

Planning and Environment Act 1987

Panel Report

Port Phillip Planning Scheme

Amendment C104

1-7 Waterfront Place, Port Melbourne

28 February 2014



Planning and Environment Act 1987

Panel Report pursuant to Section 25 of the Act

Amendment C104 to the Port Phillip Planning Scheme

1-7 Waterfront Place, Port Melbourne

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Con Tsotsoros, Chair

Handwritten signature of John Hartigan in black ink on a white background.

John Hartigan, Member

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Peter Gray, Member

Contents

	Page
Executive Summary	1
1 Introduction.....	4
1.1 Background.....	4
1.2 The Amendment.....	5
1.3 Exhibition and Submissions.....	6
1.4 Directions and Panel Hearing.....	6
2 The Proposal.....	8
2.1 The subject site and surrounds	8
3 Identification of Issues	9
3.1 Summary of issues raised in submissions	9
3.2 Issues dealt with in this Report	9
4 Strategic planning context	10
4.1 Policy framework.....	10
4.2 Planning scheme provisions	12
4.3 Plan Melbourne Metropolitan Planning Strategy	14
4.4 Relevant Planning Scheme Amendments	15
4.5 Ministerial Direction, Practice notes and Guidelines.....	16
4.6 Strategic Assessment.....	17
5 Traffic	18
5.1 Issues	18
5.2 Evidence and submissions.....	18
5.3 Discussion	23
5.4 Conclusions.....	26
5.5 Recommendations	26
6 Urban design and built form	27
6.1 Issues	27
6.2 Evidence and submissions.....	27
6.3 Discussion	32
6.4 Conclusion	35
6.5 Recommendations	35
7 Proximity to the Port	37
7.1 Issue.....	37
7.2 Evidence and submissions.....	37
7.3 Discussion	39
7.4 Conclusions.....	42
8 Other issues	43
8.1 Issues	43
8.2 Restrictive covenant.....	43
8.3 Recreation facilities	45

9	Final form of amendment	47
9.1	Matters raised by Council.....	47
9.2	Matters raised by Waterfront Place Pty Ltd	48
9.3	Recommendations	50

Appendix A List of Documents

Appendix B List of Submitters

Appendix C Panel Preferred Design and Development Plan Overlay Schedule 23

List of Tables

	Page
Table 1 Parties to the Panel Hearing.....	6

List of Figures

	Page
Figure 1 Planning Scheme Zone History.....	4
Figure 2 Subject Land	8
Figure 3 Subject Land context	8
Figure 4 Existing zone and overlays	12
Figure 5 Subject Land Interfaces	35

List of Abbreviations

CDZ	Comprehensive Development Zone
DDO23	Schedule 23 to the Design and Development Overlay of the Port Phillip Planning Scheme
DTPLI	Department of Transport, Planning and Local Infrastructure
EAO	Environmental Audit Overlay
EPA	Environment Protection Authority
ESO4	Schedule 4 to the Environmental Significance Overlay
LPPF	Local Planning Policy Framework
MSS	Municipal Strategic Statement
MUZ	Mixed Use Zone
NAC	Neighbourhood Activity Centre
Plan Melbourne	Plan Melbourne Metropolitan Planning Strategy 2013 (Draft)
PoMC	Port of Melbourne Corporation
PTV	Public Transport Victoria
SEPP N-1	State Environmental Protection Policy (Control of Noise from Industry, Commerce and Trade) No N-1
SPPF	State Planning Policy Framework
TIAR	Transport Impact Assessment Report
UDF	Urban Design Framework
VPP	Victoria Planning Provisions

Amendment Summary

The Amendment	Port Phillip Planning Scheme Amendment C104
Authorisation No	A02516
The Site	1-7 Waterfront Place, Port Melbourne
Purpose of Amendment	The Amendment proposes to rezone the site from Comprehensive Development Zone to Mixed Use Zone and make other associated changes to give effect to the built form outcomes sought by the <i>Design Guidelines 1-7 Waterfront Place (March 2013)</i> .
Planning Authority	City of Port Phillip
Exhibition	Between 11 July and 15 August 2013

Panel Process

The Panel	Mr Con Tsotsoros, Chair Mr John Hartigan, Member Mr Peter Gray, Member
Directions Hearing	31 October 2013
Panel Hearing	9, 10, 11, 13 and 16 December 2013
Site Inspections	19 November 2013 and further inspections following the Hearing.
Appearances	A list of appearances is provided at Table 1.
Submissions	1082 submissions from 865 submitters. A list of submitters is provided at Appendix B.
Date of this Report	28 February 2014

Executive Summary

Since its industrial history, there have been different proposals for the Beacon Cove area including a public open space for the local community and a canal based residential development. Instead, plans changed to allow the Beacon Cove development that exists today. 1-7 Waterfront Place (the Subject Land) is considered a strategic redevelopment site because of its scale and location within close proximity of the waterfront, beaches, tourist precinct, Bay Street Activity Centre and within one kilometre of the future Fishermans Bend urban renewal area.

Amendment C104 to the Port Phillip Planning Scheme (the Amendment) seeks to allow the Subject Land to be considered for a future development. The Amendment is supported by, and implements, the relevant sections of the State Planning Policy Framework and Local Planning Policy Framework. The Amendment will also introduce formal notice of future permit applications on the Subject Land so that the local community can have a say on development proposals.

It is paramount that any new development does not constrain the operation of the Port, located opposite the Subject Land. Detailed plans, forming part of a permit application, will provide the basis to determine any potential impacts and mitigation measures. Requirements in the exhibited schedule 23 to the Design and Development Overlay (DDO23), such as maximum decibel levels, establish the framework for this future assessment.

There was no evidence to support claims that additional traffic generated by a higher density residential development on the Subject Land will adversely impact on the Port operations or increase traffic volumes on surrounding roads to capacity. The Amendment should not be held accountable for existing traffic issues generated by the Port operations or peak summer period.

The historic former Port Melbourne Railway Station building, interface with the existing residential development to the north and sunlight to the foreshore are three elements that the community value. Victoria's planning schemes allow flexibility through a performance based system so that innovative and more superior design outcomes can be considered in the future. However, the special circumstances surrounding the Subject Land warrant some mandatory provisions in DDO23 to address these three elements. Imposing arbitrary requirements such as height limits would unnecessarily constrain good design outcomes. Instead, a high quality design outcome should be sought for this strategic redevelopment site through a combination of mandatory and discretionary provisions.

Recommendation

Based on the reasons set out in this Report, the Panel recommends:

Amendment C104 to the Port Phillip Planning Scheme should be adopted as exhibited subject to the following modifications:

- 1. Amend Schedule 23 to the Design and Development Overlay, as shown in Appendix C, to:**

- a) Replace the fourth dot point under Design requirement A2 with:
“Vehicle access to any on-site car parking or loading bays should be from Beach Street and should allow for all turning movements to/from the vehicular entry to the site.”
- b) Replace the exhibited building height requirements in Design requirements B1, B2 and B3 with:
“As shown in Figure 1 to this schedule, building heights must not exceed:
- 3 storeys and 11 metres in the northern section (the Beach Street interface)
 - 3 storeys and 11 metres in the southern section (the Waterfront Place interface)
 - 5 storeys and 17.5 metres in the western central section, (the station interface).”
- c) Replace the car park built form requirements in Design requirements B5 with:
“Where car parking is contained within the podium levels, it must be sleeved with activated spaces or the facade designed with high quality architectural screening to completely disguise the car park use of the areas.”
- d) Replace the third point in Design requirements B3 with:
“Where 5 storeys are proposed at the station interface, the upper two storeys must be set back behind the northern and southern 3 storey podiums and designed so that the podiums are the dominant forms from the street and promenade views, as shown in Figure 1 to this schedule.”
- e) Replace the fourth dot point in Design requirements B2 with:
“Tower forms must be set back from the podium edges so that the podium reads as the dominant form from the street views. The narrow edges of the tower form may be located close to or even touch the podium edge, subject to a high-quality design outcome that does not cause the tower to dominate over the podium.
Tower forms shall be set back from the 5 storey western edges so that this edge reads as the dominant form over the station.”
- f) Replace the first design objective in Theme B - ‘responsive’ with:
“To meet the overshadowing controls if a marker or terminal vista is provided to the easternmost point of the site marking the entry to Beacon Cove when approaching the site from Beaconsfield Parade and Beach Street east of the site.”
- g) Replace the first requirement in Design requirements B8 with:
“Development must not cast a shadow beyond the beach wall between the hours of 9:00am and 3:00pm at the September equinox. The beach wall is defined as the stone wall separating the paved promenade and the sandy beach.
Development should minimise overshadowing beyond the beach wall between the hours of 9:00am and 3:00pm at the June solstice”.
- h) Remove any reference to the requirement for public open space on the Subject Land.

- i) Remove any reference to the requirement for a north-south pedestrian laneway through the Subject Land other than the laneway between the heritage station building and new built form on the western edge of site.**
 - j) Remove any redundant references resulting from the recommended modifications above.**
 - k) Remove provisions that are duplicated by other clauses in the planning scheme.**
- 2. Transform Design D3 (Greening buildings) and F1 (Adaptable floor plan) in Schedule 23 to the Design and Development Overlay from requirements into design elements that are encouraged.**

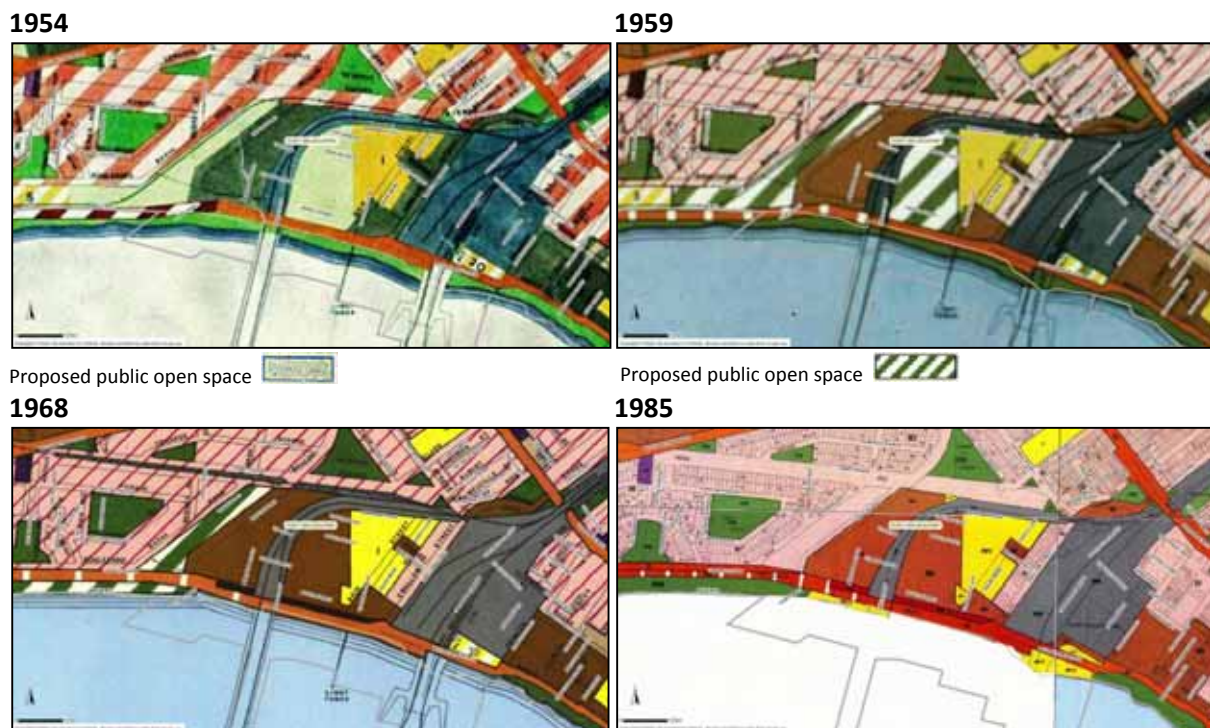
1 Introduction

1.1 Background

The Beacon Cove area has had a colourful evolution. For most of its history, this was an industrial area served by Station and Princes Piers (the Port). Station Pier served as an international gateway for migrants, particularly during the economic booms of 1850-90 and 1949-1966.

As shown in Figure 1, between at least 1954 to 1959, approximately half of the industrial land east of the Pier Street railway line and west of Swallow Street (eastern open space) and a considerable area between Beacon Street and Barak Road (western open space) were zoned 'Proposed Public Open Space' for the existing Port Melbourne community. Historic planning scheme maps show land proposed for the eastern open space zoned back to General Industrial in 1968 and Industrial 4 (General Industrial) in 1985. The same maps show that the western open space continued to be proposed in 1968 but was zoned for residential purposes in 1985.

Figure 1 Planning Scheme Zone History



Source: Planning Maps Online at <http://planningschemes.dpcd.vic.gov.au/>

In 1984, the area was identified as a major redevelopment site and by the late 1980s the Sandridge City Development Corporation (a consortium) was selected as the preferred developer. A master plan proposed a canal-based residential development with retail and commercial uses, development of Princes and Station Piers and a marina. The Port Melbourne Planning Scheme (now part of Port Phillip) was amended to introduce the Comprehensive Development Zone No 9 (Bayside Project) and other provisions to facilitate

this master plan. The consortium subsequently collapsed and the development did not proceed.

In 1995, the State Government and Mirvac Victoria Pty Ltd entered into a joint venture partnership to develop the Beacon Cove area. The Minister for Planning approved Amendment L16 to the Port Melbourne Planning Scheme in March 1995 to support the new development plan. This Amendment replaced Comprehensive Development Zone No 9 (Bayside Project) with the Bayside Development Project and a number of other zones.

Today there is little sign of the industrial land uses and associated contamination that existed in the Beacon Cove area for most of its history. The public open space proposed to serve the Port Melbourne community was never realised. Neither was the unique canal based development. Instead, residential dwellings were constructed.

Throughout all of this evolution however, there have been some constants:

- The Port continues to operate, but at a reduced scale
- The former historic Port Melbourne railway station building exists at the end of the light rail line, and
- The beach continues to be used as open space.

After almost 20 years since the original Beacon Cove master plan, a predominantly residential development is proposed at 1-7 Waterfront Place. This proposal does not align with the current Port Phillip Planning Scheme provisions. An amendment to the planning scheme is therefore required to introduce provisions that would allow a planning permit for such a proposal to be considered.

1.2 The Amendment

Amendment C104 to the Port Phillip Planning Scheme (the Amendment) applies to approximately 5,500m² of land at 1-7 Waterfront Place, Port Melbourne as shown in Figure 2.

As exhibited, the Amendment proposes to:

- Rezone the land from Comprehensive Development Zone to Mixed Use Zone
- Amend Clause 21.06 to reflect the Vision & Objectives of the Design Guidelines for 1-7 Waterfront Place (March 2013)
- Introduce Schedule 23 to the Design and Development Overlay to give effect to the built form outcomes sought by the Design Guidelines 1-7 Waterfront Place (March 2013)
- Amend the schedule to Clause 81.01 to incorporate 'Beacon Cove Development, Port Melbourne (revised) 2013' into the planning scheme. This document replaces Beacon Cove Development, Port Melbourne 2004, and
- Amend Clause 21.07 to reference the Design Guidelines 1-7 Waterfront Place (March 2013).

1.3 Exhibition and Submissions

The Amendment was prepared by the City of Port Phillip as Planning Authority and was authorised by the Department of Transport, Planning and Local Infrastructure (DTPLI) under delegation from the Minister for Planning on 16 April 2013.

The Amendment was publicly exhibited for five weeks between 11 July 2013 and 15 August 2013. Notices were placed in the Port Phillip Leader, The Weekly and in the Victorian Government Gazette during this period. 1,600 notices were sent directly to land owners, occupiers and interested persons.

The Council received 1,082 submissions from 865 submitters. 557 of the 865 submitters signed a pro-forma template or emailed a petition.

At its meeting of 24 September 2013, Council resolved to refer the submissions to a Panel. As a result, a Panel to consider the Amendment was appointed under delegation from the Minister for Planning on 8 October 2013 and comprises Con Tsotsoros (Chair), John Hartigan and Peter Gray.

1.4 Directions and Panel Hearing

A Directions Hearing was held in relation to the Amendment on 31 October 2013 at Planning Panels Victoria. Following the Directions Hearing, the Panel undertook an inspection of the subject site and its surrounds.

A Public Hearing was then held at the Port Melbourne Town Hall on 9, 10, 11, 13 and 16 December 2013 to hear submissions in respect of the Amendment. After the Hearing, the Panel undertook further site inspections to reinspect matters raised in submissions and the Hearing.

Those at the Panel Hearing are listed in Table 1.

