updated to show that the vehicle access ramp can allow for two B99 vehicles to pass each other.
- (cc) The ground floor plan updated to show the details of the existing bollards on the adjacent laneway to the west of the site.
- (dd) Vegetation within the planter adjoining the shared path to:
  - Low growth – a maximum of 600mm in height; and
  - High growth – pruned to clear 1800mm below.
- (ee) Levels 3 and 4 of the building to be setback a minimum 5m from the eastern and western boundaries.
- (ff) A second entrance to the supermarket on the southern side of the building.
- (gg) All doors to the substation and services on the western side of the building to be redesigned so as to not open out into the adjacent laneway.
- (hh) The vehicle access ramp to the basement modified to allow for sufficient clearance height for a 2.1m high waste vehicle to be able to access the basement.

#### 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, unless the Port Phillip Planning Scheme exempts the need for a permit.

#### Architectural input and supervision

- 3 The applicant must retain **Carr Architecture** to complete the design and provide architectural oversight of the delivery of the detailed design as shown in the endorsed plans and endorsed schedule of materials and finishes during construction except with the prior written approval of the Responsible Authority.

#### Covenant

- 4 The uses and development approved by this permit must not commence until the relevant written consents are obtained from Mirvac (Beacon Cove Pty Ltd) or its nominee pursuant to Restrictive Covenant X354973K registered on the title of the Subject Land OR the requirement for consent by Mirvac or its nominee is removed from Restrictive Covenant X354973K.



If the requirement for consent persists in the covenant, prior to the endorsement of plans the written consents of Mirvac or its nominee must be provided to the Council.

#### Licence Over Crown Land

- 5 Prior to the commencement of the development, the applicant must provide evidence in writing to the satisfaction of the responsible authority that it has secured a lease or licence pursuant to the Crown Land (Reserves) Act 1975 with the responsible authority in its capacity as committee of management for access to and use of Part Lot O on Plan of Subdivision 406491Q to the north of the subject land to the satisfaction of the responsible authority.
- 6 The permit holder must maintain a licence or lease over the access point and car parking land to the north of the subject land to the satisfaction of the responsible authority throughout the duration of the uses and development allowed by this permit.

#### Car Parking for Non-Residential Uses

- 7 The use of the supermarket ~~and food and drink premises~~ (or any potential future retail or commercial use) depicted on the endorsed plans must not commence until the northern vehicular access to the subject land is constructed in accordance with the endorsed plans. This access point must be maintained thereafter on an ongoing basis to the satisfaction of the responsible authority.
- 8 The supermarket ~~and food and drink premises~~ (or any potential future retail or commercial use) depicted on the endorsed plans must at all times be provided with access to and use of a minimum of 10 car parking spaces to the satisfaction of the responsible authority, in addition to the car parking spaces provided within the basement of the development.
- 9 If access to and use of the 10 car parking spaces cannot be provided at any time or ceases to be made available to the supermarket ~~and food and drink premises~~ (or any potential future retail or commercial use), then the use of the subject land for the supermarket ~~and food and drink premises~~ depicted on the endorsed plans must cease immediately and must not recommence unless this permit is amended or the car parking spaces are provided.

#### Shared Bicycle/pedestrian Path

- 10 Before any aspect of the use of the land starts, the permit holder must either:
  - (a) create an easement of way on title to the subject land, or
  - (b) enter into an agreement with the responsible authority under section 173 of the *Planning and Environment Act 1987* in a form to the satisfaction of the responsible authority and at the permit holder's expense, to be registered



on title to the subject land. The agreement must include a requirement to maintain relevant public indemnity insurance and undertake ongoing reasonable maintenance of relevant parts of the building;

allowing the public free, safe and unhindered access to a 5-metre-wide strip at ground floor on the eastern side of the building for the purpose of a shared bicycle and pedestrian path to be constructed to the specifications of the responsible authority at its expense.

#### Walls on or Facing the Boundary

- 11 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 and/or the laneway 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.

#### Sustainable Management Plan

- 12 Before the development starts (other than demolition or works to remediate contaminated land) an amended Sustainable Management Plan that outlines proposed sustainable design initiatives must be submitted to, the satisfaction of and approved by the responsible authority. When approved, the Plan will be endorsed and will then form part of the permit and the project must incorporate the sustainable design initiatives listed. The Sustainable Management Plan must be generally in accordance with the **SMP submitted for the amendment application prepared by GIW Environmental Solutions dated 16 September 2021** but modified to provide the following:

- **Correctly identify the permeability in the northwestern corner of the site and update the WSUD response accordingly**

#### Water Sensitive Urban Design

- 13 Before the development starts (other than demolition or works to remediate contaminated land) a Water Sensitive Urban Design Report that outlines proposed water sensitive urban design initiatives must be submitted to, the satisfaction of and approved by the Responsible Authority. The report must demonstrate how the development meets the water quality performance objectives as set out in the Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO) or as amended.

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



Maintenance Manual for Water Sensitive Urban Design Initiatives (Stormwater Management)

- 14 Before the development starts (other than demolition or works to remediate contaminated land) a Maintenance Manual for Water Sensitive Urban Design Initiatives must be submitted to and approved by the responsible authority. The program must include, but is not limited to:
- (a) inspection frequency.
  - (b) cleanout procedures.
  - (c) as installed design details/diagrams including a sketch of how the system operates.
- o The WSUD Maintenance Manual may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Building User's Guide or a Building Maintenance Guide.

Site Management Water Sensitive Urban Design

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

Waste Management

- 16 Before the development starts (other than demolition or works to remediate contaminated land), an amended Waste Management Plan based on the ~~draft "Best Practice Guidelines for Kerbside Recycling at Multi-Occupancy Residential Developments (Sustainability Victoria June 2006)~~ **City of Port Phillip's Waste Management Plan Guidelines for Developments** must be prepared by a Waste Management Engineer or Waste Management Planner to the satisfaction of the responsible authority and endorsed as part of this permit. The Plan must include reference to the following:



- (a) The private collection of rubbish from the basement.
- (b) The estimated garbage and recycling generation volumes for the whole development.
- (c) The garbage and recycling equipment to be used and the collection service requirements, including the frequency of collection.
- (d) The location of, proximity, screening of and space allocated both to the garbage and recycling storage areas and collection points.
- (e) The path of access for both users and collection vehicles.
- (f) How noise, odour and litter will be managed and minimised.
- (g) Approved facilities for washing bins and storage areas.
- (h) Who is responsible for each stage of the waste management process.
- (i) How tenants and residents will be regularly informed of the waste management arrangements.

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

#### Landscape Plan

- 17 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, generally in accordance with the Landscape Plan submitted with the amendment application that was prepared by **Acre Landscape Architecture entitled “Luxicon – 103 Beach Street Port Melbourne TP Landscape Plans September 2021”**. 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) An automatic watering system for all vegetation.
- (i) Deletion of the landscaping depicted on the plans for the areas adjacent to the shared bicycle and pedestrian path.
- (j) Trees must not be sited over easements. All species selected must be to the satisfaction of the responsible authority.

#### Completion of Landscaping

- 18 The landscaping on the subject land 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

- 19 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.

#### Urban Art Plan

- ~~20 Before the occupation of the development allowed by this permit, an urban art plan generally in accordance with Council's Urban Art Strategy 2002 (or subsequently adopted strategy) must be submitted to and approved by the responsible authority. Urban art in accordance with the approved plan must be installed on the subject land prior to the occupation of the development to the satisfaction of the responsible authority. Deleted (July 2022).~~

#### Number of Dwellings

- 21 Without the written consent of the responsible authority, no more than ~~12~~ **22** dwellings may be constructed on the land.

#### Parking and Loading Areas must be available

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

#### Vehicle Crossings

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



#### Applicant to pay for Reinstatement

- 24 Before the occupation of the development, the applicant/owner must do the following things to the satisfaction of the responsible authority:
- (a) Pay the costs of all alterations/reinstatement of Council and Public Authority assets necessary and required by such Authorities for the development.
  - (b) Obtain the prior written approval of the Council or other relevant Authority for such alterations/reinstatement.
  - (c) Comply with conditions (if any) required by the Council or other relevant Authorities in respect of alterations/reinstatement.

#### Public Services

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

#### Car Parking Allocation

- 26 Without the further written consent of the Responsible Authority car parking for the approved development must be allocated on any Plan of Subdivision as follows:
- (a) two car spaces for each dwelling.
  - (b) two visitor spaces held in common property.
  - (c) storage spaces (where applicable) must be allocated to the apartments at the ratio approved.

#### On-site Bicycle Parking

- 27 Before the development is occupied, bicycle racks must be provided on the land to the satisfaction of the responsible authority.

#### No equipment and services

- 28 No equipment, services and exhausts other than those shown on the endorsed plan must be erected above the roof level of the building unless otherwise agreed to in writing by the responsible authority.

#### Lighting baffled

- 29 All lighting of external areas must be suitably baffled so as not to cause nuisance or



annoyance to nearby properties or roads.

Privacy screens must be installed

- 30 Prior to the occupation of the building(s) allowed by this permit, privacy screens as required in accordance with the endorsed plans must be installed and maintained thereafter to the satisfaction of the responsible authority.

**SEPP N1 Noise of Air Conditioning and refrigeration plant**

- 31 All air conditioning and refrigeration plant must be screened and baffled and/or insulated to minimise noise and vibration to ensure compliance with noise limits determined in accordance with **Division 1 and 3 of Part 5.3 - Noise, of the Environment Protection Regulations 2021** to the satisfaction of the responsible authority.

**Environmental Audit Overlay**

- 32 Before the commencement of construction or carrying out of buildings and works pursuant to this permit, or any works associated with a sensitive use, either:
- (a) A Certificate of Environmental Audit for the land must be issued in accordance with Section 53Y of the Environment Protection Act 1970 and provided to the responsible authority;
  - (b) A Statement of Environmental Audit for the land must be issued in accordance with Section 53Z of the Environment Protection Act 1970 that the environmental conditions of the land are suitable for the use and/or development that are the subject of this permit and this statement must be provided to the responsible authority.

**Compliance with Statement of Environmental Audit**

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

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

Where a Statement of Environmental Audit is issued for the land, and any condition of that statement requires any maintenance or monitoring of an on-going nature, the owner(s) must enter into an agreement with the responsible authority pursuant to



Section 173 of the Planning & Environment Act 1987, which must be executed before the commencement of the permitted use and before the certification of the Plan of Subdivision under the Subdivision Act 1988. All such expenses related to the Section 173 Agreement including drafting, negotiating, lodging, registering and execution of the Agreement, including those incurred by the responsible authority, must be met by the owner(s).

#### Visitor Car Parking

- 34 The number and location of visitor car parking spaces as shown on the endorsed plans may only be altered with the written consent of the responsible authority. Prior to the occupation of the building, all visitor car parking spaces must be line marked and designated as visitor car parking to the satisfaction of the responsible authority and must be designated as common property on any plan of subdivision.

#### Loading/Unloading

- 35 The loading and unloading of goods from vehicles in association with the ~~retail and food and drink premises~~ **Supermarket** on the subject land must only be carried out within the designated loading bay, as detailed on the endorsed plans, and must be conducted in a manner which does not cause any interference with the circulation and parking of vehicles on the land to the satisfaction of the responsible authority. Vehicles using the loading bay must not exceed an 8.8-metre-long medium rigid vehicle.

#### Noise report for attenuation for apartments

- 36 A report prepared by a suitably qualified acoustic specialist outlining appropriate measures to ensure noise levels in bedrooms do not exceed 30 dBA and 45 dBA in living areas when the port facilities are in operation.

#### PTV / Yarra Trams Conditions - Toilets

- 37 Cleaning and maintenance of the PTV/Yarra Tram toilets is to be managed by the developer as agreed in a cleaning and maintenance programme which is to be prepared prior to the commencement of use of the site, to the satisfaction of PTV/Yarra Trams.
- 38 Prior to the commencement of works, two temporary toilets are to be provided for exclusive user of PTV/Yarra Trams. The temporary toilets are to be provided by the developer at no cost to PTV/ Yarra Trams or the Responsible Authority. The temporary toilets are to be cleaned and maintained to the satisfaction of PTV/ Yarra Trams and the Responsible Authority

#### Supermarket entrances must remain open **and no advertising signage to windows**

- 39 All supermarket entrances must remain open when the supermarket is in operation



and all entrance doors must remain visually transparent i.e., no advertising or signage must be used to obscure the entrance doors **or windows of the building.**

Time for starting and completion

40 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 has commenced lawfully under the permit.

#### **Loading and Waste Management Collection Plan**

41 **Before the development starts (other than demolition or works to remediate contaminated land) a Loading Management Collection Plan must be prepared to the satisfaction of the Responsible Authority and endorsed as part of this permit. The Plan must include the following matters:**

- a) **Details of vehicles permitted to enter the loading bay.**
- b) **Identify the process of how spotters will operate to ensure the safety (particularly vulnerable road users such as pedestrians, cyclist and motorcyclists) and obstruction to other on-site/on-street traffic is to be managed during commercial vehicle manoeuvres.**
- c) **The maintenance and cleaning regime of the loading bay and immediate area within the laneway.**
- d) **The loading dock door must be closed at all times (except when delivery vehicles and waste collection vehicles are entering and exiting the loading door).**
- e) **Waste and loading must only occur during the following times:**
  - **8.00am to 7.00pm Monday to Saturday.**

**Once submitted and approved, the Loading and Waste Management Collection Plan must be carried out to the satisfaction of the Responsible Authority.**

#### **Public Realm Upgrade**

42 **Before the development starts, or by such later date as approved in writing by the Responsible Authority, a Public Realm Plan is to be prepared and**



approved to the satisfaction of the Responsible Authority. When approved, the Public Realm Plan will be endorsed and will form part of this permit. The Public Realm Plan will be generally in accordance with the draft public realm submitted with the amendment C application entitled “Luxcon Proposal – Landscape Concept Plan” (updated with Council comments). The plan submitted must:

- (a) Provide details of the redesigned northern car park with details of the car parking spaces, access aisles, entry and exit to the car park including dimensions of all car parking spaces and access aisles and proposed line marking. Tree planting within the northern car park must maintain clearances to the shared pathway and must maintain footpath priority at the new driveway crossing.
- (b) The southern plaza area to incorporate the following changes:
  - Reduce scope of new landscape works to be the west of eastern ground floor building edge alignment (red line on mark-up plan).
  - Reinstate paving to match existing to the east of this line as an interim measure until tram terminus redevelopment will enable new landscape treatment across Plaza.
  - Move eastern planter bed to west side of red line.
  - Unique mismatched stone paving is supported to seating area only (for example, left hand image slide 13).
  - Some texture may be appropriate if good level of accessibility is achieved. Loose gravel is not supported due to maintenance issues.
  - Unique concrete or slab timber seating is supported.
  - Grouping relocated palm trees together is supported.
- (c) Provide details of all new trees and all planting including details of all trees that are to be retained and removed. New planting species to be confirmed by Council. The five existing trees that are shown to be removed will require details for permit and tree amenity value charges to be confirmed.
- (d) Details of proposed lighting including a lighting design to demonstrate that all proposed lighting arrangement complies with relevant Australian Standards.
- (e) Details of all paving and footpath treatments including details of the treatment of level changes. Pedestrian access must comply with the Disability Discrimination Act 1982.



- 43 **Before the development starts (other than demolition or works to remediate contaminated land), the owner must enter into an agreement under Section 173 of the Planning and Environment Act 1987 with the Responsible Authority. The agreement must be in a form to the satisfaction of the Responsible Authority, and the owner must be responsible for the expense of the preparation and registration of the agreement, including the Responsible Authority’s reasonable costs and expense (including legal expenses) incidental to the preparation, registration and enforcement of the agreement. The agreement must contain covenants to be registered on the Title of the property so as to run with the land pursuant to Section 181 of the Section 173 of the Planning and Environment Act 1987, and must provide for the following:**
- a) **Any costs associated with the Public Realm upgrade must be paid for by the owner.**
  - b) **Tree species must be approved by Council’s arborist and must not unreasonably interfere with the operation of the adjacent shared path and/or tram line.**
  - c) **Trees must be maintained by the owner for a period of 12 months. Any diseased or damaged trees must be removed and replaced at the cost of the owner to the satisfaction of the Responsible Authority.**

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

**5. RECOMMENDATION B - CONSENT GRANTED**

5.1 That the Responsible Authority determines that the application plans are to its satisfaction.

**6. RECOMMENDATION C - AUTHORISE THE MANAGER CITY DEVELOPMENT FOR ANY VCAT APPEAL**

6.1 Authorise the Manager City Development to instruct Council’s Statutory Planners and/or Council’s solicitors on any VCAT application for review should one be lodged.

**7. RELEVANT BACKGROUND**

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

Application No.	Proposal	Decision	Date of Decision
673/2015	Construction of a three-storey building containing a supermarket and	Approved by VCAT	6 February 2017



	restaurant at ground level and 14 dwellings above and a reduction of the car parking and loading bay requirements  <b>Key Infrastructure</b> proposal.		
673/2015/A	S72 Amendment for various changes including a revised design of the building, an additional level (to create a four-storey building) and reduce the number of dwellings from 14 to 12.  <b>Wood Marsh</b> proposal	Approved by Council (Council Meeting 27 November 2019)	7 January 2020
673/2015/B	S72 Amendment for various minor changes to the approved development.  <b>Wood Marsh</b> proposal	Approved under delegation	18 November 2020

- 7.1 The Victorian Heritage Register was amended on 21 June 2018 to reduce the extent of the heritage registration for the Port Melbourne Railway Station (HO983) which is no longer within the subject site.
- 7.2 This permit is still valid with two extensions of times approved for the commencement of the development on 29 March 2019 and 8 December 2020. The permit will expire on 6 February 2023 if the development has not commenced.

## 8. PROPOSAL

- 8.1 The application proposes to amend the existing permit to allow for the construction of a five storey (21.9m) building for 22 dwellings with a supermarket (794sqm) on the ground floor. 51 car parking spaces would be provided within two basement levels.
- 8.2 The amendment application proposes the following changes to the approved development:
- 8.2.1 Redesign of the approved development, amending materials finishes, design and layout.

- 8.2.2 Increasing the number of storeys from four to five storeys with an increased building height from 15.1 m to 21.9m.
- 8.2.3 Increase the number of dwellings from 12 to 22 with the following configuration (Level 1: 5 x 2 bedroom and 3 x three-bedroom, level 2: 5 x 2 bedroom and 3 x three-bedroom, level 3: 4 x three-bedroom and level 4: 2 x three bedroom) with associated internal alterations.
- 8.2.4 Modifications to the basement car park including an additional basement level with changes to carparking spaces, storage areas, bicycle spaces, waste area, rainwater tank and other services.
- 8.2.5 The total number of car parking spaces would be increased by 21 spaces from 30 spaces to 51 spaces.
- 8.2.6 Car parking would be allocated as follows: 47 car spaces for the 22 dwellings. Two-bedroom dwellings would be allocated at least 1 space and the 3-bedroom dwellings would be allocated at least 2 spaces. 2 visitor spaces and two spaces for staff of the supermarket.
- 8.2.7 Remove the food and drinks premises with an associated increase in the floor area of the supermarket which would increase by 279sqm (from 515sqm to 794sqm). The supermarket would also be rearranged including the removal of one of the entrances to the supermarket on the southern side of the building (Waterfront Place).
- 8.2.8 Amend several conditions to reflect the proposed changes to the development.
- 8.3 The plans which are the subject of this report are those drawn by Carr Architecture entitled “103 Beach Street Port Melbourne”, plan no’s TP-000, TP-101, TP-149 to TP-156, TP-200, TP-201, TP-300, TP-301, TP-302, TP-400, TP-401, TP-402, TP-700 to TP-706, TP-750 to TP-757 and TP-903, all revision 1, dated 11.02.2022. Plans council date stamped 18/02/2022.
- 8.4 The proposal is detailed within the below table:

	Proposal
<b>Site area</b>	1361sqm
<b>Type of development</b>	Mixed use development within a five-storey building
<b>Land uses</b>	Residential Dwellings and Supermarket
<b>Demolition</b>	Demolition of all existing buildings and works on site (no permit required).
<b>No of dwellings</b>	22 dwellings comprising 10 x two-bedroom apartments and 12 x three-bedroom apartments.
<b>Building design and setbacks</b>	The building is designed with a distinctive three storey base / podium and recessive upper-level form. Different materials and setbacks are provided on the ground level but the columns on the edge of the building link the ground floor with levels 1 and 2 to create a distinctive base / podium. The upper levels are

	<p>distinguished from the lower base by increased setbacks and a more solid form where the same cut-outs into the building have not been used.</p> <p>There is a similar design aesthetic that would carry through from the base to the upper levels with a strong rectilinear design where visual interest is created through the fluted and textured treatment to the façade.</p> <p>A varied palette of materials and finishes are proposed and would include a mix of stone cladding, stone and a concrete texture finish with metal door and window frames and recycled grey timber batten on the ground floor to provide a high-quality finish.</p>
<b>Height</b>	Five storeys - 21.9m.
<b>Commercial floor area</b>	Supermarket (794sqm).
<b>Loading bay</b>	No loading bay provided but there is a loading bay to the western side of the building.
<b>Car parking</b>	51 spaces with 47 car spaces to be allocated for the 22 dwellings, 2 visitor spaces and 2 spaces for staff of the supermarket.
<b>Bicycle parking</b>	42 bicycle spaces would be provided within the basement.
<b>Private open space</b>	Each apartment would be provided with secluded private open space in the form of terraces ranging in size from 15sqm to 106sqm, accessed from the main living room.