Table 1 Parties to the Panel Hearing

Submitter	Represented by
City of Port Phillip	Represented by Mr Ian Pitt SC calling the following expert witnesses: <ul style="list-style-type: none"> - Mr Tim Biles of Message Consultants (planning) - Ms Anita Brady of Lovell Chen (heritage) - Mr Henry Turnbull of Traffix Group (traffic and parking)
Port of Melbourne Corporation	Represented by Mr John Carey of Minter Ellison calling the following expert witness: <ul style="list-style-type: none"> - Ms Julie Katz of The Planning Group (planning)
Waterfront Place Pty Ltd	Represented by Mr Adrian Finanzio SC, with Ms Marita Foley of Counsel, instructed by Rigby Cooke Lawyers calling the following expert

	witnesses: <ul style="list-style-type: none"> - Mr Stuart McGurn of ERM (planning) - Mr Bryce Raworth (heritage) - Mr Steve Hunt (traffic) - Mr Craig Czarny of Hansen Partnership (urban design) - Mr Mark Sheppard of David Lock Associates (urban design)
Mirvac (Victoria) Pty Ltd	Represented by Ms Alexandra Guild of Norton Rose Fulbright Australia
The T-Group	Represented by Mr Jason Kane Barrister instructed by Tasiopoulos Lambros & Co
Beacon Cove Neighbourhood Association	Represented by Mr Trevor Nink
Port Melbourne Historical & Preservation Society	Represented by Ms Pat Grainger
Save Port Melbourne Gateway (Inc), Mr David Viney, Ms Sharlene Viney, J and D O'Callaghan, Mr Ian Whiting and Ms Sue Whiting, Alix West, Ms Claire Britchford, I Close, Ms Glenda J Joyce, Mr Gerhard Correa, Ms Elva Keily, D and E Sonenberg, S Creese, Ms Lynette Lee, Mr Michael Edgley, Mr Tom Evans, Mr John Paul Mortimore and W Fisher	Represented by Ms Louise Hicks, Barrister
Mr Ian Evans	-
Dr Jill Maddox and Mr Ian Close	Dr Jill Maddox
Mr David Viney	-
Ms Patricia Goldie	-
Ms Jacqueline O'Callaghan	-
Mr Roger G Joyce	-
Mr Eddie Micallef	-
Mr Stephen Creese and Ms Dana Hlavacek	Mr Stephen Creese

In reaching its conclusions and recommendations, the Panel has read and considered the submissions and a range of other material referred to it. This includes written submissions, evidence and verbal presentations. The following chapters of this report discuss the issues raised in submission relating to the Amendment in further detail, with the Panel's recommendation provided in the Executive Summary.

2 The Proposal

2.1 The subject site and surrounds

Port Phillip Planning Scheme Amendment C104 (the Amendment) applies to 1-7 Waterfront Place, Port Melbourne (the subject Land), shown in Figure 2. The Subject Land is bounded by Waterfront Place to the south, Beach Street to the north and Port Melbourne Light Rail Station to the west.

Figure 2 Subject Land

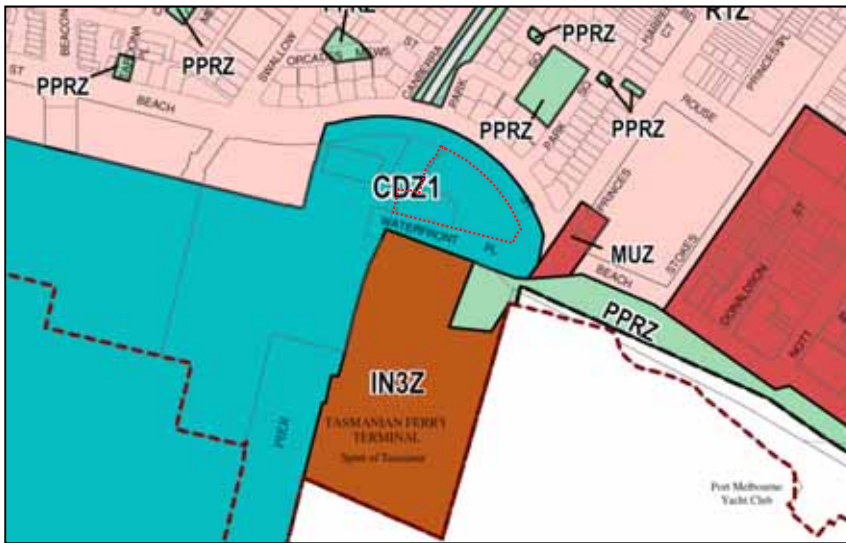


Figure 3 Subject Land context



3 Identification of Issues

3.1 Summary of issues raised in submissions

The key issues raised in the submissions are briefly summarised as:

- Traffic congestion
- Overshadowing
- Loss of existing community facilities, and
- Proximity to the Port.

3.2 Issues dealt with in this Report

The Panel considered all written submissions, as well as submissions presented to it during the Hearing. In addressing the issues raised in those submissions, the Panel has been assisted by the information provided to it as well as its observations from inspections of specific sites.

This report deals with the issues under the following headings:

- Strategic planning context
- Traffic
- Urban design and built form
- Proximity to the Port, and
- Other issues.

4 Strategic planning context

This section of the report briefly sets out key elements of State Planning Policy Framework (SPPF), the Municipal Strategic Statement (MSS), Local Planning Policies, zones and overlays, and other provisions and strategies relevant to the Amendment.

Council provided a response to the Strategic Assessment Guidelines as part of the Explanatory Report.

4.1 Policy framework

(i) State Planning Policy Framework

The following sections of the SPPF are identified as relevant to the Amendment:

- Clause 11.02-1 (Supply of urban land)

Objective:

- Ensuring a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.

Strategies:

- Ensure the ongoing provision of land and supporting infrastructure to support sustainable urban development.
- Plan to accommodate projected population growth over at least a 15 year period and provide clear direction on locations where growth should occur.

- Clause 15.01-1 (Urban design)

- Ensure a safe, functional and good quality environments with a sense of place and cultural identity.
- Promote good urban design to make the environment more liveable and attractive.
- Ensure new development or redevelopment contributes to community and cultural life by improving safety, diversity and choice, the quality of living and working environments, accessibility and inclusiveness and environmental sustainability.

- Clause 15.01-2 (Urban design principles)

- Application of design principles to development proposals relating to: development context; the public realm; safety; landmarks, views and vistas; pedestrian spaces; heritage; energy and resource efficiency and architectural quality.

- Clause 15.01-5 (Cultural identity and neighbourhood character):

- Ensure development responds and contributes to existing sense of place and cultural identity.

- Clause 15.03-1 (Heritage Conservation)
 - Encourage appropriate development that respects places with identified heritage values and creates a worthy legacy for future generations.
- Clause 16.01-2 (Location of residential development)
 - Encourage higher density housing development on sites that are well located in relation to activity centres, employment corridors and public transport.
 - Ensure an adequate supply of redevelopment opportunities within the established urban area to reduce the pressure for fringe development.
- Clause 16.01-4 (Housing diversity)
 - Encouraging the development of well-designed medium-density housing which respects neighbourhood character and makes better use of existing infrastructure.
- Clause 16.01-5 (Housing affordability)
 - Increasing the supply of well-located affordable housing by facilitating a mix of private, affordable and social housing within the activity centre.

(ii) Local Planning Policy Framework

Council submitted that the Amendment supports the following local planning objectives:

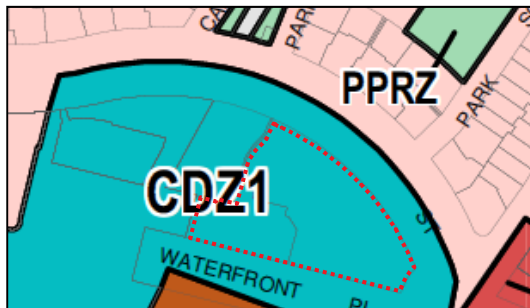
- Clause 21.01-1 (Municipal Strategic Statement)
 - Provide significant opportunities for housing growth within designated strategic locations which offer greatest accessibility to shops, services and public transport.
- Clause 21.05-1 (Heritage)
 - All heritage places need to be recognised and protected, and new development in heritage areas needs to be sympathetically integrated with existing buildings so that it makes a positive contribution to the heritage value of the municipality.
- Clause 21.05-2 (Urban Structure and Character)
 - There are opportunities in some areas of Port Phillip to develop a new built form character, based on an identified preferred future character.
 - Retain and enhance key landmarks that terminate important vistas, accentuate corner sites and provide points of interest and orientation.
 - Require new development to respect the preferred character of an area, having regard to preferred character statements in a Design and Development Overlay, approved Urban Design Framework or Urban Design Policy.
 - Ensure that new development at increased densities provides a transition in scale to any adjoining lower-rise development.
 - Ensure new development does not unreasonably affect the amenity of adjoining properties by way of overshadowing, privacy, or visual bulk.
- Clause 21.06 (Port Melbourne and Garden City)
 - High quality residential environments in established residential areas distinguished by strong heritage character are maintained.

- The sense of “old” Port Melbourne is maintained through the retention of key heritage buildings.
- Encourage new tourism, recreation and entertainment uses abutting the foreshore.
- Ensure that access and use of public areas do not prejudice the development of Station Pier and its industrial service area, or the development of civic space and provision of visitor facilities and services.
- Ensure the traffic impacts associated with the development of Waterfront Place and growth in visitation numbers to Station Pier are considered.

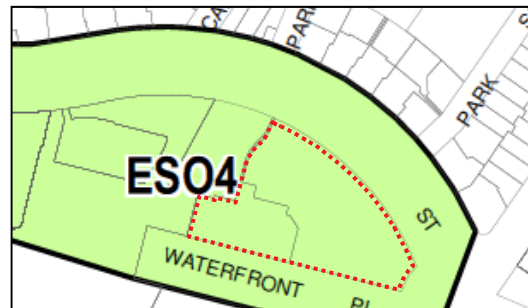
4.2 Planning scheme provisions

The subject site has the following zone and overlays.

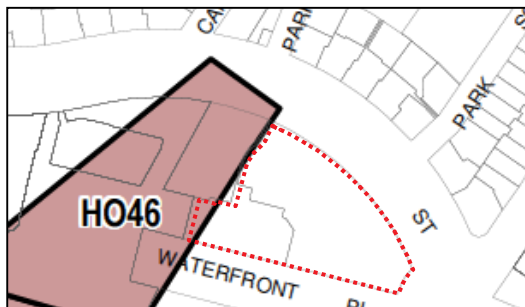
Figure 4 Existing zone and overlays



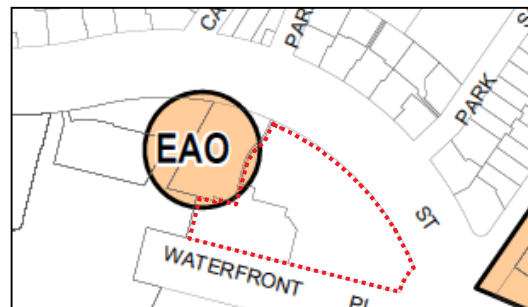
Comprehensive Development Zone
Schedule 1



Environmental Significance Overlay
Schedule 4 (Port Environs)



Heritage Overlay
Table reference 46 to the Schedule



Environmental Audit Overlay

(i) Zones

Comprehensive Development Zone (Existing)

The Comprehensive Development Zone (CDZ) and schedule 1 to the zone currently apply to the Subject Land and the broader Beacon Cove area, including a considerable part of Port Phillip Bay, Station Pier and Princes Pier.

The schedule seeks to:

- *To facilitate the use and development of land generally in accordance with the Beacon Cove Concept Plan No 1 and the Beacon Cove Precinct Plan No 1.*
- *To ensure orderly staging of subdivision, construction and development.*

- *To provide a safe, efficient and attractive local street network.*
- *To provide an integrated, safe, low maintenance, high quality open space network connecting with existing open space and the waterfront.*
- *To provide an attractive waterfront with public access and opportunities for tourist, recreational, commercial and marine related activities.*
- *To recognise the site's significance as the prime maritime gateway to Melbourne.*
- *To protect and enhance the former railway station building, navigation beacons and parts of Station pier.*
- *To provide view corridors to Port Phillip and the waterfront.*

A permit application is exempt from notice requirements and review rights of the *Planning and Environment Act 1987* if it is generally consistent with the comprehensive development plan. The schedule allows Council to consider a plan not in accordance with Beacon Cove Precinct Plan No 1.

Mixed Use Zone (Proposed)

The Amendment proposes to rezone the subject site to Mixed Use Zone (MUZ). The purposes of this zone are:

To implement the State Planning Policy Framework and the Local Planning Policy Framework...

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

To provide for housing at higher densities.

To encourage development that responds to the existing or preferred neighbourhood character of the area.

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

The MUZ provides the ability for a schedule to exempt a permit application from notice requirements and review rights of the *Planning and Environment Act 1987*. The Amendment however does not propose a schedule to the MUZ therefore any permit application will be subject to the notice requirements and review rights.

(ii) Overlays

Generally, overlays may only make requirements about development; not land use. Overlays do not change the intent of the zone¹.

The subject site has the following Planning Scheme overlays:

¹ p8, Chapter 1: Planning Schemes of *Using Victoria's Planning System, Department of Transport, Planning and Local Infrastructure*.

Environmental Significance Overlay – Schedule 4 (Port Environs)

The objectives of this overlay are:

To identify areas where the development of land may be affected by environmental constraints.

To ensure that development is compatible with identified environmental values.

The objectives of Schedule 4 to this overlay (ESO4) are:

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

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

ESO4 requires a permit to construct a building or construct or carry out works for accommodation, childcare centre, education centre, place of assembly or office. Most decision guidelines of ESO4 require an assessment of the land use. The Panel is curious as to how this is possible when the ESO and ESO4 do not require a permit for a land use.

Environmental Audit Overlay

The Environmental Audit Overlay (EAO) applies to the north-western part of the site. As outlined below, the EAO informs about an environmental process administered under the *Environment Protection Act 1970*:

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

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

The Amendment proposes to introduce a residential use.

4.3 Plan Melbourne (draft) Metropolitan Planning Strategy

The draft Plan Melbourne Metropolitan Planning Strategy sets out the Government's vision for the city to 2050. Directions and initiatives relevant to the Amendment include:

- Direction 2.2 Reduce the cost of living by increasing housing supply near services and public transport.
- Initiative 5.1.1 Accommodate the majority of new dwellings in established areas within walking distance of the Public Transport Network.

Plan Melbourne is currently not referenced in the SPPF.

4.4 Relevant Planning Scheme Amendments

The following Amendments are relevant to the Subject Land.

Amendment C73

Amendment C73 to the Port Phillip Planning, as gazetted on 24 November 2011, updated the provisions affecting the residential precinct of Beacon Cove to reflect the fact that the re-development of this land is now complete. This included changes to the Municipal Strategic Statement, rezoning of land to Residential 1 Zone, removal of redundant Environmental Audit Overlays, changes to the content of restrictive covenants and application of Neighbourhood Character Overlay Schedules.

Amendment C105

Amendment C105 to the Port Phillip Planning, as gazetted on 18 August 2011, transferred Responsible Authority status for the land known as the commercial precinct of Beacon Cove from the Minister for Planning to the City of Port Phillip and altered the floor space cap for the commercial precinct within the schedule to the zone.

Amendment C44

Amendment C44 to the Port Phillip Planning, as gazetted on 24 April 2004, amended Schedule 1 to the Comprehensive Development Zone (Beacon Cove, Port Melbourne) to update the table of uses and by renaming the Bayside Concept Plan No 1, the Bayside Precinct Plan No 1 and the Bayside Residential Component Guidelines No 1 to the Beacon Cove Concept Plan No 1, Beacon Cove Precinct Plan No 1 and the Beacon Cove Residential Component Guidelines No 1. Schedule to Clause 81 (Incorporated Documents) was amended to reincorporate and re-title the existing incorporated document 'Beacon Cove Development, Port Melbourne' and to update the land use terms consistent with the definitions of the Victoria Planning Provisions.

Schedule to Clause 52.27 (Licensed Premises) was amended to specify that a permit is not required to use land to sell or consume liquor under existing approved liquor licences, to licensed premises specified in the Schedule.

Amendment L16

The State Government and Mirvac Victoria Pty Ltd entered into a joint venture agreement to develop Beacon Cove. Amendment L16 to the Port Melbourne Planning Scheme (now Port Phillip), as gazetted on 22 March 1995, introduced new planning provisions to facilitate and regulate the Beacon Cove development. Amendment L16 incorporated a number of documents into the Port Melbourne Planning Scheme including the Bayside Concept Plan No 1 and Bayside Precinct Plan No 1.

4.5 Ministerial Direction, Practice notes and Guidelines

There are Practice Notes relevant to Amendment C104.

Ministerial Direction 14 (Ports environs)

Ministerial Direction 14 requires a planning authority to satisfy itself that an amendment to a planning scheme will not introduce a sensitive use or will not intensify existing sensitive uses in the areas designated as port environs, if the use prejudices the operation of the port.

This Ministerial Direction does not apply to the subject site because the site is excluded from the port environs, as defined in the direction.

Writing schedules – Practice Note 10

The practice note explains the role of schedules in planning schemes; provides guidance on how schedules should be written; and provides practical examples of the use of schedules.

It applies the following eight principles to the drafting and use of local content in a schedule, irrespective of the task that the schedule is to perform:

1. Schedules must be read with other planning controls.
2. Local content should help to implement State Planning Policy Framework (SPPF) objectives.
3. Local content should help to implement LPPF objectives.
4. Local content should not duplicate other provisions.
5. Local content can only do what its 'parent provision' enables it to do.
6. Local content should be strategically justified.
7. Local content should have a legally certain meaning.
8. Local content should be easy to read.