*Fig 1: View from Beach Road*



*Fig 2: View from Waterfront Place*

## 9. SUBJECT SITE AND SURROUNDS

Description of Site and Surrounds	
Existing building & site conditions	<p>The subject site is located along the south side of Beach Street, between a three storey apartment building with a higher central tower element and the historic Port Melbourne Railway Station.</p> <p>The subject site is irregular in shape with an area of approximately 1,361sqm. It comprises 103 Beach Street and a portion of crown land known as Part Lot O on Plan of Subdivision 406491Q. The subject portion of the Crown Land relates only to the widening of the vehicle access point from Beach Street.</p> <p>The site contains a two storey building (between 8.7m and 12.1m high) previously occupied by IGA supermarket at ground level, offices at first floor level and plant equipment at roof level (tower element). The building is vacant and currently boarded up.</p>
Surrounds/neighbourhood character	<p>The site occupies a strategically important location at the Port Melbourne waterfront. The surrounding area includes the Historic Railway Station building, tram stop, Station Pier, local shops and restaurants, the Bay Trail and Port Melbourne Beach.</p> <p>The subject site has the following interfaces:</p> <p><u>North</u> Directly adjoining the site, to the north, is an at grade car park, partly contained within the subject site. Further to the north outside the title boundary is Crown land which is also constructed as a car park area. Access to the car park, from Beach Street is achieved via two crossovers, with the western crossover being on land that forms part of the</p>



	<p>subject site, with an easement allowing Lot O (which is the Crown land which surrounds the site) access.</p> <p>To the north of the site on the opposite side of Beach Street are dwellings of one to three storeys which are part of the Beacon Cove estate.</p> <p><u>West</u></p> <p>Further to the west along Beach Street are higher rise (up to 14 storeys) mixed use developments within the Port Melbourne Mixed Use area. The site directly to the west (on the opposite side of the laneway) has been developed with a large apartment building complex at 105 Beach Street. The edge of the complex which interfaces with the subject site has a height between three and four storeys.</p> <p><u>East</u></p> <p>The historically significant Port Melbourne Railway Station and light rail line are located directly to the east and occupied by a medical centre.</p> <p>Further to the east is 1 - 7 Waterfront Place, which is currently subject to a planning application for redevelopment of a multi storey development. There are site specific planning policy and controls for the site. The final design is yet to be determined as the current planning application (490/2020) is subject to aS82 (against conditions) appeal at VCAT. The hearing was held between 23 and 25 March 2022. A decision is pending.</p> <p><u>South</u></p> <p>Opposite the site to the south are the commercial operations of the Spirit of Tasmania (at the time of this report being written) and cruise ships.</p>
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## 10. PERMIT TRIGGERS

Section 73(1) of the *Planning and Environment Act 1987* states that Sections 47 to 62 apply to an application to amend a permit as if the application were an application for a permit and any reference to a permit were a reference to the amendment to the permit.

**Therefore, the amendments to the permit and plans are to be assessed against the relevant planning controls affecting the proposal.**

Note: Only the changes to the approved proposal are considered as part of this application for amendment.



Zone or Overlay	Why is a permit required?
<p>Clause 37.02 Comprehensive Development Zone (Schedule 1)</p>	<p><u>Use</u></p> <p>A planning permit <b>is not required</b> to use the land for dwellings, pursuant to Zone as the condition in respect of car parking is satisfied. However, given that the dwelling use would vary from the uses prescribed for this site in the Beacon Cove Concept Plan No. 1 and the Beacon Cove Precinct Plan No. 1 the dwelling use would require the consent of Council.</p> <p>A planning permit <b>is required</b> for a use of a supermarket as the condition in the table of uses is not satisfied in respect of car parking for either of the uses.</p> <p><u>Buildings and Works</u></p> <p>A permit is required to construct a building or construct or carry out works unless the schedule to this zone specifies otherwise.</p> <p>Schedule 1 to the Zone states that a permit is not required to construct a building or to construct or carry out works if the buildings and works are in accordance with the Beacon Cove Concept Plan No.1 and Beacon Cove Precinct Plan No. 1.</p> <p>The buildings and works may vary from the above plans to the satisfaction of the responsible authority. The buildings and works do vary from the plans. Hence a planning permit <b>is required</b> for the buildings and works; and the consent of Council is required for the buildings and works.</p> <p><u>Car Parking</u></p> <p>Schedule 1 to the Comprehensive Development Zone (CDZ1) specifies car parking requirements for the dwelling and supermarket, unless otherwise agreed to by the responsible authority in accordance with Clause 52.06.</p> <p>Under the CDZ1 requirements, the development would require 39 spaces for the supermarket (794sqm) and 22 to 33 spaces for the 22 dwellings (min of 1 space per dwelling and an average of 1.5 space per dwelling).</p> <p>Therefore, under the CDZ1 a reduction is sought for the commercial component of the development (37 spaces). The parking for the dwellings would be satisfied.</p> <p>Consent is also required by the Responsible Authority.</p>



<p>Clause 42.01 Environmental Significance Overlay (Schedule 4)</p>	<p>A planning permit <b>is required</b> pursuant to Schedule 4 at Clause 42.01-2 as the buildings and works are associated with Accommodation.</p>
<p>Clause 45.03 Environmental audit Overlay</p>	<p>Before a sensitive use (residential use, child care centre, pre-school centre or primary school) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, either:</p> <ul style="list-style-type: none"> <li>• A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or</li> </ul> <p>An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.</p>
<p>Clause 52.06 Car Parking</p>	<p>A planning permit is required to reduce (including reduce to zero) the requirement to provide the number of car parking spaces required under this clause, pursuant to Clause 52.06-3.</p> <p>Under Clause 52.06 the development would require 61 spaces (34 spaces for the dwellings and 27 spaces for the supermarket.</p> <p>51 car spaces would be provided in the basement levels (47 spaces allocated to the dwellings, 2 spaces to the supermarket and 2 visitor spaces).</p> <p>Because the car parking for the supermarket does not meet the parking required under Clause 52.06 a Planning Permit <b>is required</b>.</p>
<p>Clause 52.14 Bicycle facilities</p>	<p>A new use must not commence, or the floor area of an existing use must not be increased until the required bicycle facilities have been provided on the land pursuant to Clause 52.34-1.</p> <p>The development would require 8 bicycle spaces (no spaces required for the Supermarket and 8 spaces for the dwellings).</p> <p>It is proposed to provide 42 bicycle spaces.</p> <p>No planning permit is required.</p>
<p><b>Clause 58 Apartment Developments</b></p>	<p>Pursuant to the Transitional Arrangements in Clause 37.02-4 the development is exempt from the requirements of Clause 58 noting that this is an application to amend a permit where the original permit was lodged before the gazettal date of VC136.</p>



## 11. PLANNING SCHEME PROVISIONS

### 11.1 State Planning Policy Frameworks (SPPF)

The following State Planning Policies are relevant to this application:

- Clause 11.01-1S Settlement
- Clause 12.02-3S Bays
- Clause 12.05-1S Environmentally Sensitive Areas
- Clause 15.01-1S Urban Design
- Clause 15.02-1S Energy and Resource Efficiency
- Clause 15.03-1S Heritage Conservation
- Clause 16.01-1S Integrated Housing
- Clause 17.02-1S Business
- Clause 18.01-1S Integrated Transport
- Clause 18.03-2S Planning for Port Environs

### 11.2 Local Planning Policy Framework (LPPF)

The following local planning policies are relevant to this application:

- Clause 21.03 Ecologically Sustainable Development
- Clause 21.02-2 Sustainable Transport
- Clause 21.04-1 Housing and Accommodation
- Clause 21.04-5 Public Open Space and Foreshore
- Clause 21.05-3 Urban Design and the Public Realm
- Clause 21.06-4 Port Melbourne and Garden City
- Clause 21.07 Incorporated Documents
- Clause 22.12 Water Sensitive Urban Design (Stormwater Management)
- Clause 22.13 Environmentally Sustainable Development

### 11.3 Other relevant provisions

- Clause 37.02 Comprehensive Development Zone (Schedule 1)
- Clause 42.01 Environmental Significance Overlay (Schedule 4)
- Clause 52.06 Car Parking
- Clause 52.34 Bicycle Facilities
- Clause 65 Decision Guidelines
- Clause 71 Operation of the Planning Scheme



**12. REFERRALS**

**12.1 Internal referrals**

The application was referred to various areas of Council for comment. A summary of the referral comments are provided below and the full responses included at Appendix 4.

The comments are discussed in detail in Section 13.

Internal Department	Referral comments (summarised)
<p><b>Urban Design Advisor</b></p>	<p>Council’s Urban Designer has provided comments that the proposed amendment is supported as it maintains a very high standard of design that responds well to its central, prominent site at Waterfront Place. The support is subject to the following detailed conditions being met:</p> <ol style="list-style-type: none"> <li>1. Integration of public lighting into the public colonnade areas.</li> <li>2. Ensuring transparent glazing is provided and maintained to the ground floor retail windows.</li> <li>3. Ensuring design integrity is maintained with the continuation of same architects into subsequent construction stages.</li> <li>4. Coordination of finished levels around the building to integrate public access with new Melbourne Water requirements for elevated floor levels as protection against future sea level rise.</li> <li>5. Contributing to off-site landscape and public realm improvements.</li> </ol> <p>The referral comments have included specific comments on the overall design, proposed additional height, floor and site level integration and proposed public realm works. A summary of these comments is provided below:</p> <ul style="list-style-type: none"> <li>• Overall, the proposed built form has a high standard of architectural design that responds well to its urban context of the central, prominent gateway site at Waterfront Place.</li> <li>• The height of the amended proposal is considered to result in an appropriately scaled building to its context.</li> <li>• The revised application has responded to Melbourne Water’s latest sea level rise advice (which did not apply to approved permit). In particular, the raised ground floor levels are integrated with slight raising of</li> </ul>



	<p>new paving levels at key building entrances is supported.</p> <ul style="list-style-type: none"> <li>The current planning permit excludes any off-site works. The proponent's interest in contributing to off-site works is very welcome because an integrated design and delivery process for public realm works adjoining the site would deliver clear public benefits.</li> </ul>
<b>Heritage Advisor</b>	<p>Council's Heritage Advisor has provided comments that the site is outside the Heritage Overlay and therefore there are no heritage issues.</p>
<b>Environmentally Sustainable Development</b>	<p>Council's ESD Officer has provided comments that the proposed amended plans and accompanying SMP demonstrate that the proposal would achieve an acceptable outcome for ESD and WSUD. Two condition 1 requirements have been recommended as well as the standard conditions requiring an implementation report for ESD to be submitted prior to the occupation of the development and a construction management condition for Water Sensitive Urban Design (WSUD).</p> <p>Condition 1 requirements:</p> <ul style="list-style-type: none"> <li>The north-west corner of the site to be noted as permeable on the ground floor plan and the landscape plan, in accordance with the stormwater management response details in the SMP.</li> <li>A light, reflective colour roof ballast noted on the roof plan and materials schedule.</li> </ul> <p><b>Comment:</b> Since the original comments were provided, the applicant has responded to the matters raised and confirmed that the details in the SMP that the north west corner is to be permeable is an error and that this can be resolved through an updated SMP. It is therefore recommended that should an amended permit be issued; a condition is included requiring an updated SMP to modify the stormwater management response to correctly identify the permeability in the north western corner of the site (<b>Recommended amended SMP condition 12</b>).</p> <p>The other requirement for the light reflective roof treatment to be also required as a condition (<b>Recommended new condition 1z</b>).</p>
<b>Waste Management</b>	<p>The submitted Waste Management Plan was reviewed by the Waste Management Officer who has confirmed that it is satisfactory.</p>
<b>Traffic Engineer</b>	<p>Council's Traffic Engineer has provided comments that are satisfied with traffic generation, car parking provision and</p>



	<p>access and manoeuvring except for outstanding issues listed below.</p> <ul style="list-style-type: none"><li>• Queueing concerns at the property frontage due to increased residential movements.</li><li>• Loading arrangement in the laneway adjacent to the development.</li></ul> <p>It has also been recommended that confirmation be provide that the proposed corner splays for sight triangles are at least 50 percent clear of any obstructions and that the access ramp is wide enough for two vehicles to pass. Standard requirements for removal of existing crossings and construction of new crossings have also been recommended.</p> <p><b>Comment:</b> Planning Officers do not share the same concerns about queuing given the low traffic generation that would be created by the development (10 vehicle movements in the peak period).</p> <p>In regard to the loading and waste issues, the applicant responded to the concern to confirm that the amended application does not propose any significant changes to the loading and waste situation that has already been approved for the supermarket.</p> <p>The traffic report submitted for the Wood Marsh application detailed that the existing loading area for existing supermarket can accommodate an 8.8m long MRV delivery truck. Swept path diagrams were provided which demonstrated access for an 8.8m long MRV to be able to enter and exit the loading area. The Traffic report for the new Carr Architecture proposal details that the loading and waste collection remains to be undertaken in the western laneway with a vehicle size of up to 8.8 metre long (MRV) to be used as per the endorsed scheme.</p> <p>Nevertheless, given the concerns that have been raised by Councils Traffic Engineers, it is recommended that should an amended permit be issued a condition is included requiring a Loading and Waste Management Collection Plan to ensure that loading is undertaken in a safe manner (<b>Recommended new condition 41</b>).</p> <p>It is also recommended that the plans are updated to clearly show the existing bollards in the laneway to ensure that loading only occurs in line with the existing loading arrangements (<b>Recommended new condition 1cc</b>).</p>
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## 12.2 External referrals

The application was not required to be externally referred. However, the applicant provided the below information as part of the application material. No changes are sought to the existing conditions of the permit in regard to requirements of Yarra Trams / Public Transport Victoria.

### Yarra Trams

The applicant has provided material with the application from Yarra Trams that vegetation within the planter adjoining the shared path to:

- Low growth – a maximum of 600mm in height; and
- High growth – pruned to clear 1800mm below.

### **Comment:**

It is recommended that the planting requirements are included as a condition should a permit be issued (**recommended new condition 1dd**).

### Melbourne Water

The applicant provided advice from Melbourne Water with the application material that provided the following advice:

- Melbourne Water require a minimum floor level of 3.0 metres AHD and a minimum apex entry to the basement of 3.0 metres AHD.
- Melbourne Water have also agreed to the utilisation of a flood gate to the basement entry, instead of requiring a raised apex height. Melbourne Water are supportive of this approach, subject to:
  - Minimum apex height of 2.4m AHD
  - Minimum flood gate height (when activated) of 3.0m AHD
  - Flood gate must be automatic, not require human intervention and not require power.

### **Comment:**

The application plans show that the ground level would have a floor level of 3.0 RL and that a flood gate would be provided that meets the Melbourne Water requirements. The plans have notations for the levels in RL rather than AHD. To ensure the Melbourne Water requirements are met it is recommended that should a permit be issued a condition is included which requires the existing conditions to refer to floor levels in AHD not RL. (**Recommended amended conditions 1b and 1l**).

## 13. PUBLIC NOTIFICATION/OBJECTIONS

- 13.1 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 and directed that the applicant give notice of the proposal by posting four notice(s) on the site for a 18 day period, in accordance with Section 52 of the Planning and Environment Act 1987.



- 13.2 The application has received 26 objections and 15 letters of support. The key concerns raised are summarised below (officer comment will follow in italics where the concern will not be addressed in Section 13):

#### **Character and Quality of the Area**

Several objections have raised concerns about the impact of the amended proposal on the character and quality of the area. The objections included the following:

- The proposal (particularly the additional height, bulk and density) does not reflect the vision and approach of the planning policies for this part of Beacon Cove.
- The increased scope of the development with the increase in dwellings and associated impacts (traffic congestion etc) will affect the local community.

#### **Comment:**

*These concerns will be addressed in the consideration of the proposal in Section 13 of the report.*

#### **Height and Bulk**

Several objections have raised concerns about the additional height and bulk of the amended proposal and the impact of the height and bulk on the immediate area including amenity impacts for residents of the adjacent apartment building to the west at 105 Beach Street. The objections included the following:

- New design will overwhelm the Port Gateway Precinct and the historic character of the old railway station the pier and neighbouring buildings.
- Additional visual bulk of the amended design would negatively impact on the outlook and amenity of the adjacent dwellings at 105 Beach Street.

#### **Comment:**

*These concerns will be addressed in the consideration of the proposal in Section 13 of the report within the subheading would the amended building comply with the relevant built form guidelines and would there be any additional off site amenity impacts.*

*In regard to the concerns raised about the impact on the heritage character of the area it is noted that the site is no longer included in a Heritage Overlay. It is further noted that the amendment application has been referred to Council's Heritage Advisor who has not raised any concerns about the proposal.*

#### **Overshadowing**

Several objections have raised concerns about the overshadowing impacts from the amended proposal. The concerns relate to impacts on the plaza to the south of the site, the impact on the Bay trail and overshadowing of the adjacent apartment building at 105 Beach Street.

#### **Comment:**

*The concerns in regard to overshadowing will be addressed in the consideration of the proposal in section 13 of the report within the subheadings would the amended building comply with the relevant built form guidelines and would the amended building comply with the relevant built form guidelines and would there be any additional off site amenity impacts.*

#### **Traffic and Parking**

- Traffic congestion.
- Reduction of statutory car parking requirements.



**Comment:**

*Consideration of traffic and car parking is addressed in the consideration of the proposal in section 13 within the subheading would sufficient car parking and bicycle parking be provided and is the layout appropriate (including vehicle access).*

**Loading**

Several objections have raised concerns about the loading associated with the proposed supermarket.

**Comment:**

*It is noted that the use of the site as a supermarket is not a new change in the amendment application (a supermarket was proposed both the Key Infrastructure and Wood Marsh proposals). Moreover, there has been a supermarket operating on the subject site for many years that has used a similar loading arrangement to what is now proposed. Loading in the amended proposal is covered in section 13 within the subheading loading.*

**Other Matters**

- Relocation of the sub station

**Comment:**

*The amended application does not propose to relocate the substation but would enlarge the substation on the western side of the building. The relocation of the substation is considered in section 13 of the report within the subheading would the amended building comply with the relevant built form guidelines and more particularly in the consideration of the changes to the ground floor within this subsection.*

*Some of the concerns about the relocation of the substation are in regard to the potential impact of Electromagnetic Fields (EMFs) associated with substation. This is not a relevant consideration of planning. The substation will need to be designed to comply with all EPAS requirement in regard to any potential impact on surrounding property including noise and impact from EMF.*

- Noise impact from roof terraces

**Comment:**

*The amended application proposes roof terraces, but this is not substantially different from the current approval where large terrace areas were provided for the apartments on the upper level of the Wood Marsh proposal. Noise from residential dwellings is covered by EPA requirements.*

- Concerns about conflict between cyclists and pedestrian using the shared path

**Comment:**

*The amendment application does not propose any significant changes to the shared path that is to be incorporated into the building along the eastern side of the building. It is noted that there is an existing condition on the permit which requires details of the materials, finishes and treatments to the paving and underside of the overhang above the shared path. Given the concerns raised by objectors it is recommended that this condition is expanded to also require details to slow cyclists using the shared path (**Recommended amended condition 1q**).*



13.3 A consultation meeting was held on 2 May 2022. The meeting was attended by Ward Councillors, applicants, objectors and Planning Officers. The meeting did not result in any changes to the proposal.

13.4 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.

#### **14. OFFICER'S ASSESSMENT**

14.1 This amendment seeks to make several changes to the endorsed plans, notably:

14.1.1 Redesign of the approved development, amending materials finishes, design and layout.

14.1.2 Increasing the number of storeys from four to five storeys with an increased building height from 15.1 m to 21.9m.

14.1.3 Increase the number of dwellings from 12 to 22.

14.1.4 Modifications to the basement car park including an additional basement with an increase to the number of car parking spaces from 30 spaces to 51 spaces.