Strategic Assessment Guidelines – Practice Note 46

The practice note provides guidelines for preparing and evaluating planning scheme amendments.

The Role of Mandatory Provisions in Planning Schemes – Practice Note 59

The practice note affirms that Planning schemes based on the Victoria Planning Provisions (VPP) are predominantly performance based. Planning schemes specify the objective that needs to be achieved and provide a degree of freedom on how it is achieved. Mandatory provisions in the VPP are the exception.

Guidelines for Higher Density Residential Development

The Guidelines assist designers and planners apply SPPF design principles to proposals for higher density residential development. The Guidelines provide 'better practice' design advice for higher density residential development that promotes high quality public and private amenity and good design.

4.6 Strategic Assessment

The Amendment seeks to change the Port Phillip Planning Scheme so that a future residential development can be considered through a permit process. The Subject Land is strategically located within walking distance to the Bay Street Activity Centre, within walking distance to tourist precincts and beaches, and adjacent to public transport (light rail) to Melbourne's central city area. Amendment C73 acknowledged the completion of the Beacon Cove development by rezoning land to Residential 1 and Public Open Space, made associated planning scheme changes and varied individual property covenants. The properties along the waterfront, including 1-7 Waterfront Place, were not included in Amendment C73. Current State and Local planning policies support Amendment C104 to apply a zone and provisions that reflect contemporary planning. The Panel is satisfied that the Subject Land can be designed and developed to align with policies and provisions related to the Port operations, historic railway building and adjacent residential areas.

The Panel concludes that the Amendment is supported by, and implements, the relevant sections of the State Planning Policy Framework and Local Planning Policy Framework.

5 Traffic

5.1 Issues

Many submissions referred to current levels of traffic congestion and expressed concern that more intensive development of the Subject Land allowable under the Amendment would exacerbate existing traffic problems in the area.

The issues to be addressed are:

- Have the traffic impacts of the proposed Amendment been adequately assessed?
- If so, are those impacts significant enough to hinder the ability for the Amendment to proceed in its current or modified form?

5.2 Evidence and submissions

Council is of the view that the limited additional traffic generated by the redevelopment of the site as would be permissible under the Amendment does not warrant abandoning the Amendment.

In his submission to the Panel on behalf of Council, Mr Ian Pitt SC stated that:

The Council relies on the expert evidence of Mr Henry Turnbull, and the earlier analysis undertaken for the Council by URS, that subject to appropriate design of access to a redevelopment of the Subject land there is no traffic management issue that would preclude the development of the Subject Land to the scale contemplated by the Amendment.²

The Council Officer report to the Council meeting on 24 September 2013 regarding submissions on the exhibited amendment stated in part that:

It is acknowledged that there is a complex traffic network in and around the Port Melbourne waterfront causing congestion as a result of peaks in shipping activity such as cruise ship arrivals and double sailings of the Spirit of Tasmania. However, the limited additional impact that is likely to arise from the redevelopment of the site at 1-7 Waterfront Place on the traffic in the area does not warrant abandoning the amendment.

The planning scheme amendment establishes a detailed planning framework and a planning permit requirement for the site that would require any application that proposes to redevelop the site to submit a detailed traffic assessment for consideration by Council and the community.³

The URS Traffic Study concluded that:

The additional traffic generated by the potential development at 1-7 Waterfront Place is shown to have only a small impact to the road network, as the traffic

² Written Outline of Council submission, para 3.15, page 25 (Tabled Document 1).

³ Officer Report – Council meeting on 24 September 2013 - Agenda Item 8.1 – 1-7 Waterfront Place, Port Melbourne Amendment C104 – Respond (sic) to submissions – para 4.28, page 20.

*generated by the development represents only a small proportion of the traffic already using the local roads.*⁴

Mr Turnbull of Traffix Group, on behalf of Council, noted in his statement that “...*there is a high degree of uncertainty in relation to the trip-generation figures, and a number of findings (of the URS study) are questionable.*” Mr Turnbull cited several examples with respect to the key roundabout-controlled intersection of Beach Street/Waterfront Place/Princes Street where his analysis did not match the URS findings. Nonetheless, Mr Turnbull concurred that “...*traffic generated by the proposed development will be modest.*”⁵

In his evidence, Mr Turnbull stated that the existing Port related activities made traffic management in Waterfront Place difficult and concluded in part that “*the intersection of Waterfront Place/Beach Street/Princes Street (roundabout controlled) is approaching capacity during times when peak Port activity occurs.*”⁶ He argued that this roundabout congestion should be addressed separately by Council and the Port of Melbourne Corporation and should not affect the outcome of the proposed Amendment.

In relation to access arrangements for the Subject Land, Mr Turnbull noted that there are alternative route options available to avoid potential congestion at the roundabout. He added that any alternative option should allow all movements between the Subject Land and Beach Street. He did not support restricting movements to left-in/left-out on Beach Street as included in the Design Requirements of DDO23.

Mr Turnbull concluded, among other things, that:

I am of the opinion that:

...

- *the traffic generated as a result of developing the site in accordance with the provisions of the amendment will not detrimentally affect traffic in the area,*

...

- *subject to the various suggestions above, there are no traffic engineering reasons why the proposed Planning Scheme Amendment C104.....should not proceed.*⁷

Mr Finanzio, on behalf of Waterfront Place Pty Ltd, submitted that there is no relationship between traffic generated by the proposed development on the Subject Land and traffic congestion generated by the Port operations. Mr Finanzio stated that:

The only traffic assessments which have been conducted both conclude that:

- *To the extent that any congestion presently exists, it is caused by the Port’s operation;*
- *There remains available capacity within the network to accommodate up to a doubling of existing traffic;*

⁴ URS Access and Traffic Study, 13 March 2013, page 64.

⁵ Ibid, page 15.

⁶ Ibid, conclusion a) at page 26.

⁷ Ibid, page 26.

- *Any contribution to traffic generation on the road network made by the proposed development (even assuming the highest intensity of development) would:*
 - *Be insignificant compared with current traffic volumes at the times surveyed;*
 - *Reduce in relative terms as traffic from the Port increases. The greater the increase in traffic from the Port the lower the contribution of any development of the land;*⁸

Mr Finanzio added that the cross examination of traffic witnesses had purported to identify weaknesses in the analysis, by pointing to matters allegedly not considered such as an increase in Port activity in the future. Mr Finanzio observed that in his view:

- *The Port has an interest in protecting its existing patch;*
- *The statement by the Port about its future expansion must be carefully scrutinised:*
 - *There is no independent evidence which verifies its claims of potential future expansion before the Panel;*
 - *There is also no evidence about the likelihood of those aspirations ever being achieved;*
 - *The only expert witness called by the Port was unconvincing in her knowledge of the Port's operations or plans for expanded activities;*
- *In any event, even if the Port's aspirations are ultimately achieved, in all likelihood, absent of construction of another pier, the manifestation of the increased activity will only be a more frequent recurrence of the peaks currently experienced.*⁹

Mr Stephen Hunt of Cardno, stated that he was engaged by Rigby Cooke Lawyers, on behalf of Waterfront Place Pty Ltd, to undertake a review of the proposed Amendment C104 and to provide expert opinion on traffic, parking and transport aspects.

Mr Hunt concluded that based on his analysis:

Having regard to the development of the site under the three possible development scenarios, it is considered that:

- *All three scenarios generate modest levels of additional traffic to the road network when considering the existing volumes on the surrounding roads*
- *During the commuter peak hours, the intersections of Beach Street/Waterfront Place/Princes Street and Beach Street/Swallow Street operate under a rating of Excellent" conditions, and will continue to do so, even with the level of development proposed by the High Density Scenario.*
- *All three scenarios can be adequately accommodated within the surrounding road network, with minimal impact to the operation of the surrounding intersections during the commuter peak periods.*

⁸ Submission on behalf of Waterfront Place Pty Ltd, 13 December 2013, page 5 (Tabled Document 32).

⁹ Ibid, page 6.

With regard to the impact of the development of the Site on the operations of the Port:

- *Surveys undertaken on the day suggested by Port of Melbourne Corporation indicate that peak activity on Waterfront Place (the access in and out of the Port) occurred during the lunchtime period, with the peak hour occurring between 12noon and 1:00PM;*
- *Analysis of the intersection of Beach Street/Waterfront Place/Princess Street during this period indicates that it currently operates under “Excellent” conditions, with significant spare capacity, and will continue to do so, even with the development of the site under the High Density Scenario*

and

- *There are no traffic, parking or transport reasons that would militate against the three possible development scenarios¹⁰.*

The Port of Melbourne Authority submitted that it does not support the Amendment in its current form because:

PoMC also remains concerned about the potential for a high-density development on this site to further exacerbate traffic congestion within the precinct on peak days. Traffic modelling completed by PoMC in 2012 found the roundabout at the intersection of Princes Street, Beach Street, and Waterfront Place is already operating close to capacity at peak time (i.e. days when a cruise ship is berthed at the Pier). Any revised planning controls should require a proponent to assess likely traffic impacts associated with a proposed development, and if necessary, determine and fund an appropriate traffic solution to ensure traffic congestion is not further exacerbated.¹¹

The Port of Melbourne Corporation led no further direct evidence on traffic issues at the Panel Hearing. Ms Katz of the Planning Group, a planning expert witness on behalf of the Port of Melbourne Corporation, stated in her evidence that she has formed the opinion that *“...the proposed development is likely to generate additional traffic movement around the local traffic network which already appears to have limited capacity.”¹²*

Ms Katz added:

It is clear that traffic management is an existing issue in for the area.

The proposed Amendment significantly increases the development potential of the site by increasing the height limit from 3 storeys to up to 10 storeys. This is likely to exacerbate traffic issues.¹³

Ms Katz did not support her statements with any traffic data or analysis of existing traffic conditions or the possible impact on traffic by the proposed development.

¹⁰ Mr Stephen Hunt (Cardno), Expert Traffic Report, 29 November 2013, page 27.

¹¹ Port of Melbourne Corporation submission to City of Port Phillip, Amendment C104, 15 August 2013, page 2.

¹² Ms Julie Katz (The Planning Group), Expert Witness Statement, 28 November 2013, page 4.

¹³ *ibid*, page 22.

On behalf of Save Port Melbourne Gateway Inc. and some 20 local residents, Ms Louise Hicks, Barrister, stated in her submission that:

The expert material from both Council and WFP fails to properly assess (sic) the existing conditions in the vicinity of the site. Their assessment of the potential impacts of various development scenarios is therefore flawed.

The experts failed to take into account many key aspects of the port's expansion potential.

Mr Turnbull accepted that:

- *the traffic figures could be higher than that identified by Traffix,*
- *capacity on any day might be more constrained, and*
- *a keep clear sign would be helpful in the vicinity of the entrance/egress and Park Square.*

Only Mr Turnbull suggested some form of mitigation but accepted that such mitigation will not alleviate unloading traffic from the Port.¹⁴

Ms Hicks summarised her clients' opposition to the Amendment on traffic grounds as follows:

The traffic impacts of the amendment have not been adequately assessed (sic) and this Panel has insufficient evidence to form the view that they can be managed in what is already a highly contested space.¹⁵

Mr Trevor Nink, on behalf of the Beacon Cove Neighbourhood Association Inc, submitted to the Panel regarding traffic congestion in the area that:

There are frequent and predictable traffic jams along Beach Street, at Princes/Beach roundabout and Waterfront Place. They occur due to queuing by cars/vans and trucks for the morning and evening sailings of the Spirit of Tasmania. They occur in Summer on hot days when people travel to the Port Melbourne, First Point and Sandridge beaches. They occur on days when there are cruise ship turnarounds or multiple berthing (in the 2013/2014 season planned sailings are currently listed at 76 and Port of Melbourne Corporation are conducting long range planning that will see these numbers more than doubling into the decades ahead).

Various recent traffic studies around the site have been conducted without studying the above cases of congestion and BCNA submits that they must be disregarded on this basis. CoPP staff have admitted that CoPP does not have a solution to traffic jams even now – before this proposal for a multi apartment building at the core location of the gridlock. This is before the growth in cruise shipping and before a mooted ferry service at Station pier to and from Werribee. The proposal for an additional 10 storey set of apartments is clearly irresponsible

¹⁴ Submission relating to Amendment C104 on behalf of Save PMG Inc and others, 16 December 2013, page 7 (Tabled Document 46).

¹⁵ *ibid*, page 2.

planning as it will exacerbate the duration of traffic jams with an estimated 200 to 300 extra vehicles wanting to use these roads on a permanent basis.

As well as an amenity issue, the blockage of traffic has a safety impact with the inaccessibility of emergency vehicles in the area of Beach Street which is only one lane wide in each direction.¹⁶

In her statement to the Panel, Dr Jill Maddox submitted that:

The scale of the proposed redevelopment on 1-7 Water front Place will exacerbate traffic problems in the area. Traffic is particularly bad on hot summer days with double sailings of the spirit of Tasmania and cruise ships. Gridlock is a regular occurrence in summer. The number of cruise ships docking at Station Pier is increasing, so such peak traffic will become more frequent. The URS, Cardno and Traffix studies were not conducted at peak traffic times.¹⁷

Another local resident, Ms Goldie, stated in her submission that she considered that the biggest factor that threatens the Port operation at Station Pier is traffic. She argued that:

Not one of the traffic studies has captured data at the PEAK times which occur OFTEN in summer when there is a combination of hot weather/public holiday/two cruise ships/double sailing of the Spirit. We are locals and have all too often experienced gridlock along Beaconsfield Parade, Beach Street, into the roundabout, and in three directions thereafter: Waterfront Place, Beach Street and Princess Street.¹⁸

5.3 Discussion

Most of the submissions made to the Council by local residents opposed Amendment C104 on traffic grounds. Local residents have argued that the local street network already suffers high levels of congestion on peak days, typically cited as when cruise ships and double sailings of the Spirit of Tasmania occur on hot summer days. As outlined above, the views expressed to the Panel by Ms Hicks, Mr Nink, Dr Maddox and Ms Goldie articulated these concerns and all criticised the three traffic studies¹⁹ as being deficient because, in their view, none were conducted on peak traffic days.

The Port of Melbourne Corporation expressed some concern that a development proposed under DDO23 could exacerbate existing traffic problems. The PoMC provided the Panel with a copy of its 2012 traffic study.²⁰ In part, the purpose of this study was to identify improvements that could be made to relieve traffic congestion within the precinct and maximise the longer-term potential of Station Pier. This study 'stress' tested the road network and found that it could cope with early morning disembarkation of a large cruise ship but not a lunchtime embarkation. Caution must be exercised, however, in interpreting these results as the modelling was based on an incremental approach to ascertain which

¹⁶ BCNA submission to the Panel, 13 December 2013, page 2 (Tabled Document 39).

¹⁷ Dr Jill Maddox, submission to the Panel, Amendment C104, page 4 (Tabled Document 51).

¹⁸ Ms Patricia Goldie, submission, page 2 (Tabled Document 61).

¹⁹ URS, Cardno and Traffix Group traffic studies.

²⁰ AECOM, Station Pier Traffic and Passenger Modelling, Part 2 – Station Pier Capacity Modelling.

cruise ship loading and unloading conditions would result in the capacity of the road network being breached. This study's findings therefore do not reflect current conditions and the study did not assess the potential traffic impacts of redeveloping 1-7 Waterfront Place, as envisaged by the Amendment.

Under cross examination, Mr Hunt noted that the Cardno traffic survey was conducted on a February day with two sailings of the Spirit of Tasmania and a cruise ship morning docking. He conceded there were busier days than the day on which the survey was done. Mr Hunt stressed that the Cardno analysis demonstrates that there is spare capacity in the area including the roundabout. In his view, the road network was not at a 'tipping point' and there is sufficient capacity to cater for traffic that would be generated by the proposed development even allowing for the fact that there are times when traffic volumes and the performance of the roundabout (at Beach Street/Waterfront Place/Princes Street) would be worse than that shown by the Cardno analysis.

As noted by Ms Hicks under cross examination, Mr Turnbull conceded that while the Traffix survey was conducted on a day which included the turnaround of a cruise ship and an evening sailing of the Spirit of Tasmania, there would be days when traffic volumes are higher than those used in the Traffix analysis. As noted by Mr Turnbull, the Traffix study showed higher traffic volumes and congestion than previous studies and, in particular, indicated that the roundabout is the critical intersection and close to capacity for at least some times during the peak days. Nonetheless, Mr Turnbull believes that the redevelopment of the subject site would not make any significant difference to traffic conditions. In his view, the existing traffic issues caused by the Port at peak times are outside the scope of this Amendment and should be investigated as a separate exercise to identify potential solutions.

The Panel visited the Subject Land and surrounds on a morning when the Spirit of Tasmania was docked and embarkation of a cruise ship was starting to occur. Little traffic congestion was observed. Following the views presented by residents during the Panel Hearing, two follow up visits were made by a Panel member; one at a time suggested by the PoMC as being a busy lunchtime period with a cruise ship in dock and the second was a morning visit coinciding with the arrival of the Queen Mary 2 and arrival and departure of the Spirit of Tasmania. On the first of the subsequent visits, higher traffic congestion was observed mostly, but not entirely, associated with Port operations. The level of congestion observed could not be considered as unusual, however, given the activity generated by Port and other attractions in the area. Despite higher traffic levels, congestion at the critical roundabout could not be considered unacceptable. Traffic flowed along all streets into and out of the roundabout with little delay. The Panel acknowledges that a similar sailing event on a hot summer weekend would most likely demonstrate increased traffic densities.

A second follow up visit to observe traffic conditions was made to coincide with the morning arrival of the Spirit of Tasmania followed by the arrival of the Queen Mary 2 and then the sailing of the Spirit of Tasmania. Traffic congestion was higher than observed on previous visits while vehicles disembarked from the Spirit of Tasmania over approximately two hours. During this time, the Panel observed:

- Disembarking traffic cleared quickly through the roundabout and along Beach Street to the east
- Vehicles queued along Waterfront Place waiting to embark
- For short periods of time, traffic queued beyond the roundabout along Beach Street when embarking traffic was stopped on Waterfront Place to allow vehicles to leave the ship, and
- At its peak, the queue of traffic extended along Beach Street as far as Bay Street. As a consequence, there were delays to local traffic travelling through the roundabout and continuing along Beach Street.

These observations suggest that an additional lane on the Beach Street/Waterfront Place leg to store vehicles waiting to load onto the Spirit of Tasmania, as suggested by Mr Turnbull, could substantially reduce delays to local traffic. Little delay was experienced by traffic travelling east on Beach Street or from Princes Street through the roundabout. Once disembarkation was complete, traffic cleared the roundabout quickly. Relatively low congestion was observed during the typical morning commuter peak time (7.30am to 9.00am) while loading of the Spirit of Tasmania was completed and buses and other vehicles arrived to pick up passengers from the Queen Mary 2.

The peak Port activity times of 12noon to 3.00pm, as suggested by the PoMC, generally occur outside the peak periods typically associated with traffic generated by residential developments. The expert witnesses confirmed to the Panel that the majority of traffic movements that would be generated by the proposed development of the Subject Land would occur in the morning and evening peak periods and would therefore contribute little to any congestion at the roundabout and other locations in the area during middle of the day peak period associated with Port activities.

In any event, as pointed out by Mr Turnbull, access to and from the site should be provided only through Beach Street and that all directional movements should be allowed to provide alternatives during those times when congestion levels at the roundabout are high. The Design Requirements in DDO23, as exhibited, could be amended to make it clear that full movements for traffic entering and leaving the site on Beach Street are allowable.

While the traffic studies varied somewhat in the findings about the severity of current levels of traffic congestion, there appears to be consensus that the Port operations at Station Pier and, on some days, other attractions in the area are the predominate generators of traffic in the area and the main cause of any traffic congestion and delays. Residents who presented to the Panel accepted this was the case but held the opinion that the traffic studies were inadequate because they were not done on peak days. The evidence presented to the Panel suggests that the traffic likely to be generated by the intensity of development allowable under the proposed Amendment would contribute little to the existing levels of traffic congestion in the area.

The Panel has formed the view that the existing traffic issues should not preclude consideration of proposals to redevelop the Subject Land, as allowable under the proposed DDO23. The Panel notes that DDO23 would require any planning permit application to develop the Subject Land to submit a detailed traffic assessment for consideration.

5.4 Conclusions

The Panel concludes that the broad traffic impacts of the proposed Amendment have been adequately assessed and that, with the exception of the change recommended below, no traffic related change is required to the Amendment.

The Panels finds that a change to the Design Guidelines is warranted to clarify that all turn movements for traffic entering and leaving the site are allowable.

While outside the scope of its considerations, the Panel acknowledges the concerns of residents with the traffic issues caused primarily by Port operations. Although not a formal recommendation, the Panel recommends that the City of Port Phillip, with the Port of Melbourne Corporation, consider conducting a study and further consultation with residents to address these issues. The study should consider the problems and mitigation measures identified by Mr Turnbull in his expert witness statement.

5.5 Recommendations

The Panel recommends:

1. **Amend Schedule 23 to the Design and Development Overlay, as shown in Appendix C, to:**
 - a) **Replace the fourth dot point under Design requirement A2 with:
“Vehicle access to any on-site car parking or loading bays should be from Beach Street and should allow for all turning movements to/from the vehicular entry to the site.”**

6 Urban design and built form

6.1 Issues

Council has been guided by the most recent version of the site specific Design Guidelines in formulating the content of schedule 23 to the Design and Development Overlay (DDO23). A great deal of work has gone into developing the Guidelines and there does not appear to be any disagreement by the submitters that they inform the parties and the Panel of the background and how the content of the exhibited DDO23 came to be, what the issues are and what the building envelope could be.

The principal urban design issue is the building envelope; how it will relate to its immediate and broader context, its differing direct interfaces and how it will affect views and the amenity of those who live with it or simply see it. The general issue to be addressed is:

- Whether the content of the Guidelines should be literally translated into DDO23 or whether it should be used as the basis for less prescriptive, more performance-based standards. Should the provisions be mandatory, discretionary or a combination?

Specific issues to be addressed are:

- How should a future development interface with the Station to the west, Beacon Cove Hinterland over Beach Street, East (approaching from Beaconsfield Parade) and South including Station Pier, the Promenade and the Beach?
- How should car parking be provided in relation to built form?
- What response is required to address shadows created by the built form on the beach?
- How should public open space requirements be applied to the Subject Land?
- Is a pedestrian link through the Subject Land needed?

6.2 Evidence and submissions

(i) General Considerations

Common ground from the planning and urban design experts is that there will be more than one way to design a complying building on the site irrespective of the Panel recommendations and the final drafting of the planning provisions.

Mr Pitt submitted that the proposed provisions result from the background research and testing through the MGS Urban Design Study, the David Lock and Associates Views and Vistas Study, the SJB Urban and Glas Design and Development Study. The Design Guidelines and subsequent proposed provisions resulted from these studies and Council is of the view that they should be adopted.

Mr Finanzio submitted that the substance of Council's direction is acceptable but they have arbitrarily selected a middle of the road approach to the options open to them. He used the term 'the Goldilocks approach'. His concern is that Council's approach is unnecessarily prescriptive, as mandatory provisions could result in a sub-optimal solution, also citing a 'wedding cake' solution that could be the consequence of strict adherence to such provisions in an effort to maximise yield. He submitted that optimisation through

discretionary objectives should be favoured over maximisation through mandatory provisions.

Mr Biles, when questioned by both Mr Finanzio and the Panel, agreed that the testing of objectives leaves room for architectural creativity and that, whether provisions are mandatory or discretionary, there will be multiple solutions to balance competing objectives.

Mr Czarny agreed that there will be many development options but deferred to Mr Sheppard's Urban Design evidence. Mr Sheppard submitted that this is an important island site and a gateway to Melbourne City. Its prominence demands a high quality architectural response. He cautioned that if the plan from the Design Guidelines is translated into the planning scheme, it could be interpreted too literally, ultimately affecting the outcome.

(ii) Specific Considerations

More specifically, submissions were made regarding interfaces, how car parking relates to the built form, overshadowing and a pedestrian link.

Interfaces

- **The Station to the West**

Members of the local community were consistent in their views that the station is an important community asset because of its historical significance and they assisted the Panel in providing some detail about the station and its heritage. Ms Brady and Mr Raworth, as experts in heritage and conservation, provided evidence that was generally consistent. Both agreed that the design response at the western end of the site should be respectful to the station setting and both agreed that there is, inherently, a reasonable separation between the site and the station. Mr Raworth was comfortable with a seven level interface as proposed by the DDO to the southwest corner, but this differed with Ms Brady's opinion who believed such a height will dominate over the station and encroach into the setting. She included the land surrounding the station building in the setting.

- **The Relationship to the Beacon Cove Hinterland over Beach Street**

The group represented by Ms Hicks and other submitters from the immediate and broader local community understood that the site will be developed but were concerned that the amendment proposes buildings that are too big. They did not see any strategic justification in the heights proposed by the amendment. There was general agreement between the experts and the local community that the interface to the lower scale hinterland over Beach Street should be carefully considered to transition between it and whatever may be built in the parts of the site that might enable higher structures. To this end, it is accepted that a lower level podium facing Beach Street is an appropriate solution.

- **The East (approaching from Beaconsfield Parade)**

Mr Sheppard's view was that there is an opportunity for this narrow corner to mark the site as a gateway to the precinct. Mr Pitt asked him whether a kiosk, as suggested

in the MGS study, would be appropriate and he responded that it is not a good location for a kiosk, being on the busy corner but he favoured the main building form extending to the corner. Mr Czarny also discussed under questioning, the concept of a taller, slender building creating a terminal vista for those approaching Beacon Cove from Beaconsfield Parade into Beach Street east. The notion of a 'marker' is consistent with the MGS study.

The exhibited DDO23 allows for the taller parts of the building to be placed in the eastern part of the site and towards the promenade interface. Given the submissions relating to the established Beacon Cove hinterland and the historic station environs, the submitters and experts generally agreed with the logic of this approach, although Mr Finanzio and the experts preferred a performance based approach to how they will be configured.

- The South including Station Pier, the Promenade and the Beach

This interface attracted the most attention during the submissions. Mr Carey and Ms Katz, from the Port of Melbourne's viewpoint, were more concerned about use and proximity than built form. Mr Biles, acknowledging that the site could sustain a landmark building, commented the distant views to the city are important for those arriving by sea. He also acknowledged that the views are wide ranging and that a podium and tower built form, whilst diminishing part of the city view, would not be an inhibitor to it. He further commented that landmark does not necessarily mean tall. Mr Sheppard agreed that the site is a gateway to Melbourne and suggested that a taller, more slender approach is one option that would serve to mark the gateway to Melbourne and the eastern approach.

Mr Czarny stated that the area where the Centenary Pillar is positioned is more important than the beach but the community submitters are more concerned that there should not be any loss of sunlight from the beach at all because of year round activities.

Car Parking and how it relates to the built form

Mr Sheppard submitted that subterranean car parking might not be viable due to construction (water table) issues. This statement was supported by Ms Guild, on behalf of Mirvac Victoria, who submitted:

Mirvac's extensive experience, as developer of Beacon Cove, of local ground conditions is that basement parking is unlikely to be commercially feasible.²¹

Accordingly, parking will most likely need to be accommodated above ground, in the podium levels. When questioned by the Panel, Mr Pitt agreed that sleeving the parking facilities with active uses would be an effective way of concealing it but he also commented that how the parking is concealed needs to be design responsive. In general though, Mr Sheppard was comfortable that concealing the parking is appropriate.

²¹ Submission on behalf of Mirvac Pty Ltd, para 4.6, page 2 (Document 38).

Overshadowing

The Panel has the benefit of many shadow diagrams being submitted. The Panel has viewed expert evidence and past and present design responses. What has made these varying documents so useful is the Panel's ability to view the shadow consequences of so many optional design responses, from low rise up to 19 storeys with many varying building locations and also both equinox and solstice outcomes.

The evidence and other shadow studies illustrate that, at the Equinox, shadows will play a part in overshadowing the beach if they are not controlled. At the solstice, the shadows tend to be cast over the beach later in the day, between 3.00 and 4.00 pm.

Mr Pitt submitted that there was no community benefit in allowing a building over 10 storeys tall and that the precinct does not need a marker. He urged the Panel, if it did not agree with mandatory height provisions, to consider mandatory shadow provisions.

The community was concerned about year round activities on the beach and opposed any shadows on the beach. Some members of the community opposed shadowing onto the promenade. There appeared to be general acceptance, however, that any building to the north of the promenade will overshadow it and, as activities on the promenade are dominated by running, walking and cycling, it is a transient space rather than a place for relaxation where sunlight is imperative.

There was a concession made by Mr Nink that the beach is cold and bleak during winter and is little used and the Panel acknowledges the general acceptance that, despite its use for beach tennis, dog walking and passive activities, the beach to the east of Station Pier is included in the Industrial 3 Zone, is Crown Land and comprises a stormwater outflow drain and a fenced area for the regeneration of native grasses. Clearly though, it is highly valued and frequently used by the community.

Public open space

DDO23 requires public open space in the form of a ground level courtyard and other smaller spaces as prescribed in Figure 1 of the schedule. The schedule does not state what percentage of open space that this prescribed space equates to. The schedule to Clause 52.01 already requires all land subdivided within the Port Phillip municipality to contribute 5% for public open space. There was no information submitted to the Panel to justify the scale and location of open space specified in DDO23.

Mr Biles, on behalf of Council, supported the proposed approach for a central public open space by stating in his evidence:

It offers the potential for an enclosed and activated space accessible for residents of Beacon Cove to the north, as well as visitors to the Waterfront from the south.

However, I consider that some refinements could be made to create a more useful space that becomes a true 'heart' for the area that serves locals and visitors alike.

Mr Finanzio, on behalf of Waterfront Place Pty Ltd, submitted:

There is no need to mandate public open provision on the Site. The actual purpose of the mandatory public open space shown on the Site is not apparent and has not been justified by Council by reference to any strategic assessment supporting a need for the provision of such a space.²²

Mr Sheppard supported Mr Finanzio's view by stating in his evidence:

I do not support the need for public open space on the land. There is a surfeit of diverse public open spaces immediately surrounding the subject land. The land abuts the civic space associated with the light rail terminus and its linear open space corridor. Across Waterfront Place to the south-east is Port Melbourne beach.²³

Pedestrian laneway

In response to the Port Melbourne Waterfront Urban Design Framework (UDF)²⁴, DDO23 proposes a mandatory requirement for:

- a direct pedestrian laneway linking Beach Street and Waterfront Place, between the heritage Station building and new built form on the western edge of site (shown as Pedestrian Laneway 5A in the UDF), and
- a direct north-south pedestrian laneway linking Beach Street and Waterfront Place through the site, that aligns with the entrance to the existing pier/boardwalk at the eastern edge of the freight terminal (shown as Pedestrian Laneway 5B in the UDF).

Pedestrian Laneway 5B would dissect the Subject Land at ground level into two smaller parts.

Mr Biles, on behalf of Council, stated in his evidence:

I consider that a north-south route is important in integrating any new development with the area. It would provide a new connection to the waterfront for Beacon Cove residents, mitigating the 'barrier effect' of the current development on the land²⁵.

At the Hearing, Mr Sheppard stated that he believed the site was not large enough to warrant a pedestrian laneway through the centre and questioned its purpose.

Mr Evans and Dr Maddox were concerned that the north-south pedestrian laneway in its current form would create a 'strong wind tunnel effect' and encourage exhaust fume issues through the site. Mr Evans added:

Both the southern and northern ends of the laneway are located in areas where there are few reasons for pedestrians to go, thus discouraging movement through the site.²⁶

²² Submission on behalf of Waterfront Place Pty Ltd, para 62, page 25 (Document 32).

²³ Evidence of Mr Mark Sheppard (David Lock Associates), para 52, page 22.

²⁴ Plan on page 45 of the Port Melbourne Waterfront Urban Design Framework, March 2013.

²⁵ Evidence of Mr Biles (Message Consultants), section 2.2.2, page 5.

²⁶ Mr Ian Evans: submission to Amendment C104, page 5.

To address this concern, Mr Evans and Dr Maddox suggested changing the relevant DDO23 requirement to:

“Development of the site must provide:

- *a direct east-west pedestrian laneway linking the central courtyard with the*
- *southern end of the tram stop; and*
- *a direct pedestrian laneway linking the central courtyard with Beach Street to the north of the historic station area near the Route 253 bus stop.”²⁷*

6.3 Discussion

The Panel agrees with Mr Pitt that the site qualifies as a strategic development site and he may be correct in his submission that it is the last one in the area. Irrespective of this, it is not an opportunity to be wasted by underdevelopment but it has so many competing urban interfaces that it must be developed with complete regard to each. They are all sensitive, in varying degrees.

There is a significant distance buffer between the Subject Land and the Beacon Cove residential hinterland. This in itself is insufficient to discount its importance but there appears to be a general acceptance that this should comprise a lower level transitional podium.

The Panel believes that the station interface is important and needs to be carefully considered no matter how high the built form is. The Panel is more persuaded by Ms Brady’s opinion that an immediate seven storey interface may not sufficiently transition to the station and its environs. This is principally because the part of the site that is designated to a seven storey building is actually the closest part of the site to the station building.

Interfaces

To the south, the Panel does not believe Station Pier is sensitive in urban design terms because it has a transient population and is industrial by nature. The promenade and the beach are more sensitive and this is where the Panel is persuaded that careful control is needed. The promenade is the area between the sea wall and road kerbside, including the pedestrian/cycling path.

For visitors arriving by sea, it is true that part of their city skyline view will be obstructed by whatever taller form is built on the site. Mr Biles’ comment about the parallax effect of the moving view (how the views will change as ships are in motion) the Panel sees as relevant and can also see that this is the case for existing tower structures along Beaconsfield Parade and in Beacon Cove as ships approach. Whilst a taller, slender building will mitigate view loss, the final form has to be balanced against other competing controls so we see no reason to impose further controls.