14.1.5 Remove the food and drinks premises with an associated increase in the floor area of the supermarket.

14.1.6 Amend several conditions to reflect the proposed changes to the development.

14.2 Because this is an application to amend the existing planning permit, only the proposed changes can be assessed.

14.3 The key issues that require assessment are considered under the following headings:

- Would the amendment proposal remain consistent with the state and local planning policy framework?
- Would the amended building comply with the relevant built form policy and requirements?
- Would there be any additional off-site amenity impacts?
- Would sufficient car parking and bicycle parking be provided and is the layout appropriate (including vehicle access)?

14.4 These issues are considered in turn, in addition several functional issues relating to sustainable design associated with the new design will also be considered.

14.5 As set out in the history section of this report there has already been two substantial approvals for this planning permit. To identify the different approvals this report will refer to the three different design schemes by referencing the architects involved in each scheme. The original 2017 application will be referred



to as the **Key Infrastructure** proposal, the 2020 amendment as the **Wood Mash** proposal and this new application as the **Carr Architecture** proposal.

**Would the amendment proposal remain consistent with the State and Local Planning Policy Framework?**

- 14.6 The council reports for the original application (Key Infrastructure) and the 2020 amendment application (Wood Marsh) detailed that there was state and local policy support for residential development on the subject site. In both reports the subject site was referred to as a strategic redevelopment site located within a substantial residential growth area. In regard to the sites strategic location it was noted that it has direct abuttal to light rail, is proximate (800m) to the Bay Street Major Activity Centre and near the significant redevelopment site at 1-7 Waterfront Place. For these reasons the site was considered suitable to accommodate higher density built form.
- 14.7 The changes sought in the new amendment application (Carr Architecture) would allow for a mixed use development similar in scope to both the original approval and the previous amended scheme. All three proposals were designed with commercial uses on the ground floor and residential dwellings on the upper levels. As such, the new amendment proposal would continue to provide an appropriate response to State and Local Planning Policy Framework.
- 14.8 The new amendment seeks approval for 22 dwellings which is an increase of 10 dwellings from the current approval (Wood Marsh). Given the sites strategic location near public transport and close to a major activity centre there is considered policy support for the proposed increase in the number of dwellings.
- 14.9 Local policy provision includes objectives and strategies for built form outcomes for this site. In particular, Clause 22.06 (Urban Design Policy for Non Residential Development and Multi Unit Residential Development) includes an objective which seeks high quality urban design and architecture that responds to the context of places within the municipality, integrates with the prevailing neighbourhood character and contributes to the amenity and vitality of an area. How the amended built form responds to the character of the area will be considered in detail below.

**Would the amended building comply with the relevant design and built form policy and requirements?**

- 14.10 The subject site is a unique and prominent site detailed in the VCAT order for the consideration of the original application (Key Infrastructure). The VCAT order *Key Infrastructure Australia Pty Ltd v Port Phillip CC (Corrected)* [2016] VCAT 2172 (22 December 2016) described it as effectively an island site of private land surrounded by public land, making it visible 'in the round' and giving it prominence. The site is also unique in the set of planning controls that affect the site, particularly the Comprehensive Development Zone (Schedule 1) that affects the site.
- 14.11 As set out in the assessment of the original and amendment application, the Comprehensive Development Zone (CDZ1) is a unique set of controls set around



the provisions in the Beacon Cove Concept Plan No 1 and the Beacon Cove Precinct Plan No 1. The concept plan and precinct plan were developed to protect the unique features of the Beacon Cove residential area to ensure a consistency in building form to create a unique and clearly identifiable neighbourhood character. The concept and precinct plans detail areas of higher density within Beacon Cove and the commercial precincts located between Beach Street and the waterfront.

- 14.12 The subject site is located within the commercial and leisure precinct. It is clearly separated from the lower density residential parts of Beacon Cove by Beach Street and a separation distance of some 40 metres. Given this separation, the development of the subject site would not have any significant impact on the lower density parts of Beacon Cove. Therefore, the consideration of the changes being sought in the amendment application are solely on how it responds to the provisions for the commercial and leisure precinct.
- 14.13 The consideration for the original Key Infrastructure proposal and the Wood Marsh amendment application determined that the proposal for a mixed use development comprising commercial uses at ground level and residential above was consistent with the Precinct Plan and provided an appropriate mix of commercial uses. The new Carr Architecture proposal does not seek to significantly change the mix of land uses where the ground floor will be retained for commercial uses and the upper floors for residential dwellings. The Carr Architecture proposal sees to remove the food and drinks premises, but this would be replaced with an enlarged supermarket on the ground floor. This is considered consistent with the provisions of the Precinct Plan.

#### Overall Building Design

- 14.14 In the consideration of the overall building design on the subject site, it is important to note the findings by VCAT in their assessment of the original (Key Infrastructure) proposal. The VCAT order *Key Infrastructure Australia Pty Ltd vs Port Phillip CC* set out that the site itself or the planning scheme policies and controls did not dictate that a prominent or iconic building is warranted or necessary on the site and that the relative test was one of acceptability. On this basis, VCAT found that the Key Infrastructure design was one that was acceptable and suitable for its context.
- 14.15 The assessment of the previous amendment application detailed how the Wood Marsh scheme was a notable improvement in design from the Key Infrastructure design. The curvilinear symmetrical design, more even spacing of the apartments and use of higher quality materials (light ceramic tile as the main finish) were considered significant improvement that would create a more refined and sophisticated design compared to the original Key Infrastructure design. Overall, it was considered that the amendment proposed a design that moved away from something that was merely acceptable to something that would be distinctive, sophisticated and positive to this part of Beacon Cove.
- 14.16 It is considered that the new amendment application for the Carr Architecture proposal would continue to provide a design that would be both distinctive and sophisticated. The new design is larger in scale by an additional storey (from a

four storey, 15.1m high building to a five storey, 21.9m high building) and different in its form and architectural expression.

- 14.17 The building would still provide a distinctive base and recessive upper level form. However, it would be more rectilinear in design and incorporate a fluted and textured façade treatment. As set out in the submitted Design Response, the inspiration for the fluted and textured design of the façade being based on the bay side winds that buffer the site and the sand grain of the nearby beach.
- 14.18 The revised design would continue to incorporate high quality finishes with the new building to provide a mix of stone cladding, stone and a concrete texture finish with metal door and window frames and recycled grey timber battens on the ground floor.



**Fig 3:** Oblique view of the proposed building from Beach Street showing the shared path on the left side.

- 14.19 No significant changes are proposed to the shared pedestrian and bicycle path along the eastern side of the building where the plans show that the shared path will continue to be provided with level 1 cantilevered above at the same 3.5m height clearance as the current Wood Marsh approval.
- 14.20 Council's Urban Designers have reviewed the new Carr Architecture proposal and provided comments that the overall design has a high standard of architectural design that responds well to its urban context of the central, prominent gateway site at Waterfront Place. In the referral comments the following has been provided about the design of the building:

*Overall, the proposed built form has a high standard. In particular, the southern elevation presents a lively and well-articulated facade that will welcomes visitors arriving at Station Pier. The gently undulating curves of the projecting upper level facades is an appropriate, unifying motif for a waterfront pavilion. The more informal northern facade provides an appropriate transition to the residential areas. The proposed material and colour palette is appropriate, including the*



*proposed timber battens to service areas and timber soffit lining. The service areas are well located and concealed within the building fabric.*

- 14.21 The modified design is therefore considered a suitable change to the building which would continue to provide a high quality design that would have a positive impact on the surrounding area.
- 14.22 While the overall design concept of the amended proposal is considered acceptable there are certain notable changes associated with the amendment that require specific assessment. These elements are:
- Increased height of the building.
  - Changes to the ground floor layout.
  - Shared path along the eastern side of building.
  - Public realm improvements.

Consideration of these aspects is provided below under the following headings.

Increased height of the building

- 14.23 One aspect of the revised design that requires particular consideration is the increase in the height of the building. The new Carr Architecture proposal seeks to increase the height of the building by an additional storey to create a five storey, 21.9m high building. There are no mandatory height controls for the site, but the Beacon Cove Precinct Plan 1 notes a height of three storeys for this site but does not prohibit any additional height.
- 14.24 When compared to the Wood Mash design, the new Carr Architecture design proposes a similar base or podium which would have a height of 11.8m. The design concept for the upper levels in the new Carr Architecture proposal is also similar to the Wood Mash design where a physical setback would be provided and a contrasting form to the upper level from the lower base/podium. The new Carr Architecture design proposes the following setbacks to the upper levels:

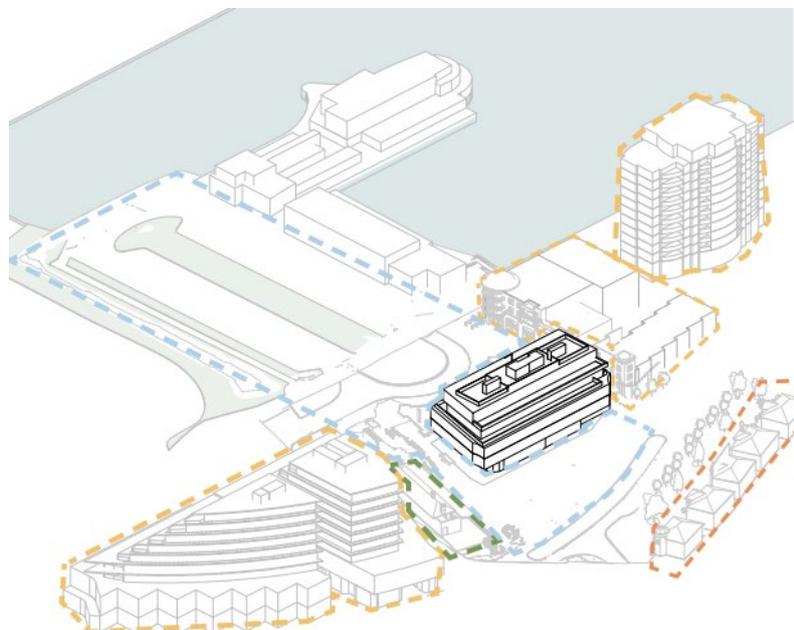
<b>Level</b>	<b>Setback from eastern boundary (Tram Line)</b>	<b>Setback from western boundary (Laneway and 105 Beach Street)</b>
<b>Level 3</b>	3.495m	2.1m
<b>Level 4</b>	2.31m	1.58m

- 14.25 The most notable difference between the Carr Architecture and Wood Marsh proposal is the increase in height of the overall building where the new Carr Architecture proposal is one additional storey and 6.8 metres higher (from 15.1m to 21.9m) that the approved Wood Marsh development.



- 14.26 Council's Urban Designer has provided reference to the proposed additional height of the Carr Architecture building in their referral comments. In their assessment, the additional height is considered acceptable where it would create a building that is appropriately scaled to its context and which would not create any significant off site amenity impacts. In the referral comments, reference is made to overshadowing where it is noted that the shadow diagrams prepared by the applicant demonstrates that the additional overshadowing impacts from the increased height of the building would be minor.
- 14.27 Planning officers agree that a five storey building would be an appropriate fit within the context of the surrounding area. The subject site is located within the commercial and leisure precinct of Beacon Cove and is wedged between sites to its east and west that will accommodate large and tall buildings. The interfacing property is detailed as follows:
- 14.27.1 The site to the west of the subject site has already been developed with a large apartment building complex at 105 Beach Street that incorporates a range of heights up to 12 storeys. The edge of the complex which interfaces with Waterfront Plaza and the subject site has a height between three and four storeys, but which is also a designed with a dome architectural design feature that rises the height up to the equivalent of five storeys.
- 14.27.2 To the east, there is a significant redevelopment site at 1 - 7 Waterfront Place. This site has a set of site-specific planning controls in the form of a Design and Development overlay. This includes specific requirements for a building to be developed up to a height of ten storeys.

The Design Response submitted with the application provides a clear illustration of the existing and proposed development that is detailed above. One of the diagrams that was provided has been copied below:



**Fig 4:** Graphical representation from the submitted Design Response showing the surrounding built form context

- 14.28 This graphical representation of the surrounding area illustrates that the Carr Architecture proposal would be a comfortable fit with the surrounding area. The diagram shows that the proposed building would have a height that is comparable to the built form to the west and be compatible to the larger buildings that are existing or are to be developed nearby. It also importantly shows that a large and clear separation would be provided from the lower scale residential area to the north. This ensures that there would be no adverse impact on the character of the residential precincts of Beacon Cove.
- 14.29 While the overall concept of the five storey building is supported, planning officers are concerned that the setbacks to the upper levels do not adequately address off site amenity impacts. Planning Officers agree with the comments from Council's Urban Designer that the shadows cast from the additional levels would be reasonable. The submitted shadow diagrams show that there would be no additional impact to adjoining balconies and would not affect the key public realm spaces of the Bay Trail and Waterfront Plaza. However, there are concerns in relation to the visual bulk that would be created from the upper levels.
- 14.30 The upper levels are designed to provide only a small recess from the lower base / podium with a setback of 2.3m from the eastern boundary and 1.58m from the western boundary. This small setback is not considered to go far enough to reduce the visibility of the upper level from the adjoining sites to the east (tram platform) and west (apartment building at 105 Beach Street). The submitted section diagrams show how much of the upper levels would be visible from the east and west. This has been copied below:



**Fig 5:** Section plan from the submitted architectural plans showing the setbacks from the side boundaries

- 14.31 This section plan clearly shows that the upper levels would be highly visible from both boundaries where the base / podium would barely screen any of the upper levels 3 and 4. As designed, the limited setbacks to the upper levels is considered to present as an unreasonable degree of bulk when viewed both from the train station platform to the east and the apartments at 105 Beach Street to the west.
- 14.32 Because the base of the building is built to both the boundaries, and this has already been approved, there is opportunity to still allow for the five storey building but significantly reduce the visual impact of the upper levels. With the provision of a greater setback the building would be able to have a built form that would have a direct visual impact similar to the current (Wood Marsh) approval. To this end, it is recommended that the setbacks of levels 3 and 4 be increased to provide a setback of 5 metres from the eastern and western boundaries. For level 3, this would involve increasing the setback by 1.6m from the east and 2.9m from the west. For level 4 it would involve increasing the setback by 2.69m from the east and 3.42m from the west.
- 14.33 With the setback increased by 5m to levels 3 and 4, only the very top of the building would be visible from the tram platform to the east of the site. With this change, the upper levels of the building would have a recessive appearance where they would be clearly separated from lower base/podium. This greater setback would reduce the visible bulk of the building and any dominating presence it would have on views from the tram platform.
- 14.34 From the other side, an increased setback would also help alleviate the bulk of the building. The provision of a five metre setback would result in the upper levels not being visible from the other side of the laneway, because they would be screened behind the base / podium. A portion of the upper floors would still be visible from the first floor windows of the adjacent apartments at 105 Beach Street. However, the increased setback that would be provided would ensure that

the upper levels would not dominate any views out from the first floor windows where a setback of approximately 14 metres would be provided.

- 14.35 In recommending changes to increase the setback, it is noted that the apartments that would be affected by the proposed changes on levels 3 and 4 are considerable in size. The plans showing the apartments on levels 3 are over 160sqm in area and the apartments on level 4 being larger than 280sqm. It is considered that the loss of floor space could be accommodated and still allow for large apartments that could provide comfortable and practical living arrangements for future residents.
- 14.36 It is therefore recommended that should a permit be issued a condition is included which requires the setbacks to levels 3 and 4 be a minimum of 5 metres from the eastern and western side boundaries (**Recommended new condition 1ee**).
- 14.37 Subject to the requirement for additional setbacks to level 3 and 4, the proposed increase in height is considered an acceptable change for the amendment application.

#### Changes to the ground floor layout

- 14.38 The amended Carr Architecture scheme proposes a ground floor layout that is similar in scope to the approved Wood Marsh scheme where it would be predominately commercial in nature. The new layout would retain the active frontages to the north, south and east. This would ensure that the building would continue to provide a highly visible commercial presence and active interface to the public realm. The necessary services and back of house facilities have been restricted to the western side and the north western corner of the building, much like the layout of the ground floor of the Wood Marsh scheme.
- 14.39 The main changes to the ground floor layout are the removal of the café / retail spaces in the north eastern corner, the rationalisation of the dwelling entries which will now be provided on the southern side of the building and the removal of the southern entrance of the supermarket.
- 14.40 By and large the changes are considered acceptable. The provision of the café / retail space in the north eastern corner was a positive aspect in the Wood Marsh Scheme as it added further activity to this part of the building. However, the removable of the café / retail spaces is not considered a fundamental issue. The café is to be replaced with an enlarged supermarket which would still ensure that the north eastern corner is retained with a commercial use that would provide activation with the public realm.
- 14.41 It is noted that the Carr Architecture proposal shows an enlarged substation on the western side of the building. The applicant has indicated that the increase of the size of the substation is a necessary change for the new building and cannot be reduced in size. The elevation plans show that that the services and substation would be located behind grey timber battens which would successfully obscure the services as much as possible and provide an acceptable



architectural treatment to screen the substation in a manner that would integrate with the overall design of the building.

- 14.42 While the overall ground floor layout is considered acceptable the removal of the second supermarket entrance is not supported. As designed, the supermarket only provides a single entrance on the northern side. This is considered a problematic arrangement. The reliance on one sole northern entrance makes it difficult for any customers who would want to enter the supermarket from the south. To enter the supermarket from the south customers would need to be funnelled around the edges of the building and would create confusion to any visitors / tourists to this area. It is therefore recommended that should an amended permit be issued; a condition is included which requires a second entrance to the supermarket to be provided on the southern side of the ground floor (**recommended new condition 1ff**).
- 14.43 It is also noted that the application plans indicate that the doors to the service cupboards and substation on the western side of the building would all open out into the adjacent laneway. This is not supported. It is recommended that should an amended permit be issued, a condition is included which requires the doors to the substation and services on the western side of the building be redesigned so that all doors do not open out to the laneway (**recommended new condition 1gg**).

Shared path along the eastern side of building

- 14.44 The provision of the shared path the eastern side of the building is an important part of the redevelopment of the 103 Beach Street site. Both the Key Infrastructure and the Wood Marsh proposals incorporated the shared path into the design of the building. The new Carr Architecture proposal has retained this important feature and in large is the same as the shared path that is shown in the current approval of the Wood Marsh proposal. The submitted plans show that a similar 4.3m wide path (5.3m to the tram line) would be provided and that the shared path would have a minimum 3.8m high clearance above it to the first floor of the building (as shown on the southern elevation plan TP-200).
- 14.45 The Wood Marsh proposal was designed with the building to fully cantilever over the shared path. This has been slightly modified in the Carr Architecture proposal to incorporate four columns along the edge of the shared path. Council's Urban Designer has reviewed the modified design to the shared path and provided comments that the changes including the introduction of the four columns is supported. For this matter the following comments were provided in the referral:

*The proposed Sandridge Trail colonnade area is similar in section to the approved permit, except for the introduction of four new columns. The revised locations are supported as they do no longer interfere with sightlines.*

- 14.46 The application material included a rendered drawing of how the revised design would look. This drawing has been copied below. The drawing shows that the shared path will be an open and expansive space and that the four proposed columns would not significantly enclose or interfere with any sightlines within the

shared path. As such, the modifications that are proposed to the shared path are considered acceptable.



**Fig 6:** Submitted drawing of the proposed shared path along the eastern side of the building

### Public Realm Improvements

- 14.47 The subject site is a unique island site of private land surrounded by an important area of public land with Waterfront plaza to the south, a car park to the north and light rail to the east. One of the challenges for development on this site is ensuring that any new development would have a positive impact on the surrounding public land.
- 14.48 A significant public benefit is already provided though the provision of the shared path along the eastern side of the subject site. The provision of the shared path has been an important part of the redevelopment of the site from the original Key Infrastructure application which was continued to be provided in the Wood Marsh Design and again in the new Carr Architecture proposal.
- 14.49 What has not been so successful is the impact of the two previous approvals, (Key Infrastructure and Wood Marsh) on the public areas to the south and the north. In particular, the two previous approvals did not resolve how the car park to the north would be modified to allow for the construction of the new building on the subject site but retain a functioning car park.
- 14.50 There is a significant issue for the existing car park where the spaces along the southern side of the car park are partly located within the title boundary of the 103 Beach Road site. This is shown in the plan below which is taken from the plans for the original Key Infrastructure application. This was a key consideration of the approval of the application.