The promenade is used mostly by runners and cyclists or those passing through, as there are few activities that warrant one stopping for extended periods. The beach however, is used

²⁷ Dr Jill Maddox, submission to the Panel: Design Guidelines, page 8 (Document 55).

passively and actively and these activities should be protected especially at the times when they are most prevalent.

Having considered all submissions and Practice Note 59, the Panel is persuaded that there are exceptional circumstances surrounding the Subject Site to warrant some mandatory provisions. The Panel formed this view based on the following sensitive aspects:

- the interface to the hinterland to the north
- the interface to the historic station, and
- overshadowing of the beach.

It is clear to the Panel that there will be many ways to build on the site to satisfy these items and a mix of mandatory and discretionary provisions is the appropriate way to satisfy these provisions.

The immediate interfaces, to retain some human scale from the street views will be best achieved by mandatory provisions of the street wall height. The height and envelope of the buildings within the perimeter envelope should be determined by a rigorous design analysis and response driven by overshadowing objectives.

The beach between Station Pier and the Port Melbourne Yacht Club is a small beach and the part of it west of the outfall drain is an even smaller part. Despite its Industrial 3 zoning and Crown Land status, it is a valuable part of the precinct that is consistently used by the community and it may never be consumed by Pier activities and therefore should not be compromised.

Overshadowing

On the evidence, use of the beach at the solstice is limited and shadow effects, when sunny days occur during winter are equally limited but, at the Equinox and between the Autumn and Spring Equinoxes, use is consistent and sunlight is valuable.

Provisions relating to the overshadowing of the beach should therefore control the height of the taller parts of the buildings.

Public open space

The Panel acknowledges that 5% public open space must be provided as specified in the schedule to Clause 52.01. Changes to the *Subdivision Act 1988*²⁸ and Clause 52.01 of the Victoria Planning Provisions clarified that the existing 'need' test in section 18(1A) does not apply to a public open space requirement in a planning scheme. This contribution can be provided in the form of land or a cash payment of equivalent value.

The Panel is not satisfied with Council's strategic justification for requiring the public open space in the form and location shown in DDO23. Specifically, the Panel was not presented with information about why the public needed to be drawn into the centre of privately owned land. The Panel is not convinced by Mr Biles' statement that residents from Beacon Cove will need to walk to an open space surrounded by higher density dwellings when they have many public open spaces located throughout the estate.

²⁸ Introduced by Stage 2 of the *Planning and Environment Amendment (General) Act 2013* in October 2013.

It offers the potential for an enclosed and activated space accessible for residents of Beacon Cove to the north, as well as visitors to the Waterfront from the south.

However, I consider that some refinements could be made to create a more useful space that becomes a true 'heart' for the area that serves locals and visitors alike.

The Panel agrees that there is an abundance of public open space within walking distance of the Subject Land, including the plaza along Waterfront Place, existing Beacon Cove public open spaces, the beach and foreshore area. The Panel also notes that prescribing the form and location of public open space removes the ability for Council to consider alternative on-site options or an in-lieu cash payment that could be used on open space opportunities within the surrounding area.

Pedestrian laneway

The Panel notes the following points that helped inform its thinking:

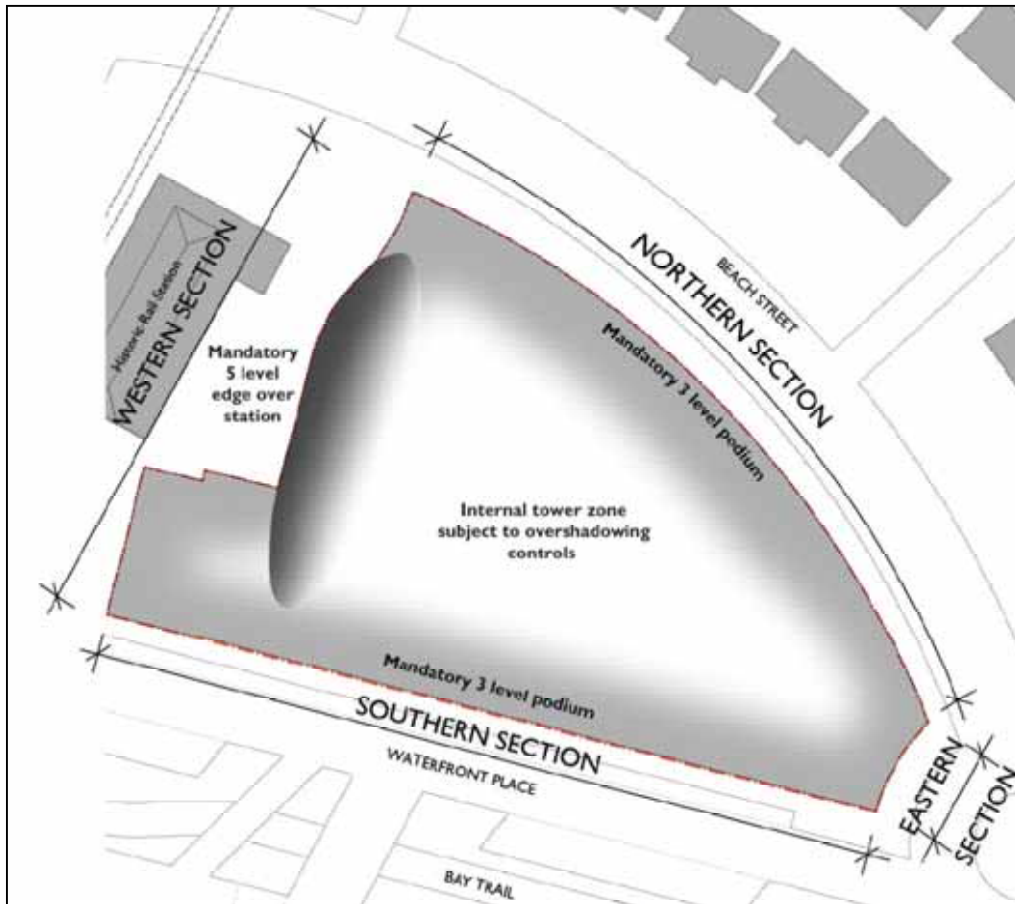
- The distance between proposed Pedestrian Laneway 5A and the corner of Waterfront Place and Beach Street is about 114 metres.
- For a pedestrian walking to/from:
 - The east and south-east, it would be more direct to walk along Beach Street than along Waterfront Place and through the lane
 - The west and south-west, it would be more direct to walk along proposed Pedestrian Laneway 5A
 - The south, Pedestrian Laneway 5B would create a 69 metre walk compared to 122 metres walking around the Subject Land towards, and up, Beach Street. This equates to a saving of 53 metres or 40 seconds.

Based on the points above, the Panel is not convinced that the Subject Land is of a scale to create a 'barrier effect'. The Panel agrees with Mr Evans and Dr Maddox that the north-south pedestrian link will offer few reasons for pedestrians to walk through the Subject Land. The location and alignment of Pedestrian Laneway 5B makes it a walkway to nowhere. Requiring this pedestrian laneway would serve little purpose but could potentially disrupt the environment that local residents north of the Subject Land expressed they enjoyed and sought to retain. The degree of permeability sought by the UDF and DDO23 is generally found in larger activity centres where it is important to move a constant flow of pedestrians through the most direct pathway from one destination to another. There was no evidence to confirm pedestrian volumes or movements that justify the need for a north-south publicly accessible pedestrian laneway through privately owned land. Like Mr Sheppard, the Panel questions the purpose of requiring Pedestrian Laneway 5B. The Panel shares Mr Evans concern about the safety of a public laneway during certain hours. Removing the requirement for Pedestrian Laneway 5B would not remove the opportunity to consider a functional pedestrian laneway on the Subject Land as part of a future permit application.

6.4 Conclusion

The Panel concludes that mandatory height provisions should dictate the perimeter, street wall parts of the building and that the height of the internal portions should be driven by shadowing provisions. These are illustrated in Figure 5 below. There was no strategic basis to justify the requirement for Pedestrian Laneway 5B through the centre of the Subject Land or to justify the prescriptive nature of how the 5% public open space should be provided.

Figure 5 Subject Land Interfaces



6.5 Recommendations

The Panel recommends:

1. Amend Schedule 23 to the Design and Development Overlay, as shown in Appendix C, to:
 - b) Replace the exhibited building height requirements in Design requirements B1, B2 and B3 with:

“As shown in Figure 1 to this schedule, building heights must not exceed:

 - 3 storeys and 11 metres in the northern section (the Beach Street interface)
 - 3 storeys and 11 metres in the southern section (the Waterfront Place interface)

- 5 storeys and 17.5 metres in the western central section (the station interface)."
- c) Replace the car park built form requirements in Design requirements B5 with:
"Where car parking is contained within the podium levels, it must be sleeved with activated spaces or the facade designed with high quality architectural screening to completely disguise the car park use of the areas."
- d) Replace the third point in Design requirements B3 with:
"Where 5 storeys are proposed at the station interface, the upper two storeys must be set back behind the northern and southern 3 storey podiums and designed so that the podiums are the dominant forms from the street and promenade views, as shown in Figure 1 to this schedule."
- e) Replace the fourth dot point in Design requirements B2 with:
"Tower forms must be set back from the podium edges so that the podium reads as the dominant form from the street views. The narrow edges of the tower form may be located close to or even touch the podium edge, subject to a high-quality design outcome that does not cause the tower to dominate over the podium.
Tower forms shall be set back from the 5 storey western edges so that this edge reads as the dominant form over the station."
- f) Replace the first design objective in Theme B - 'responsive' with:
"To meet the overshadowing controls if a marker or terminal vista is provided to the easternmost point of the site marking the entry to Beacon Cove when approaching the site from Beaconsfield Parade and Beach Street east of the site."
- g) Replace the first requirement in Design requirements B8 with:
"Development must not cast a shadow beyond the beach wall between the hours of 9:00am and 3:00pm at the September equinox. The beach wall is defined as the stone wall separating the paved promenade and the sandy beach.
Development should minimise overshadowing beyond the beach wall between the hours of 9:00am and 3:00pm at the June solstice".
- h) Remove any reference to the requirement for public open space on the Subject Land.
- i) Remove any reference to the requirement for a north-south pedestrian laneway through the Subject Land other than the laneway between the heritage Station building and new built form on the western edge of site.
- j) Remove any redundant references resulting from the recommended modifications above.

7 Proximity to the Port

7.1 Issue

- Will the operation of the Port adversely impact on the proposed residential land use and will this subsequently impact on the operation of the Port?

Schedule 4 to the Environmental Significance Overlay (ESO4) (Port Environs) applies to the Subject Land. ESO4 seeks to:

- *Minimise the potential for future land use conflicts between the port and port environs.*
- *Ensure that any use and intensity of development in the overlay area does not constrain the ongoing operation and development of the commercial port.*

The Subject Land is located directly opposite the freight yard of Station Pier (the Port) and within the Port environs. State Environmental Protection Policy N-1 (SEPP N-1), which specifies noise limits for commercial, industrial or trade premises, applies to the Port because it is considered an industrial use.

Design requirement B7 (Station pier interface) has been included in the exhibited DDO23 to respond to noise resulting from the Subject Land's proximity to the Port:

Any development intended for residential or other sensitive uses must include acoustic protection for future occupiers and be designed and constructed to ensure noise levels do not exceed:

- *30dBA in any bedrooms; and*
- *45dBA in living areas,*

when the port facilities are in full operation.

A report prepared by a suitably qualified acoustic specialist must be provided to demonstrate that this requirement has been achieved.

Traffic related matters are discussed in Chapter 5.

7.2 Evidence and submissions

Numerous submissions commented on the potential impact of developing the Subject Land on the operation of the Port. Mr Pitt, on behalf of Council, submitted:

In essence the decision to be made is as to where the balance of conflicting objectives lies so as to optimise the development potential of the site having regard to the strategic context without compromising its response to its heritage context, to its built form context and to its context in relation to the public realm including the operation of the Port of Melbourne.

It is submitted that these issues have been fairly addressed in a balanced way in the Council Officer's Reports throughout this long process and in particular the

*report leading to the decision of the Council as to its response to the submissions made to it and now referred to the Panel for its consideration.*²⁹

Under cross examination, Mr Biles on behalf of Council, acknowledged that land in a Mixed Use Zone, as proposed by the Amendment, had a lower amenity expectation to that of the Residential 1 Zone. Mr Biles stated that any development proposing a sensitive land use on the Subject Land could include design measures, such as facade and acoustic treatment and how points of entry are designed, to manage any potential impacts arising from the operation of the Port. Mr Biles believed that this type of design response would allow the two land uses to co-exist because it would minimise the potential for conflicts.

Mr Finanzio, on behalf of Waterfront Place, submitted at the Hearing *“The premise that the Port is entitled to some kind of extensive buffer from sensitive land uses on this land is wrong...”*. He supported this by stating:

- The Port land is zoned Industrial 3 which is intended to be a buffer between industrial land uses and sensitive uses therefore it is appropriate for a residential zone to be located next to this zone
- Relevant State policy on the importance of the Port’s operations does not suggest that there can be no development on the Subject Land
- The current zoning and planning provisions already allow certain sensitive land uses whereas the Port is obliged to comply with SEPP N-1 and Clause 33.03-2
- Words used in the planning framework provide flexibility for the Port and sensitive land uses to co-exist where management of that co-existence is possible, and
- There was no evidence provided by the PoMC on the actual impact of the Port’s operations on the amenity of the surrounding area.

In its submission, the Port of Melbourne Corporation (PoMC) considered permanent residential uses had the potential to restrict the operation of the Port if new residents with amenity expectations complained.

In its submission, the PoMC did not support the Amendment because:

- The proposed zoning would support high density residential towers opposite the freight yard
- There was uncertainty whether the Port could comply with SEPP N-1, and
- High density development on the site would exacerbate traffic congestion during the Port’s peak operation days.

Mr Carey of Minter Ellison, on behalf of the PoMC, submitted at the Hearing:

...PoMC submits that a fundamental failing is that the existence of the port does not seem to have been factored in the proposed controls. Whilst a number of guidelines within the proposed Design and Development Overlay pick up requirements of the ESO, they do not seem to have factored into the consideration of what land use and form of development should occur on the Subject Land.

²⁹ Council submission to the Panel: paras 3.4 & 3.5, pages 18 & 19.

Further, the existence of the port does not seem to have been considered in choosing a zone in which residential development is 'as of right'.

Mr Carey added:

From a strategic planning perspective it is a fundamental tenet of the Planning system that one should try and avoid incompatible land uses. This is the vary basis for provisions such as Clauses 18.03-2 and 21.04-4.

Mr Carey stated that he did not believe that the noise levels specified in DDO23 would achieve SEPP N-1 because SEPP N-1 is measured from outside the premises whereas the DDO23 requirement measures noise from within the dwelling. In response, Mr Carey suggested permanently fixed windows and no exposed external access locations.

The evidence of Ms Katz, on behalf of the PoMC, stated:

However, the proposed DDO23 presents a siting and building mass that is not consistent with the future protection of the port by locating a high density residential apartment development so close to Station Pier and the proposed noise mitigation measures will not address the issue of compliance with SEPP N-1.

Concerned with the operation of the Port, the Beacon Cove Neighbourhood Association submitted:

Currently PoMC receives complaints from residents some distance from Station Pier inner east berth about noise and engine fumes from the Spirit of Tasmania. If 10 storeys of apartments are built directly in the path of southerly winds from the Spirit berth then there will be an obvious increase in complaints than could harm the viability of the ferry operation.

The Port Melbourne Historical and Preservation Society believed that it would be unfair to allow dwellings on the Subject Land because complaints from future residents about lights, noise and traffic would hamper the Port operation. At the Hearing, Ms Grainger, on behalf of the Society reaffirmed the Port's historic and cultural significance to Melbourne since the 1850s.

In their submissions, Mr Evans and Dr Maddox believed that the Design requirement B7 was a 'good idea' but worded imprecisely because it did not reference the decibel levels referenced in Australian Standards (reference 7).

7.3 Discussion

The Panel believes that it is paramount that the Port, as a State asset, continues to operate without constraints resulting from potential conflicts between an industrial and residential land use. If the Port is unable to comply with SEPP N-1 because mitigation measures on the Subject Land have not adequately addressed potential conflicts, the Port may be required to modify its operations following complaints from residents.

The Panel does not agree with Ms Katz that the Amendment is inconsistent with the SPPF and LPPF. There was no evidence presented by Ms Katz to support claims that allowing any

development beyond what is specified in the current schedule to the CDZ would constrain the operation of the Port.

To inform its thinking on how the Subject Land should be developed in the context of its proximity to the Port, the Panel asked itself the following questions:

- Should a sensitive use be allowed?
- What degree of control should be applied?
- Are the noise requirements in DDO23 adequate?

Should a sensitive use be allowed?

Ministerial Direction No 14 and ESO4 seek to implement Clause 18.03 of the SPPF. The exhibited DDO23 seeks to minimise potential land use conflicts through development requirements so that the Port can continue to operate without constraints. In relation to these provisions, the Panel notes:

- Ministerial Direction No 14, that discourages an Amendment from introducing or intensifying a sensitive use within specified areas, consciously excludes the Subject Land and its surrounds
- SPPF and ESO4 refer to ‘minimising’ potential conflict and impacts, and
- A permit to construct a building, or carry out works for, sensitive uses such as accommodation (including dwelling), child care centre and education centre can be considered.