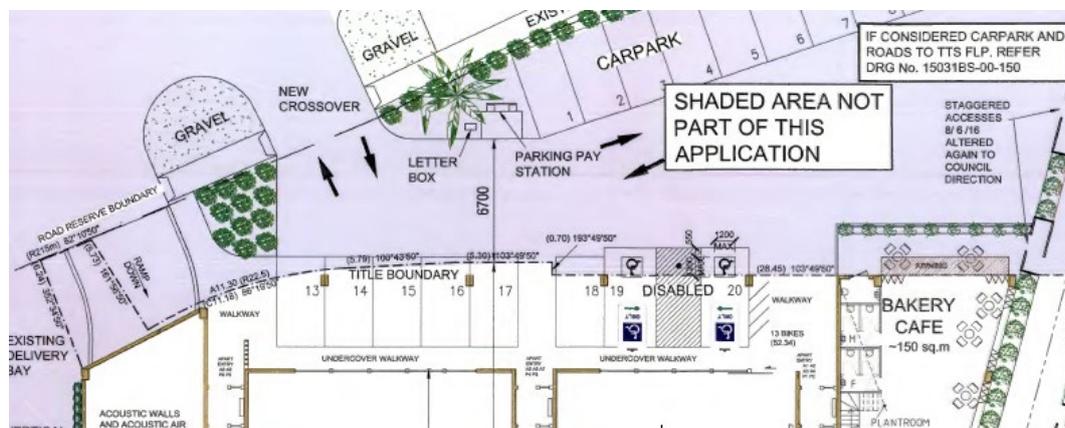


Fig 7: Cut out of the original Key Infrastructure proposal which shows the existing car park has spaces within the title boundary of the subject site.

- 14.51 For the current approval (Wood Marsh) the endorsed plans sought to resolve the car parking issue by providing an indicative layout of how a car park will still be able to be provided on the land to the north of the subject site. However, the planning permit that was issued did not include any final design for the car park or any means how the redesigned car park would be constructed.
- 14.52 For the new amendment application, the applicant has gone beyond any previous approval and designed a Public Realm Concept Plan that details proposed changes to the car park area to the north and the plaza area to the south. The concept plan proposes a redesigned northern car park that would provide 12 car parking spaces with a single entry and exit to Beach Road and a redesigned plaza area to the south with paving seating and planting. The Concept Plan has been included as attachment 5 to this report.
- 14.53 The Concept Plan has been reviewed by council's internal departments, including Council's Urban Designer, Traffic Engineers and Asset Management and Property team. All internal departments are supportive of the works that have been indicated in the public realm concept plan (subject to some refinement).
- 14.54 The applicant has agreed to pay for and undertake the works to the northern car park and plaza area. The plan that was submitted that outlined the works to the north and south was only a concept plan, so a final design has not yet been finalised. It is recommended that should an amended permit be issued a condition is included which builds on the public realm concept plan to create a Public Realm Upgrade Plan for the northern car park and southern plaza (**recommended new condition 42**). It is also recommended that a new condition is included which requires the applicant to enter into a S173 agreement which requires the owner to pay for the upgrade works to the northern car park and southern plaza that will be shown in the Public Realm Plan (**recommended new condition 43**).
- 14.55 It is noted that the plans show that part of the building in the north western corner would extend out beyond the title boundaries of the site. The plans show that part of the terraces for apartment 1.01 (level 1), apartment 2.01 (Level 2) and 3.01 (Level 3) extend outside the title boundaries. In this instance the small

protrusions of the building outside the title boundary are considered acceptable given the changes that are proposed to the northern public realm.

- 14.56 It is also recommended that the requirement for a public art contribution is not required for the amended application given the proposed public realm works that will form part of the approval of the amendment application. To this end existing condition is recommended to be deleted (**Recommended amended condition 20**).

#### **Would there be any additional off site amenity impacts**

- 14.57 The only sensitive interface in relation to potential direct amenity impacts is to the west, where the site has an interface to a 3 to 4 storey apartment building at 105 - 107 Beach Street. The apartment building is constructed directly to its eastern boundary, separated from the subject site by a RoW and a distance of 8.7 metres.
- 14.58 The assessment of the original Key Infrastructure proposal did not raise any concerns about amenity impacts on the 105 - 107 Beach Street building. The assessment of the Wood Marsh proposal did but it was considered that the amenity impacts would actually be reduced where the built form as it presented to the west would be reduced as the base level was reduced in height from a 13.5m high form to a 11.82m high form. An additional storey was proposed as part of the Wood Marsh design but the combination of the setbacks and lightweight (predominately glazed) design of the upper floor was considered to not create unreasonable visual bulk.
- 14.59 As already discussed earlier in this report, there are concerns about the impact of the third and fourth levels of the revised Carr Architecture design where only a small setback is provided to both of these upper levels. As set out in the assessment of the additional height that is proposed it has been recommended that changes be sought to increase the setbacks of levels 3 and 4 (**recommended new condition 1ee**).
- 14.60 In regard to overshadowing, the submitted shadow diagrams show that at the equinox the amended proposal would not have any new overshadowing impacts beyond the existing approval. The shadow diagrams again show that at the equinox, after 10am there would be no overshadowing of the 105-107 Beach Street building.
- 14.61 Habitable room windows are proposed on the western elevation on levels 1 and 2 and terraces on level 3 and on the roof. The floor plans include dimensions that demonstrate that all windows would be setback at a distance greater than 9m from the 105 - 107 Beach Street building. A distance of 9m is considered sufficient to ensure that the proposed development would not unreasonably overlook adjacent habitable rooms windows or areas of private open space.

#### **Would sufficient car parking be provided and is the layout appropriate (including vehicle access)?**

Car Parking

- 14.62 Schedule 1 of the Comprehensive Development Zone (CDZ1) specifies car parking requirements for the dwellings and shop unless agreed to by the responsible authority in accordance with Clause 52.06. The below table provides a summary of the car parking that would be required:

Component	Area / No	Applicable Rate	Requirement
Dwellings	22	Minimum 1 space per dwelling and average of 1.5 spaces per dwelling	22 - 33 spaces
Supermarket (shop)	794sqm	5 spaces per 100sqm of GFA	39 spaces
Total			61 - 72 spaces
Total on site provision			51 spaces
Proposed shortfall			37 spaces (Commercial only)

- 14.63 The number of car spaces is proposed to be increased by 21 spaces from 30 to 51 spaces, but the number of dwellings has also increased from 12 to 22 dwellings. Forty Seven (47) of the car parking spaces would be allocated to the residential dwellings. This would exceed the parking requirements of the CDZ1 which requires a total of 33 spaces (rate of 1.5 spaces per dwelling). The car parking provided for the dwellings would also exceed the car parking rates of Clause 52.06 which would require the provision of 34 spaces. Compliance with these car parking requirements is considered acceptable for the proposed dwellings.
- 14.64 In addition to the car spaces allocated to the 22 dwellings, 2 car parking spaces are proposed to be allocated to visitor car parking (as is also provided in the current Wood Marsh approval). Visitor car parking is not a requirement for this site under Clause 52.06 (given it is located within the Principal Public Transport Network Area). However, the provision of the 2 visitor car spaces is considered a positive aspect of this proposal. It would ensure that the needs of residents would be well catered for should tradesman or health workers be required by residents of the apartments or to provide visitor parking for friends and family.
- 14.65 For the supermarket, a 37 space shortfall is proposed. 39 spaces are required under the CDZ1 controls with 2 spaces to be provided within the basement.
- 14.66 A similar reduction of car parking has already been approved for both the Key Infrastructure and the Wood Marsh approvals. The reduction approved for the Key Infrastructure approval was 40 spaces. The two previous approvals supported a reduction of car parking for the following reasons:



- There is an existing site credit of 72 spaces (based on the previous use of the site generating a requirement for 78 spaces, with only 6 on site spaces provided).
- Council generally accepts lesser rates for commercial uses than those specified in the CDZ1.
- Peak demands associated with the various users are not expected to coincide.
- The site would potentially have access to a maximum of 20 additional car spaces in the ground level car park on the adjacent land, which is short term spaces with a high turnover.
- The site is excellently located with respect to the Principal Public Transport Network (PPTN) and future commercial uses.

14.67 These reasons remain relevant for the new application. Given the sites proximity to public transport, the proposed reduction in the car parking spaces for the supermarket use is considered acceptable.

#### Traffic Generation

14.68 Council's Traffic and Parking Unit have reviewed the traffic generation for the development. Comments have been provided that the traffic generation associated with the proposed commercial land use is likely to be similar to the existing use and is considered acceptable given the similarity in land uses. For the residential component, Council's Traffic and Parking Unit have provided comments that the increased number of dwellings would generate 4 additional movements during peak periods from the existing approval and in total generate 9 vehicle movements during peak periods and 88 vehicle movements per day. Council's Traffic and Parking Unit have confirmed that the combined residential and commercial traffic generation is expected to be 10 vehicle movements per peak hour which they consider can be accommodated in the surrounding road network.

#### Access and Manoeuvring

14.69 Council's Traffic and Parking Unit have assessed the layout of the basement car park, headroom, access gradients and manoeuvring within the car park and provided comments that these are all acceptable. For the access into the car park, they have required confirmation that the proposed corner splays for sight triangles are at least 50 percent clear of any obstructions and that the access ramp is wide enough for two B99 vehicles to pass. Should an amended permit be issued it is recommended that these are included as new conditions (**new condition 1aa and 1bb**).

14.70 A concern has been raised about potential queuing concerns even though the traffic engineers have confirmed that there would only be 10 vehicle movements in the peak period. Given the low traffic generation planning officers do not share the same concerns about queuing. Moreover, the layout of the basement provides a large area at the bottom of the ramp on basement level 01 where

vehicles could wait if necessary. Subject to the conditions for the sight triangles and width of the accessway, access and manoeuvring for the amended proposal is considered acceptable.

### **Loading and Waste Collection**

- 14.71 Loading and waste collection for the amended Carr Architecture proposal is similar to the current Wood Marsh approval where separate areas will be provided for the residential apartments and the supermarket.
- 14.72 For the residential apartments a separate waste area is to be provided in basement level 01. The submitted Waste Management Plan (WMP) details that waste collection will be provided through private collection (which is different from the current approval). The WMP details that the waste would be collected by a rear-lift vehicles (nom. 6.4m long, 2.1m high, and 6.4 tonnes gross vehicle mass, needing a 2.3m high clearance when lifting 660L bins and a 2.5m high clearance when lifting 1100L bins).
- 14.73 The submitted plans show that the basement has a floor to ceiling height of 3.0m which would be large enough for the waste collection vehicle. However, the section plan (TP-302) of the ramp shows that only a 2.1m high clearance would be provided. The height of the ramp will therefore need to be increased in order to allow the waste collection vehicle. The submitted traffic report identifies the waste collection vehicle to be 2.1m high. It is therefore recommended that should a Notice of Decision to Amend a Planning Permit be issued a condition is included requiring amended plans to show the clearance height in the access ramp to be increased to accommodate the waste collection vehicle **(recommended new condition 1ff)**.
- 14.74 For the supermarket, a separate waste and loading area is provided within the ground floor on the western side of the building. A waste or loading vehicle would back down the laneway to collect waste for the supermarket. This is the same arrangement as in the current Wood Marsh approval. The traffic report submitted for the Wood Marsh application detailed that the existing loading area can accommodate an 8.8m long MRV delivery truck and that Swept path diagrams demonstrate access for the 8.8m long MRV entering and exiting the loading area. The Traffic report for the new Key Infrastructure proposal details that the loading and waste collection remains being undertaken in the western laneway with a vehicle size of up to 8.8 metre long (MRV) as per the endorsed scheme.
- 14.75 Even though there is no change to the waste collection and loading arrangement Council's Traffic Engineers have raised a concern about the collection of the waste from vehicles that would need to reverse down the laneway. Given the concern raised, it is recommended that should an amended permit be issued a condition is included which requires a Loading and Waste Management Collection Plan. The main requirement of the Loading and Waste Management Collection Plan will be to ensure that loading is undertaken in a safe manner, particularly to protect any pedestrians that would be using the laneway. To this end the plan will include a requirement for spotters to be used. The loading and waste management collection plan will also specify that loading and waste



collection can only occur between the hours 8.00 am to 7.00pm Monday to Saturday. (**Recommended new condition 41**).