The Panel agrees with Mr Finanzio that State policy and the provisions to implement this policy recognise the co-existence of a Port and sensitive uses within its environs. Unlike Ministerial Direction No 14, ESO4 does not preclude a sensitive use from being intensified. Allowing a permit application to consider the construction of a dwelling and other accommodation demonstrates that ESO4 anticipates, and responds to, sensitive uses within the Port environs.

The Panel believes that the PoMC is seeking to eliminate any opportunity for potential conflict by opposing residential land use on the Subject Land. This does not align with State policy and associated provisions that seek to ‘minimise’ potential impact between the Port and sensitive uses. The Subject Land’s location on the interface of the Industrial 3 Zone and proposed Mixed Use Zone means that more thorough mitigation measures are likely to be required. The Panel understands PoMC’s view that the Subject Land currently has no conflict, however, it agrees with Mr Finanzio that this does not mean that Subject Land should be used as an extensive buffer. In line with Mr Finanzio’s view, the Panel believes that Industrial 3 Zone of the freight yard creates a buffer between the operations of the Port and the Subject Land.

A strategy of Clause 21.04-4 is to protect industrial areas from encroachment by sensitive land uses. Virtually all encroachment of sensitive land uses occurred when Beacon Cove was developed. The Panel notes that a residential tower already exists at a distance west of the Port similar to the distance between the Subject Land and the Port. The Panel was made aware of resident complaints on Port related matters from time to time. In light of these facts, the Port continues to operate without constraints.

The Panel understands Mr Carey's comment about ESO4 being 'front and centre' of what land use should occur, however ESO4 includes permit triggers and requirements for a development proposing a sensitive use; not for the land-use itself. Therefore, a permit application to develop the Subject Land would assess the ability of the development (not the use) to respond appropriately within the context of the Port.

The Panel was not presented with a compelling case to question or oppose the use of the Subject Land for residential purposes. This is not a shortcoming because the Panel believes that there are numerous design and development responses that can ensure that sensitive uses and the Port can co-exist harmoniously. To achieve this harmony, an appropriate degree of control needs to be applied on any development proposed for the Subject Land. Prohibiting balconies and having windows that don't open should not be considered as one of these design and development responses.

What degree of control should be applied?

Having concluded that planning policy and provisions support sensitive uses on the Subject Land, the Panel believes that requiring a permit to test the suitability of using the land for a dwelling is not required and would introduce unnecessary regulatory burden.

The Panel is comforted by ESO4 requiring a planning permit for any permit application proposing a development that includes accommodation such as a dwelling. Whether a development can incorporate the necessary mitigation measures to minimise potential impact on the Port operations will be tested through this permit process.

The Panel does not agree with Mr Carey that the proposed provisions have not factored in the existence of the Port. DDO23 is only one of numerous Port related planning provisions that will be considered with a permit application. The PoMC did not call evidence related to noise or other Port impacts to support further measures being included in DDO23.

Mr Carey believed that the form of development, in the context of the Port, needs to be considered during the planning scheme amendment stage. Unlike other matters such as shadowing over the foreshore or heritage, there was no evidence to support further built form measures being included in DDO23 in response to the operation of the Port. The development will be assessed more thoroughly during the permit application stage when detailed plans and supporting information are available.

While the Panel agrees with Ms Katz about what ESO4 seeks to achieve, there was no conclusive evidence to demonstrate that a higher density residential development on the site would conflict with the objectives of ESO4. As there was no development proposal before the Panel, there was no ability to assess how it responds to ESO4.

Are the noise requirements in DDO23 adequate?

The noise related requirements in DDO23 will ensure that specified decibel levels are met "*when the port facilities are in full operation*". This provision clearly factors in the proximity of the Subject Land to the Port and responds to the SPPF and ESO4 (Port Environs).

Mr Evans and Dr Maddox thought the wording of the noise requirements was imprecise because it didn't apply decibel levels contained in the Australian Standards. Clause 13.04

(Noise and Air) does not include the Australian Standards as one of the relevant policy guidelines for controlling noise effects on sensitive land uses. The *Environment Protection Act 1970*, which regulates the control of noise in Victoria, also does not reference the Australian Standards. These Standards are therefore not applicable to this matter.

Ms Katz stated in her evidence that, due to the building siting and mass presented in DDO23, *“the proposed noise mitigation measures will not address the issue of compliance with SEPP N-1”*. The Panel acknowledges the Subject Land has relatively special noise related considerations because of its proximity to the Port. The noise impacts are no different to areas prone to higher noise levels throughout Melbourne such as residential land uses opposite industrial land uses or transport corridors. However, what makes the Subject Land special is the potential impact that any action resulting from noise complaints would have on the operation on the Port.

The Panel is satisfied with Design requirement B7 and the associated permit application requirement in the exhibited DDO23 to ensure that noise levels do not exceed 30 dBA and 45 dBA in bedrooms and living rooms respectively when the Port is in operation. This means a dwelling closer to, or at the front of, the Port will have a higher degree of noise mitigation measures to achieve the same noise level as a dwelling further away, with a northern orientation.

Design requirement B7 applies more excessive noise measures than most residential areas because it addresses the special circumstances of the Subject Land within proximity of the Port. The requirement provides certainty to Council and PoMC that a planning permit application cannot be lodged with Council until an expert report can prove that the proposal can be designed to manage noise levels.

The Panel notes that DDO23 and SEPP N-1 each apply different methods for measuring noise levels. It also notes that DDO23 will apply to any development proposed on the Subject Land whereas SEPP N-1 applies to the Port operations. Although the concern of Mr Carey and Ms Katz that the noise requirements in DDO23 may not necessarily allow the Port to achieve compliance with SEPP N-1 is valid, there was no evidence to confirm whether this was likely. There were no alternative decibel levels suggested by any party to align the requirements of DDO23 with SEPP N-1.

The Panel is satisfied that the requirements in DDO23, including an expert acoustic response to detailed development plans, will establish a robust framework for considering Port related noise matters when assessing a planning permit application.

7.4 Conclusions

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

8 Other issues

8.1 Issues

- Are the following matters relevant when considering the Amendment?
 - Existing restrictive covenants on the Subject Land property titles, and
 - Closure of the recreation centre.

8.2 Restrictive covenant

Restrictive covenants are registered on the property titles of the Subject Land. Council cannot grant a permit that will authorise anything that breaches a restrictive covenant³⁰. An Amendment however can proceed if there is a restrictive covenant on the property title.

(i) Submissions

Council submitted that removing or varying the restrictive covenants and restrictions applying to the Subject Land are not part of the Amendment. Council's submission at the Hearing referred to the following extract from the Council Officer's report of 24 September 2013:

On 18 July 2012 the Owners of 1-7 Waterfront Place sought orders from the Supreme Court to remove the restrictive covenants from the site under Section 84 of the Property Law Act. This action is continuing. However, Council is not a party to the proceedings.

On 28 August, 2012 Council resolved to decline Mirvac's offer to become arbiter of the covenant and therefore is not party to the Supreme Court action.

A planning permit application for the removal or variation of the covenant is currently awaiting hearing at VCAT and is set down for hearing on 7 October, 2013.

The owner is seeking to either remove the covenant or replace the plans referred to in the covenant with the 19 storey plans that were lodged with Council under the current planning controls.³¹

At the Hearing, Ms Guild, on behalf of Mirvac advised:

In the interests of clarity for all parties, Mirvac wishes to state its intentions in relation to the exercise of its discretion under the covenants. If:

- *Amendment C104 is approved;*
- *Council supports an application for development of the site that is consistent with the provisions introduced by Amendment C104; and*
- *at the time, Mirvac is the arbiter under the covenants,*

³⁰ Section 61 of the *Planning and Environment Act 1987*.

³¹ Written Outline of Council submission, page 14 (Document 1).

*Mirvac would make an independent decision in relation to whether it would approve the proposed development, but would place weight on the adopted planning controls and Council's views.*³²

Many submissions opposed developing the site within the parameters proposed by the exhibited Amendment because it did not have regard to the existing restrictive covenant. Examples of such submissions include:

Mr Evans:

*The City of Port Phillip's failure to mention this covenant in the Fact Sheet published in August 2013 relation to Amendment C104 was very misleading.*³³

Ms Britchford:

*no mention is made in the applications or the council report that there are restrictive covenants on the property that limit the height to 3 storeys. I would have thought this would have been relevant information in the Minister's decision making*³⁴

Ms Minshall:

*It foreshadows a breach of an existing height covenant which was sold as a benefit to the original purchasers in the surrounding area and for which they paid some premium for.*³⁵

At the Hearing, Mr Nink, on behalf of the Beacon Cove Neighbourhood Association submitted:

*With the current VCAT and Supreme Court actions regarding covenants on the site, it appears premature to design for some buildings that are in contravention of the covenants on the Site.*³⁶

(ii) Discussion and Conclusion

There are processes in motion to allow a new development proposal to be considered on the Subject Land. Waterfront Place Pty Ltd is seeking to remove existing restrictive covenants from the property titles of the Subject Land through a separate statutory process. Mirvac has confirmed that it will consider a different development to what is specified in the covenant if numerous conditions are met and if they are the arbiter at that time.

Numerous submitters believed that any development proposal must align with the existing restrictive covenant on the basis that the covenant should not be modified or removed. Submitters thought that the covenant was a matter for the Amendment. This assumption led to the perception that excluding information about the covenant from the Amendment document was a misleading omission. Determining whether the covenants should be removed from the property titles and whether the arbiter of the covenants should approve a

³² Submission on behalf of Mirvac Pty Ltd, para 2.3, page 1 (Document 38).

³³ Mr Ian Evans: Submission to Amendment C104, page 1.

³⁴ Ms Claire Britchford: Addendum to submission to Amendment C104, page 1.

³⁵ Ms Sue Minshall: submission to Amendment C104, page 1.

³⁶ BCNA submission to the Panel, page 1 (Document 39).

different development plan are subject to processes separate to this Amendment. Unlike a planning permit application, there is no statutory provision that restricts an Amendment from proceeding.

The Panel agrees with Council that the restrictive covenant is not an issue for the Amendment. This matter is therefore not discussed further in this Report.

8.3 Recreation facilities

A recreation centre previously operated on the Subject Land. Like the convenience store, restaurants and medical centre within the same precinct, the recreation centre and associated land were privately owned. There are currently two gymnasiums and a tennis club located within walking distance from Beacon Cove.

(i) Submissions

Mirvac Victoria submitted at the Hearing:

...Mirvac submits there should be a stronger emphasis on community uses, such as childcare and a recreation centre, at ground level, in order to ensure an appropriate level of amenity for existing and future residents in the community and replace the original uses.³⁷

At the Hearing, Dr Maddox submitted:

The City of Port Phillip wishes to rezone the land at 1-7 Waterfront Place from CDZ1 to MUZ with predominantly residential built form but has no plans to provide equivalent community facilities that are relatively easy to access by the affected community and help form a social hub. This seems to be poor social planning.³⁸

Save Port Melbourne Gateway Inc sought a larger facility to that previously on the Subject Land by submitting:

The increase in community means that by the time Genesis relocated, some aspects of the recreation centre were too small. If the facility is to be rebuilt then it would benefit from having a larger swimming pool (at least 6 - 8 lanes), a toddler's pool, and more showers as the number of showers in the existing building is too few for the numbers that attended the gym. The tennis courts could be converted to multi-function courts (tennis, basketball, netball etc) so that they could be used for a wider range of sports and be of greater use to the community.³⁹

(ii) Discussion and Conclusion

The Panel understands the situation faced by local residents. Historically, Beacon Cove residents were able to access a privately owned recreation centre on the Subject Land. This

³⁷ Submission on behalf of Mirvac Pty Ltd, para 4.7, page 3 (Document 38).

³⁸ Dr Jill Maddox, submission to the Panel, para 23, page 4 (Document 51).

³⁹ Save Port Melbourne Gateway Inc: submission to Amendment C104, page 3.

centre has never been a publicly owned facility and no evidence or submitted historic articles indicate otherwise.

The centre's relocation to Bay Street was therefore no different to a privately owned gymnasium or childcare centre ceasing to operate. The centre's relocation demonstrates that there are opportunities to increase the number of recreational and childcare facilities in the area without necessarily locating them on the Subject Land. The Panel agrees that the need for such a facility is determined through social planning such as Council's sports and recreation strategic planning process. The outcome of this strategic process informs land use planning whether a development contribution should be applied to an area. Council did not submit that there was a need for such a facility and there was no development contribution or related overlay proposed by the Amendment.

The Panel therefore does not support a requirement for a childcare and recreation centre on the Subject Land because:

- Council did not exhibit the requirement for a public recreation facility on the Subject Land and could not justify the need or requirement for such a facility after exhibition
- There was no evidence to confirm that existing facilities in the surrounding area are not adequately servicing the needs of Beacon Cove residents
- There are opportunities to increase the number of recreational facilities in the surrounding area such as the Bay Street Activity Centre where other local businesses can benefit from increased pedestrian traffic
- The developer is under no obligation to provide such a facility, and
- This matter is related to social planning; not land use planning.

9 Final form of amendment

There are a number of matters related to the final form of the amendment in addition to recommendations made in this Report.

9.1 Matters raised by Council

In response to submissions received, Council sought the following changes to the Amendment as set out in its resolution 24 September 2013:

- Strengthen the proposed planning controls that deal with potential amenity impacts of any development by requiring future development applications to address wind mitigation within the site and publicly accessible areas of the heritage railway station and light rail stop.
- Include a requirement for the application of a Section 173 Agreement to the site advising future owners and occupiers to the presence of the port and the potential for amenity impacts from port operations.
- Replace the proposed equinox overshadowing standard contained in the Amendment with the following:
All buildings and works should be designed to avoid casting shadows onto the foreshore (as defined by the existing retaining wall) between 10.00am and 4.00pm on 22 June (the winter solstice).
- In Design requirement B3 – Railway Station of the Design and Development Overlay replace the first, second and third dot points with:
The scale, siting and massing of any new development must be sensitive to the heritage railway station and must minimise any visual impact on the railway station when viewed from the 109 tram terminus.
- Built form in proximity to or adjoining the heritage rail station must be of low-medium scale (up to 5 storeys) and designed and sited to ensure the railway station is not “overpowered” or “dwarfed” when viewed from Port Plaza.
- The location and form of new buildings must reinforce the heritage rail station as a “stand-alone” building and provide a clear physical and visual separation in building mass from the station.
- Request the owner to enter into a section 173 Agreement that secures an appropriate mix of uses on the site including publicly accessible community facilities such as a swimming pool, gymnasium and community space(s) reflecting the intent of the Design Guidelines 1-7 Waterfront Place.

Urban design requirements

The Panel agrees that, due to the aspect and location of the Subject Land, wind mitigation should be addressed with any proposed development. Council has the ability to require this assessment as part of a permit application without the need to specifically reference this requirement in DDO23. Including this reference, however, will clarify that Council will require a wind assessment in every instance. The Panel believes that whether this reference should be included is a matter for Council to determine.

The Panel does not agree with the overshadowing requirement proposed at item 3. Discussion about overshadowing and the Panel's recommendations are at Chapter 6.

Urban design related recommendations in this report achieve a similar outcome to three dot points under item 4. Further discussion is provided at Chapter 6.

Use of section 173 agreements to inform prospective purchasers of Port activities

A section 173 agreement is a legal contract between the land owner and the Council to impose requirements that can otherwise not be delivered through a planning scheme or planning permit. A section 173 agreement should only be applied in these circumstances, and only in necessary. Imposing a section 173 agreement on every property title on the Subject Land to inform prospective purchasers of a highly visible Port across the street would impose unreasonable costs and achieve nothing. Consumers are currently made aware of the Port's activities through the identification of ESO4 (Port environs) on the Subject Land in the planning scheme and section 32⁴⁰ Vendor's statement. The Panel therefore does not support the use of a section 173 agreement for consumer awareness purposes.

Use of a section 173 agreement for community infrastructure

As discussed in Chapter 8.3, there was no strategic justification to warrant a publicly accessible recreation facility on the Subject Land. The Panel considers community infrastructure of this nature to be a development contribution. Without evidence of need and nexus for this infrastructure, the imposition of a development contribution through a section 173 agreement is not appropriate and is therefore not recommended.

9.2 Matters raised by Waterfront Place Pty Ltd

In his submission, Mr Finanzio, on behalf of Waterfront Place Pty Ltd, sought to modify DDO23 as follows:

- Figure 1 should be simplified to illustrate the principles embodied in the requirements, rather than a particular design.
- Remove the requirement for linkages through and public open space within the Subject Land.
- Remove the mandatory 10 storey height limit in the eastern end of the Subject Land and replace it with a performance-based control that prioritises design qualities over scale.
- Amend design requirement B3 to require development to have minimal visual impact on the station building.
- Amend design requirement B5 which requires on-site parking to be at basement so that it allows 'sleeved' podium car parking.
- Remove the design requirements seeking a highly activated frontage to Beach Street.
- Reword the design requirements relating to adaptable buildings to encourage, rather than require adaptable buildings.

⁴⁰ Section 32 of the *Sale of Land Act 1962*

- Reword the design requirements relating to green walls and rooftop planting to encourage, rather than require them on every building.
- Remove design requirements E2 and E3 which are already covered by the Planning Scheme and therefore, should be removed.

Mr Sheppard reiterated these modifications in his evidence.

Recommendations in this report addressed items 1, 2, 3, 4 and 5.

The Panel notes that Design requirements D3 (Greening buildings), E2 (Beachfront), E3 (Fine grained) and F1 (Adaptable floor plan) were not discussed extensively during the Hearing. However, there are eight basic principles for writing local provisions in planning schemes, as outlined in Practice Note 10 (Writing schedules) for determining the suitability and form of each requirement. Each of these design requirements are assessed against these principles below.

Design requirements D3 and F1

The Panel commends Council for its aspiration for ‘green’ buildings and adaptable floor plans. However, there was insufficient strategic justification provided to the Panel for these requirements. Drafting principle 6 of Practice Note 10 states that “*Local content should be strategically justified*”. However, the Panel agrees that Council’s aspirations for green buildings and adaptable floor plans should be encouraged through DDO23.

Design requirements E2 and E3

In relation to Design Requirements E2 and E3, Mr Sheppard stated in his evidence:

The design requirements under E2 and E3 are ‘generic’ good design requirements that are not specific to this place. I consider that there is already sufficient policy at clause 15.01 and guidance in the Guidelines for Higher Density Residential Development in relation to design quality. Whilst the subject land is prominent, there is no need to introduce additional provisions.

Having reviewed Clause 15.01 and the Guidelines for Higher Density Residential Development, the Panel agrees that the good design requirements that E2 and E3 seek to achieve are already catered for elsewhere in the planning scheme and referenced guidelines. This duplication would result in inefficient drafting, an unnecessarily longer planning scheme, and may confuse the reader. This outcome conflicts with Practice Note 10 drafting principles 1 and 4:

- *Schedules must be read with other planning controls.*
- *Local content should not duplicate other provisions.*

9.3 Recommendations

The Panel recommends:

- 1. Amend Schedule 23 to the Design and Development Overlay, as shown in Appendix C, to:**
 - k) Remove provisions that are duplicated by other clauses in the planning scheme.**
- 2. Transform Design D3 (Greening buildings) and F1 (Adaptable floor plan) in Schedule 23 to the Design and Development Overlay from requirements into design elements that are encouraged.**

Appendix A List of Documents

Document No	Date	Description	Presented by
1	9/12/2013	Outline of Submissions on behalf of City of Port Phillip	Mr I Pitt SC
2	9/12/2013	Port Melbourne Planning Scheme – Amendment L16 – Explanatory Report	Mr I Pitt SC
3	9/12/2013	Extracts from State Planning Framework (clauses 15 & 16); Port Phillip Planning Scheme (clauses 21.01, 21.06, Beacon Cove Residential Component Guidelines No 1 & Beacon Cove Development (March 2004)); Comprehensive Development Zone (clause 37.02); and Environmental Significance Overlay (clause 42.01)	Mr I Pitt SC
4	9/12/2013	Port Phillip Planning Scheme – Extract from Design and Development Overlay (Schedule 6)	Mr I Pitt SC
5	9/12/2013	Panel Report – Amendment C25 – “ESPY” Hotel Site - Extract	Mr I Pitt SC
6	9/12/2013	Shadow Diagrams	Mr T Biles
7	9/12/2013	Comparison of Winter solstice shadow angles	Mr T Biles
8	9/12/2013	Port Phillip Planning Scheme – Extract – Clause 21.04	Mr J Carey
9	9/12/2013	Melbourne Planning Scheme – Extract – Clause 22.02 – Sunlight to Public Spaces	Mr A Finanzio SC
10	9/12/2013	Port Phillip Planning Scheme – Design and Development Overlay – Schedule 1	Mr A Finanzio SC
11	9/12/2013	Aerial photo	Mr A Finanzio SC
12	10/12/2013	Aerial Photos (3) – Google Earth	Mr T Biles
13	10/12/2013	Crown Land Status Report – Allotment 18 Section 12 City of Port Melbourne	Mr A Finanzio SC
14	10/12/2013	Crown Land Diagram	Mr A Finanzio SC
15	10/12/2013	Planning Property Report – 110 Beach Street, Port Melbourne	Mr A Finanzio SC
16	10/12/2013	Concept Plan – Beacon Cove Gateway	Mr A Finanzio SC
17	10/12/2013	VCAT Application P764/2013 – 1-7 Waterfront Place - Urban Design Evidence – Mr Tim Biles	Mr A Finanzio SC
18	10/12/2013	State Planning Policy Framework – Clause 18 – Transport	Mr J Carey
19	10/12/2013	Ministerial Direction No 14 – Ports Environs	Mr J Carey
20	10/12/2013	Port Phillip Planning Scheme – Environmental Significance Overlay – Schedule 4	Mr J Carey
21	10/12/2013	Port Phillip Planning Scheme – Amendment C125 – Explanatory Report	Mr J Carey

Document No	Date	Description	Presented by
22	10/12/2013	SEPP (Control of Noise) – Extract – Part VI – Definitions	Mr I Pitt SC
23	10/12/2013	Submission on behalf of Port of Melbourne Corporation	Mr J Carey
24	11/12/2013	PowerPoint Presentation – Amendment C104 – Urban Design Evidence	Mr C Czarny
25	11/12/2013	Concept – South Elevation – Beacon Cove Gateway	Mr I Pitt SC
26	11/12/2013	Concept – Site Plan – Beacon Cove Gateway	Mr I Pitt SC
27	11/12/2013	PowerPoint Presentation – Amendment C104 – Urban Design Evidence	Mr Mark Sheppard
28	11/12/2013	Views (2) showing Shadow on Southern Kerb Line	Mr I Pitt SC
29	13/12/2013	City of Port Phillip – Zoning Map	Mr I Pitt SC
30	13/12/2013	VPP - Neighbourhood Residential Zone – Clause 32.09	Mr I Pitt SC
31	13/12/2013	VPP – General Industrial Zone – Clause 32.08	Mr I Pitt SC
32	13/12/2013	Submissions on behalf of Waterfront Place Pty Ltd	Mr A Finazio SC
33	13/12/2013	VCAT – Red Dot Decision Summary – Green, Gaud and Others v Hobsons Bay CC and NP Developments Pty Ltd	Mr A Finazio SC
34	13/12/2013	Hobsons Bay Planning Scheme – Design and Development Overlay – Schedule 11	Mr A Finazio SC
35	13/12/2013	VCAT Decision 1218 – UI Dickens Pty Ltd v Port Phillip CC & Ors	Mr A Finazio SC
36	13/12/2013	Shadowing Analysis – Proposed DDO23	Mr A Finazio SC
37	13/12/2013	Documents referenced in Waterfront Place Submission (Practice Note 59 – The role of mandatory provisions in planning schemes; Panel Report C2; Panel Report C5 and C14; and Panel Report C11)	Mr A Finazio SC
38	13/12/2013	Submission on behalf of Mirvac Victoria Pty Ltd	Ms A Guild
39	13/12/2013	Submission on behalf of Beacon Cove Neighbourhood Association Inc	Mr T Nink
40	13/12/2013	Submission by Port Melbourne Historical and Preservation Society	Ms P Grainger
41	13/12/2013	Submission	Mr R Joyce
42	13/12/2013	Submission	Ms J O’Callaghan
43	16/12/2013	Port Melbourne Waterfront Urban Design Framework – November 2013	Mr I Pitt SC
44	16/12/2013	VPS – Public Park and Recreation Zone – Clause 36.02	Mr I Pitt SC

Document No	Date	Description	Presented by
45	16/12/2013	Port Melbourne Waterfront Urban design Framework – Draft – December 2011	Mr A Finanzio SC
46	16/12/2013	Submission on behalf of Save Port Melbourne Gateway Inc and others	Ms L Hicks
47	16/12/2013	Map – location of submitters	Ms L Hicks
48	16/12/2013	Port Phillip Planning Scheme – Amendment C73 – Explanatory Report	Ms L Hicks
49	16/12/2013	Extract: 03 Existing conditions & opportunities – Port Melbourne Waterfront Urban Design Framework – Draft – March 2013	Ms L Hicks
50	16/12/2013	Objection to C104	Ms E Keily
51	16/12/2013	Supplementary Submission by Dr Jill Maddox	Dr J Maddox
52	16/12/2013	Amendment C104 Slides	Dr J Maddox
53	16/12/2013	Port Phillip CC – Extract of Minutes – 27 March 2012	Dr J Maddox
54	16/12/2013	Port Phillip CC – Extract of Minutes – 13 March 2012	Dr J Maddox
55	16/12/2013	Submission to Amendment C104: Design Guidelines for 1-7 Waterfront Place	Dr J Maddox
56	16/12/2013	VCAT Decision 1997/090176 – Sandridge Hotel Developments Pty Ltd	Dr J Maddox
57	16/12/2013	VCAT Decision 1998/039170 – Permit No 121/98/F	Dr J Maddox
58	16/12/2013	Ministerial letter to Cr Rachel Powning – 29 November 2011	Dr J Maddox
59	16/12/2013	Development Agreement – Secretary to Department of Planning and Development and Mirvac Vic Pty Ltd – 4 August 1995	Dr J Maddox
60	16/12/2013	Submission on behalf of The T Group Pty Ltd	Mr J Kane
61	16/12/2013	Submission	Ms P Goldie
62	16/12/2013	Supplementary material	Ms P Goldie
63	16/12/2013	Submission	Mr E Micallef
64	16/12/2013	Submission	Mr I Evans
65	16/12/2013	PowerPoint presentation	Mr I Evans
66	16/12/2013	Press Release - IARC: Diesel Engine Exhaust Carcinogenic – 12 June 2012	Mr I Evans
67	16/12/2013	Paper: Ship plume dispersion rates in convective boundary layers for chemistry models (Chosson, Paoli and Cuenot -21 August 2008)	Mr I Evans
68	16/12/2013	Paper: Mortality from Ship Emissions: A Global Assessment (Corbett and other – 4 October 2007)	Mr I Evans
69	16/12/2013	Aust Building Codes Board – External Noise into	Mr I Evans

Document No	Date	Description	Presented by
		Residential Apartment Buildings – Scoping Study Report – June 2007	
70	16/12/2013	Submission on behalf of Mr Stephen Creese and Ms Dana Hlavacek	Mr S Creese
71	16/12/2013	Port Melbourne Waterfront Urban Design Guidelines – Draft for Consultation – March 2013	Mr I Pitt SC

Appendix B List of Submitters

No	Submitter	No	Submitter	No	Submitter
1	Dr Jill Maddox & Mr Ian Evans	2	Richard Sait	3	Mr D Garbuk
4	Gerhard Correa	5	Barbara Sutton	6	Kerry Cox
7	Stacy & Patrick Irwin	8	Bernadette Scampers	9	Esther Borg
10	Elizabeth Grieb	11	Craig Haire	12	Harpal Batra
13	Clinton Hemmingway	14	Andrew Hubbard	15	Robert Davey
16	Vic Calleja	17	Rosemary Goad	18	Jenny Ryan
19	John & Maureen Mortimore	20	Peter Goad	21	Kevin Higgins
22	Elizabeth Dickens	23	Graham Kendall	24	Graham Collins
25	Claire Britchford	26	Madeleine Sknohck	27	Elias Jreissaoi
28	John J Main	29	Gisela Marven	30	Sam Eker
31	Ian & Sue Whiting	32	Ertan Yesilnacar	33	G Hamill
34	Mrs Valerie Andrews	35	L C Sutherland	36	Alistair
37	J O'Callaghan	38	Kevin Brady	39	Peter
40	Lola Jeanette Bosisto	41	Samantha Hansen	42	Anita Petrik
43	Tim & Vicki Rumbold	44	James R Penaluna	45	Leonid Mykhailovskyi
46	Kevin & Stephanie Armstrong	47	David Nettleford	48	E Batt
49	Wayne Bodle	50	Steven Gee	51	Vicki Gorman
52	M G & J A Jones	53	Barry Bonnett	54	Susanne Corcoran
55	Ross Teitzel	56	Cherie Bodle	57	Effie Kymarten
58	Jenny Hobbs	59	Mary Paradise	60	Jo Lye
61	Shirley & John Whittington	62	Karen Villanelo	63	Mark Proctor
64	Nicolle Cooper	65	Helen Cregan	66	Terry Borrett
67	Sue Minshall	68	Marty Horell	69	Jennifer Joyner
70	Nikki Licastro	71	Azra Horell	72	D Finley
73	David Jenkins	74	Elizabeth Foster	75	Sharon Lonegran
76	Margaret Thomas	77	Marlene Stuart	78	Stan Holden
79	Glenn J Hargrave	80	Beacon Cove Neighbourhood Association Inc	81	Cabezal
82	Deirdre Shaw	83	Margaret & Brian Webb	84	Paul Fields
85	Peter McGinley	86	Daryl Cornish	87	Chris Broughton
88	Roger Joyce	89	Peter Withington	90	John Wright
91	Marielle Neesham	92	P Macintyre	93	Charles
94	Christine van Aalst	95	Judy Shaw	96	Rick Pollock
97	Stephen Creese & Dana Hlavacek	98	Dr Bronwyn Bryant	99	Tiffany Chiang
100	Ross Capuana	101	Margaret Rourke	102	Brendan Sheehy
103	Lloyd Bunting	104	Peter Cooney	105	Sophie Whittakers
106	Amelia Reilly-Neesham	107	June Valendne	108	Edin Subasich
109	Carmel Cipriano	110	Linde Brush	111	Jo Buin
112	Kim Smith	113	Susan & John Harris	114	Steve Romic
115	Julie Paxton	116	Gill Brewster	117	Robert Pope
118	Jill Bird	119	Vince Gangemi	120	J Bichlou
121	Sharlene Varney	122	Ann York	123	Marilyn Dallas
124	Natalia Standfield	125	Singh Kalwant	126	Daniel Vosti
127	Pina Pellegrini	128	Neela Sampanthan	129	Phillippa Richardson
130	Robin Kennedy	131	Helen Thomson	132	Jenny Gibson
133	David Viney	134	Larry Dallas	135	David Neill
136	Ian Evans	137	Lidong Guan	138	Rae Donovan
139	Kathryn Palmer	140	Bradley Hubbard	141	Olivia McKale
142	Christopher Stathopoulos	143	Michael Cutting	144	Victor Tran
145	Peter Karamoskos	146	Hayley Warton	147	Jay Dee

No	Submitter	No	Submitter	No	Submitter
148	Ann Olney Belden	149	Suzanne Postma	150	Sara Vrantsis
151	Russell Abotomey	152	Tim McCallum	153	David Richardson
154	Julian Burnett	155	Claudio Trupiano	156	Toni Lynch
157	Len Hutchinson	158	Maria Mercuri	159	Anne-Maree Richardson
160	Sandra Hutchinson	161	Juanita Furness	162	Paula Teggelove
163	Trevor Richards	164	Marcia Walker	165	Judith Jackson
166	Michael Anderson	167	Frances Moore	168	Vincent Lanza
169	Soulla Nicodimou	170	David Hamilton	171	Dawn Powell
172	Marguerite O'Hara	173	Rhonwyn Colley	174	Ross McKale
175	Marc Stephan	176	Matthew Young	177	Holly Hooper
178	Joanne Opray	179	Tracie Gibson	180	Julie Kohler
181	Hendrik Schilt	182	Dana Radar	183	Hugh Knight
184	Amanda Smyth	185	Hege Suckling	186	M Laing
187	Jane Jones	188	Naylor Dray	189	Jessica Gavin
190	Mary Rabling	191	Quentin Suckling	192	Ruth Bradbury
193	Fiona Ellis	194	Steve Love	195	Fenglan Yuan
196	Stephen Perrin	197	Trina Steele	198	Mary Barry
199	Sonja Lina-Sasse	200	Sherron Anderson	201	Wendy Heazlewood
202	Myfanwy van de Meene	203	Joe Meilak	204	Stephen Gough
205	Janette Allison	206	Carlo Musco	207	Joy Sullivan
208	Carmel Batchelor	209	Rosemary Shepherd	210	David Milner
211	Peter Gluskie	212	Anouck Delmas	213	Kerrilyne Turner
214	Alison Nathan	215	James Da Costa	216	Robyn Price
217	Andrew McKecknie	218	Chrissy Robson	219	Wing Chaing
220	Linley Hughes	221	Holly Bennett	222	Simone Robinson
223	Mary Joy Gleeson	224	Phoebe Hodgins	225	Lucy Boyle
226	Ian Close	227	Brett Dionsmole	228	James
229	Gina Hughes	230	Brian Conway	231	James Gavin
232	Sussan Papas	233	Russell Brazier	234	Kristine Banks-Smith
235	Yao Fan	236	Christie Boucher	237	Matt Gorman
238	Shane Plummer	239	Deborah Leighton	240	Georgina McIntosh
241	Saleh Abdel-rehim	242	Delores Connolly	243	J Cormack
244	Geoffrey Doty	245	Tim Piggot	246	Gwen Ford
247	Melina Ni	248	Debra Kirkham	249	Josephine Mariasoosai
250	David Findlay	251	Angus Thompson	252	Peter Beed
253	Peter Jordan	254	G McCallum	255	Ann Croor
256	Donald James	257	Anton Nekic	258	James Herbert
259	Lena Frew	260	David Chu	261	Dan Crisp
262	C Lew	263	Rodoco Duran	264	Judy Schilling
265	Noreen Cahill	266	Kim Chatwin-Smith	267	Louise Kent
268	Kevin Muscat	269	Alesha Kew	270	Sophie Vandellewen
271	Vincent Rossitto	272	Ken Farmer	273	Tania Bruinsma
274	Kathryn Cochrane	275	Dawn Prasad	276	Gary Disney
277	John Lewis	278	Bill Kittson	279	Paul Murphy
280	Domenic Schiafone	281	Lucy Selti	282	Klara Blazevic
283	Antonietta Di Pietro	284	Dawn Mulhern	285	Jeff Kerr
286	Richard Goss	287	Rhonda O'Brien	288	M Welby
289	Paul Williamson	290	Paul Zammit	291	Camilla
292	Nathan Clarke	293	Ian Bennett	294	Pam Harty
295	Monika Blaszkiwicz	296	Jo Bennett	297	Jan McInerney
298	Michael Clarke	299	Lynette Mercer	300	Chiara Van Hooren
301	Marjorie Carr	302	Simon Mercer	303	Ben Bulpitt