- 14.76 It is also recommended that the plans are updated to clearly show the existing bollards in the laneway to ensure that loading only occurs in line with the existing loading arrangements (**Recommended new condition 1cc**).

### **Sustainable Design**

- 14.77 A Sustainable Management Plan (SMP) prepared by GIW Environmental Solutions Pty Ltd has been submitted with the application. The SMP has been reviewed by Council's Sustainable Design Officer who has provided comments that the proposed amended plans and accompanying SMP demonstrate that the proposal would achieve an acceptable outcome for ESD and WSUD. Two condition 1 requirements have been recommended (requiring the north west corner to be labelled as permeable and a requirement for a light reflective roof ballast) as well as the standard conditions requiring an implementation report for ESD to be submitted prior to the occupation of the development and a construction management condition for Water Sensitive Urban Design (WSUD).

Since the original comments were provided, the applicant has responded to the matters raised and confirmed that the details in the SMP that the north west corner is to be permeable is an error and that this can be resolved through an updated SMP. It is therefore recommended that should an amended permit be issued; a condition is included requiring an updated SMP to modify the stormwater management response to correctly identify the permeability in the north western corner of the site (**Recommended amended SMP condition 12**). The other requirement for the light reflective roof treatment to be also require as a condition (**Recommended new condition 1z**).

### **Would the amendment alter any specific requirements of the original permit?**

- 14.78 A full review of the existing conditions has been undertaken and all conditions that remain relevant are recommended to be retained or modified as necessary. This includes the retention of some condition 1 requirements that have not been addressed in the amended plans.
- 14.79 In summary, the following changes to the Permit Preamble and conditions is recommended:

#### Permit Preamble Changes

No changes are required to the permit preamble which would continue to read as follows:

- *Construction of a building and carrying out of works in the Comprehensive Development Zone;*
- *Buildings and works for accommodation - pursuant to the Environmental Significance Overlay;*
- *Reduction of parking pursuant to Clause 52.06*



*in accordance with the endorsed plans*

Condition 1 changes

- Condition 1 modified to reflect the new plans of the amendment application.
- Condition 1b changed to remove the reference to reduced levels (so that it would only refer to levels to AHD).
- Condition 1l changed to refer to AHD levels not RL levels.
- Existing condition 1q amended so that the condition also requires design details to the shared path for methods to slow the speed of cyclists within the shared path.
- Existing condition 1n amended to refer to the amended ground floor plan by Carr Architecture.
- Existing condition 1o amended to require a section plan showing the entire length of the shared path and clearance height of the building and all structures (columns planter boxes etc) within the shared path area.
- Existing condition 1p deleted.
- New condition 1z requiring a light reflective colour roof ballast.
- New condition 1aa to require confirmation that the sight distance triangles at the car park entrance will be clear of obstructions.
- New condition 1bb to require the plans to be updated to show that two B99 vehicles can pass each other.
- New condition 1cc to require the ground floor plan to show the details of the existing bollards within the adjacent laneway.
- New condition 1dd requiring vegetation within the planter adjoining the shared path to be of certain height in accordance with Yarra Trams requirements.
- New condition 1ee to require levels 3 and 4 to be setback a minimum 5m from the eastern and western boundaries.
- New condition 1ff to require a second entrance to the supermarket on the southern side of the building.
- New condition 1gg to require all doors to the substation and services on the western side of the building to be redesigned so as to not open out into the adjacent laneway.
- New condition 1ff to require the vehicle access ramp to the basement to be modified to allow for sufficient clearance height for a 2.1m high waste vehicle to be able to access the basement.

Other Condition changes

- Existing condition 3 amended to refer to the new architects (Carr Architecture).



- Existing condition 7 amended to remove reference to food and drinks premises.
- Existing condition 8 amended to remove reference to food and drinks premises.
- Existing condition 9 amended to remove reference to food and drinks premises.
- Existing condition 12 amended to refer to the new SMP lodged for the amendment application and to correctly identify the permeability in the northwestern corner of the site and update the WSUD response accordingly.
- Existing condition 16 amended to refer to the updated Waste Management Guidelines (which have changed since the original condition was included).
- Existing condition 17 amended to refer to the landscape plan that was submitted for the new amendment application.
- Existing condition 20 deleted.
- Existing condition 21 amended to refer to the number of dwellings in the new scheme (22 dwellings).
- Existing condition 31 amended to refer to the change to EPA legislation in regard to noise.
- Existing condition 35 amended to refer to the supermarket and not retail and food and drinks premises.
- Existing condition 39 amended to restrict advertising signage to windows of the building.
- New condition 41 requiring a Loading and Waste Management Collection Plan.
- New condition 42 requiring the preparation of a public realm preparation plan.
- New condition 43 requiring a S173 agreement for the public realm works.

## 15. COVENANTS

- 15.1 Restrictive covenants affect the privately owned land at 103 Beach Street, Port Melbourne. A covenant is a private legal agreement between landowners to restrict the use or development of land for the benefit of other land.
- 15.2 The land at 103 Beach Street, Port Melbourne was developed by Mirvac Victoria Pty Ltd as part of the Beacon Cove development. Mirvac placed restrictive covenants over the lots as part of the Beacon Cove Estate development and remains arbiter of the covenants.
- 15.3 The covenants that affect the subject site do not specifically prescribe a height control.



- 15.4 The covenants covering the site state that development of the site may only occur “in accordance with the plans and specifications by Henry Pollack and Associate Architects Pty Ltd lodged with the City of Port Phillip” The Henry Pollack and Associate plans are the original building plans that were used for the current buildings on the site.
- 15.5 The arbiter of the covenants (Mirvac) is the only party that may approve a development which differs from the covenant.
- 15.6 In the assessment of the Key Infrastructure proposal, Council raised concerns with the applicant regarding the restrictive covenant on title. Legal advice provided by the applicant confirmed that an application for use and development could be considered.
- 15.7 The VCAT order *Key Infrastructure Australia Pty Ltd v Port Phillip CC* includes commentary on the covenant where VCAT accept the position by the parties that the restriction is not a type that would prevent the grant of a planning permit. VCAT found it appropriate that a permit condition was included which would require consent to be obtained before any buildings or works commence under the permit. If the proposal is supported this condition will remain on the amended permit (condition 4).
- 15.8 The amendment application does not propose any changes to this condition. Council officers understands that the applicant has been in discussion with Mirvac, but that written consent has not yet been obtained.
- 15.9 Condition 4 will remain on the amended permit. This would mean that should this amendment application be approved written consent would still be required from Mirvac (Beacon Cove Pty Ltd) or its nominee before any buildings or works could commence.

## 16. INTEGRATED DECISION MAKING AND CONCLUSION

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

### Positive

- The proposal is considered to have strong strategic support from the Planning Scheme, which has a consistent theme of increasing residential density at strategic locations and within close proximity to jobs, services and public transport (environmental, economic and social).



- The proposal would achieve the purpose of the zone by way of providing a mixed use development that is in line with the with the Beacon Cove Concept Plan No 1 and the Beacon Cove Precinct Plan No 1 and would provide an appropriate mix of commercial uses which would support the locality (environmental, economic and social).
- The overall design of the amended proposal would provide a high-quality architecture that would have a positive impact on the surrounding area (environmental, economic and social).

Neutral

- The off-site amenity impacts can be appropriately mitigated by way of permit conditions and planning scheme provisions (environmental, economic and social), should the proposal be supported
- Carparking rates are considered to be sufficient, balancing considerations of promoting sustainable transport (encouraging a modal shift towards using public transport, cycling and walking) while not unduly impacting the surrounding network (environmental, economic and social).
- Traffic impacts are not considered to be significant (economic and social).
- Onsite loading arrangements are acceptable subject to conditions (economic and social).

Negative

- The application has received 26 objections (social).

**17. OFFICER DIRECT OR INDIRECT INTEREST**

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

**18. OPTIONS**

- 18.1 Approve as recommended.
- 18.2 Approve with changed or additional conditions.
- 18.3 Refuse - on key issues.

**19. CONCLUSION**

- 19.1 The changes sought in the amendment application would allow for a mixed use development similar in scope to the existing approval which would continue to provide an appropriate response to State and Local Planning Policy Framework.
- 19.2 The redesigned building by Carr Architecture incorporates several design changes including a more rectilinear in design and incorporate a fluted and



textured façade treatment. The newly designed building is a significant redesign to the current Wood Marsh approval. However, the overall design is still considered to be a high-quality architectural building that would have a positive impact on the surrounding area

- 19.3 Subject to additional setbacks to the sides of the building at level 3 and 4, the proposed increase in height to a five storey building is considered an acceptable change. It would be an appropriate fit within the context of the surrounding area where it is located within the commercial and leisure precinct of Beacon Cove where it would sit between sites to the east and west that will accommodate large and tall buildings.
- 19.4 The provision of car parking for the residential dwellings satisfies the car parking provisions of the Comprehensive Development Zone and Clause 52.06 (car parking). The reduction in the car parking for the commercial tenancies is considered acceptable given the sites strategic location and the availability of public transport in the local area.
- 19.5 It is considered that the changes proposed in the amendment application are acceptable subject to modifications to the conditions of the existing permit. It is recommended that Council issues a Notice of Decision to Amend a Planning Permit.  
<insert text>

## **ATTACHMENTS**

- 1. Site Location**
- 2. Application Plans**
- 3. Design Response**
- 4. Referral Comments**
- 5. Public Realm Concept Plan**
- 6. VCAT Decision on Original Application**