No	Submitter	No	Submitter	No	Submitter
304	Ken White	305	Helen Williams	306	David McCutcheon
307	James Terry	308	J R Poole	309	Ben McLean
310	Gaye Mason	311	Peter & Jenny Parkinson	312	Mike Roy
313	David Dalziell	314	Trish Browning	315	Ramona Headifern
316	Carol Muir	317	Harry Rajeshwaran	318	Ross Headifern
319	Brian Carr	320	William Micallef	321	Bronwyn Hughes
322	Annie Johnston	323	Terry Wright	324	Maria Baur
325	Andrew Mackay	326	Priscilla Chan	327	Colin Hudson
328	Terry Calbert	329	Jo Gill	330	isabel Sutherland
331	Vicki Martyn	332	Frederic Terreau	333	Nikita Adriani
334	Leslie Bolitho	335	Mary J Squillace	336	Martin Fox
337	Joe Beder	338	Kim Fallin	339	Gianni Cardamone
340	Peter Thompson	341	Georgia McLaren	342	Goldsmith
343	Baldeep Birdy	344	Lynda Hartley	345	Jo Wilson
346	Christine Howard	347	Steve Spiers	348	Joan Broderick
349	Caroline Thompson	350	Sioban Murnane	351	Lynn Mills
352	Grant Aldous	353	Eddie Micallef	354	Mark Murphy
355	Jennifer Pilgrim	356	K Laing	357	Deidre Caratelli
358	Michael Buffham	359	Craig Jamieson	360	Peter Bruce Sinnott
361	Chrissy Karpathakis	362	Jo Joseph	363	Ryan Mills
364	Alison & Robin Macfarlane	365	Andrew Philip	366	Emma Miller
367	Elizabeth Jenkins	368	J & P de los Santos	369	Lauren Philpin
370	Rosemary Roberts	371	Sandy Caust	372	Zeki Akbas
373	Kathy Thompson	374	Susan Densmore	375	T E Walton
376	Emmanouele Karpathakis	377	Michael Welsh	378	Robyn Polizzi
379	Patricia Goldie	380	Juces Aldous	381	S Pullman
382	James Burrows	383	Couch	384	Heath Perry
385	Nell Thompson	386	Chris Gatzikos	387	Lorraine Elkerbout
388	Robert Murray	389	Namik Beganovic	390	Carmel Condon
391	Joanna Thorpe	392	Claudia Bellote	393	John Crawford
394	Graeme Henderson	395	Vicki Bramich	396	Rachael Barker
397	Yvonne Powell	398	John McEvoy	399	Tom McRae
400	Sandra Olney	401	Lisa Langley	402	Judy Burrows
403	Dayle Purcell	404	Daryl Gavin	405	Muchtar Johnston
406	Peter Congerton	407	Merryl Davey	408	Todd Montgomery
409	Michael Drozdowski	410	Xiao Wen Xu	411	Alex Chernoy
412	Thomas Sonderegger	413	Richard Mort	414	Desmond O'Callaghan
415	Jennifer Gardner	416	Marcus Forsterling	417	Anthony Bonne
418	Glen Cosham	419	Charlotte Bradley	420	Beverley Francis
421	Sharon Dusting	422	Jessica Goodall	423	Miroslav Granolic
424	Manal Davis	425	A Bannan	426	Margaux Bonne
427	Michaela Harris	428	Deborah Price	429	Michel Schori
430	Bill & Carole Pearson	431	Tanya Vearing	432	Lorraine Brush
433	Allen Pilgrim	434	Peter Cornell	435	Clayton Mantosl
436	Jenny Rose	437	Barry O'Brien	438	R Suecke
439	Andrew Smith	440	Julie Howlett	441	Alex
442	Cynthia Calva	443	C Hipkins	444	Antigoni
445	Bronte Birch	446	Paul Dunn	447	Lois Jury
448	Rosemary Rule	449	Tim Ear	450	Marina Cade
451	Shane Scott	452	Roland Kustura	453	Dimity Vickery
454	Julie Shorrock	455	Karin MacKay	456	William Callendar
457	Philip Davis	458	Lynne Bedford	459	Rachel Di Leva

No	Submitter	No	Submitter	No	Submitter
460	Richard Fiddian-Green	461	Julie Askew	462	Mirvac Victoria Pty Ltd
463	Beverley Fiddian-Green	464	Jake Larkin	465	Save Port Melbourne Gateway Inc
466	Richard Glanville-Brown	467	Rheznne Long	468	Roger Donnelley
469	Sam Bernard	470	Rodney Banks	471	Pasquale Papaluca
472	Patricia Bernardo	473	Jennifer Cramer	474	Ali Papaluca
475	Linda Loose	476	Vince Macki	477	Tim Vickery
478	Ruth Wraith	479	F Riewoldt	480	Byron Gainger
481	Johnson Mak	482	V R Disney	483	Murray Tozer
484	Chris Derrick	485	Nicola Tucker	486	Tammy Forrester
487	Matthew Georges	488	Andrew Collett	489	Nicky Tully
490	Peter Girvan	491	Frances McCutcheon	492	Thomas Pilcik
493	Alix West	494	Martin Ogden	495	Honey-Anne Kingsley
496	Jodi Hanna	497	Phil Taylor	498	Murray Burns
499	Kathleen Turner	500	Joanne Ogg	501	Maurice Laratro
502	Tom Evans	503	Ahmed Shamin	504	Jade Knox
505	Laura Tierney	506	Anne Smith	507	Andrew Tully
508	Kip Hanna	509	Caesar Aldea	510	Alan Williams
511	Helen Giannakis	512	Josh Croall	513	Claire Mitchell-Turner
514	Ern Rose	515	D Pollard	516	Peter Furness
517	Michael Edgley	518	Janette Gavin	519	Lisa Phillips
520	Lauren Le Fevre	521	Dominica Glas	522	Antony White
523	Roger & Glenda Joyce	524	Ilias Spanidis	525	Ian Evans
526	Marilyn Marshall	527	Kate Davis	528	Kathy Kelleher
529	Nicholas Marshall	530	Paul Robson	531	Maureen Goode
532	Phoebe Marshall	533	Daryl Browning	534	Rachael Read
535	Patricia Silman	536	Peter White	537	Elizabeth Nunez
538	Miranda Hughes	539	Phillip Whelan	540	Wayne Gregory
541	Darren Scotti	542	Shu Chu-Chen	543	Kimberley Aitken
544	Iven Muir	545	Wendy Rae	546	Joyce Jackson
547	Carol Muir	548	Tony Langley	549	Carlo Trupiano
550	Gudrun Schell	551	Bree Paglivso	552	Robert Agius
553	Steven Green	554	Dr Cheuy Chiang	555	Elisa Morace
556	Ruth Hofmann	557	Megan Hutt	558	Emma Vickery
559	Hartmut Hofmann	560	Anna Hunt	561	Dave Vickery
562	Emma Graham	563	Lyn Geffney	564	Ray Supple
565	Darren Mann	566	Paul Crease	567	Stephen Fulton
568	Kay Stephens	569	Scott Craven	570	Kalwant Singh
571	Harry Chittleborough	572	R Wolfe	573	Helen Thomson
574	Francis Harvey	575	Cate Connor	576	Paul Aitken
577	Joan Waldren-Small	578	Bette Erskine	579	Alfred Jackson
580	Charles Small	581	Ben Rix	582	Calvin Cully
583	Nicolle Cooper	584	Sarah Wilson	585	Dennis Jones
586	Katherine Milton	587	John Goddard	588	Lauren Brown
589	Janet Gatehouse	590	Kyjatovic Rade	591	Sally Cessford
592	David Sparks	593	Vu Du	594	Diana Spurrirt
595	Frances Harvey	596	Geraldine Van Boxman	597	Ian Cessford
598	Rachel Tierney	599	John Mish	600	Margaret Vickery
601	Jane Walker	602	Mark Rem	603	The T Group Pty Ltd
604	Kathleen Kendler	605	Jacqui Turnbull	606	Waterfront Place Pty Ltd
607	Jenneke Schmidt	608	Adam Russell	609	Freight, Logistics & Marine Division - DTPLI

No	Submitter	No	Submitter	No	Submitter
610	Harry Neesham	611	Greg Xenitellis	612	Ann Brasher
613	John Pollard	614	Damien Mernier	615	Jan Scrivens
616	Emily Thornton	617	Leigh Gillies	618	Annelie Bailey
619	Sue Everard	620	Matt Von Der Muhll	621	Adrienne Salvagno
622	Beata Blaszkiewicz	623	Calypto Brown	624	Dawn Best
625	Susan Messner	626	Lioudmilo Nazarovo	627	Trang Thomas
628	Alice Van Ruyven	629	Veena Berresford	630	Katie York
631	Elke Link	632	Laura Byrne	633	Emily Mudge
634	Ken Stickland	635	A Christian	636	Port of Melbourne Corporation
637	Zara Oliver	638	Kerry Leptos	639	Prue Galbally
640	Tricia Oliver	641	Ross Perrett	642	Joan Mulvey
643	Niall Oliver	644	Brendon Kawalski	645	Ben McCaskill
646	David O'Connell	647	Margaret Smith	648	Lynette Lee
649	Lee Turner	650	Ed David	651	Margaret McBride
652	Breece Gevaux	653	Chris Goetze	654	S Thomas
655	Elva Keily	656	Victor Abel	657	Aristotelis
658	Damien Oliver	659	Ben Morgan	660	Jennifer Holden
661	Dimitris Englezos	662	Donna Woolley	663	Rochaynk Frost
664	Rajni Menon	665	Michael Portelli	666	R Purczeld
667	Bartley McGowan	668	Ben Sterk	669	John Crawford
670	Stephen Hobbs	671	Jon Perrett	672	J Hughes
673	Chris Gogos	674	Tracy Erskine	675	Brian Chrimes
676	Michael Sain	677	Phil Trimnell	678	Mary Bourke
679	Franziska Glage	680	Chris Whitelegg	681	Danielle Stewart
682	Victor Selers	683	N Von Der Muhll	684	Donna & Paul Robb
685	Annette Wregg	686	Tyron Edwards	687	Jasmina Kapitan
688	John Andrews	689	Becky	690	G Whelan
691	Edward Todd	692	Norma Conley	693	William & Christine DeBruyn
694	Rochelle Bell	695	Margaret Ford	696	Jennifer Fisher
697	Chunte Tien	698	P Jordan	699	Rebecca Pulham
700	Patricia Callan	701	John Longbottom	702	Leigh Frost
703	Troy Wardrote	704	Richard Pisani	705	Barbara Vaurinos
706	Gagnepain Nicolas	707	Georgina Begg	708	Edwin Dewton
709	Judy Cooney	710	Peter Buza	711	Carmel DeSarro
712	John Patrick	713	Alison Rowlands	714	Julianna O'Bryan
715	Anna Tzalle	716	Judy Carter	717	Tim Reynolds
718	Rai Ramlullah	719	Karen Marshall	720	Hirsch
721	Carole Burke	722	Bronwen Browning	723	Damien Pound
724	Margaret Hughes	725	Peter Crook	726	George Gaitan
727	Debra Anderson	728	Tristan Nordlof	729	Boris
730	Lauren Brown	731	Toni Auld	732	Martin Reischieck
733	Elise Hervault	734	John Ellis	735	Tania Zanon
736	Kate Whiting	737	D Neate	738	Josie Roccasaloo
739	P R Libbis	740	Cheyre Fox	741	Alan Frew
742	A Libbis	743	Daniel Myers	744	Cassie Main
745	Simon Strong	746	Barbara Glimmerveen	747	George Mulvey
748	I Thornton	749	Alexander Baratto	750	Margaret Ward
751	Nelly Soleil	752	Jim Zagoudinos	753	Felicitos Evert
754	Lucy Franco	755	Leonie Scott	756	Debra Starpins
757	Marge Chambers	758	Ben Tagintyre	759	James Trebilcock
760	F E Arnold	761	Fiona Paroz	762	Kelly Singh

No	Submitter	No	Submitter	No	Submitter
763	T Andrews	764	Rachel Prince	765	UnChain Inc
766	W Syllachick	767	Jan Snowden	768	Stephen Dillon
769	Claire Ryan	770	Jill Lever	771	Kerrie Fildes
772	Susan Harris	773	Jasna Bratic	774	John & Ros Andrews
775	Paul Cobbin	776	Audrey Sutton	777	Rebecca Moore
778	Kevin Anderson	779	Tanya Paroz	780	Jarrood Sheehan
781	Janet Dimelow	782	Christopher Daniels	783	Dr Pam Montgomery
784	John Hindle	785	Geoff Marchingo	786	Kwi Leng Lee
787	Judy Phillips	788	Phil McDonald	789	Rosalie Lethlean
790	Sharlene Viney	791	Virginia Cunsolo	792	Meryl Knapp
793	Gillian Croall	794	Stephen Hird	795	Mandy Burns
796	Helen di Natale	797	R F & M A Harrison	798	Christina Anson
799	Rey Yesilnacar	800	A Smrdel	801	Julian Schmidt
802	Peter Davidson	803	Kaylea Fern	804	Daniel Auld
805	M Kazakevics	806	John Leplos	807	Alessandra Trupiano
808	Talia Schlen	809	Samantha Gordon	810	William Holmes
811	Sharon Matz	812	Marina Melik	813	Jillian Combey
814	Pamela Nicholson	815	Julie Willis	816	Alan Williams
817	Herviou Steven	818	Monika Endrey	819	Clare Doyle
820	Donna Wilson	821	David Price	822	Noel Fogarty
823	Raffaele Romano	824	Lori Richardson	825	Ross Capuana
826	Ross Currie	827	Sylvia Seiboth	828	Christine Niven
829	Kay Shafi-Roden	830	Stephen Gannowi	831	Belinda Taft
832	Oliver Romov	833	Bruce Frame	834	Jennifer Fall
835	Arnis Kazakevics	836	Rachael Forrester	837	Jennifer Shields
838	Darren Torvan	839	R Gilham	840	Helen Logan
841	Patricia Ferguson	842	Violet Johnson	843	Joan Logan
844	Justine Cubbin	845	Lynda Talintyre	846	Heather & Rob Stirling
847	Terry Stevens	848	Judy Warren	849	Community Alliance of Port Phillip
850	Kamal Monsour	851	Adrian Baker	852	Vlada Nazarova
853	Maree Coote	854	Ben Glimmerveen	855	Cathy Devries
856	Ramak Knibbs	857	Maria Benu	858	Jan Stewart
859	Sue Hazen	860	Helen Herbertson	861	Mark Willetts
862	Alicia Wong	863	John Salisbury	864	Elvira Pepe
865	D & E Sonenberg	866	Name illegible		

Appendix C Panel Preferred Design and Development Plan Overlay Schedule 23

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SCHEDULE 23 TO THE DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO23**.

1-7 WATERFRONT PLACE DESIGN AND DEVELOPMENT AREA

1.0 Design Objectives

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Proposed C104

Theme A - 'engaging, accessible'

- To increase pedestrian permeability and encourage movement through the site at ground level.
- To activate ~~all~~ ground floor frontages by designing buildings that can accommodate a range of land uses that are appropriate to site interfaces.
- ~~▪ To create accessible public space on the site.~~
- ~~▪ To design and create buildings and frontages which invite public access, usage and support activity.~~
- To reduce the dependence on cars as the primary mode of transport for residents and visitors.

Theme B - 'responsive'

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

Theme C - 'mixed'

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

Theme D - 'contributory'

- To increase pedestrian connectivity and access through the site.

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

Theme E - 'quality'

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

Theme F - 'adaptable'

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

2.0 Buildings and works

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A permit cannot be granted for buildings and works exceeding the maximum height specified in this Schedule other than:

- Architectural features such as building services may exceed the maximum height by up to 4 metres providing they do not exceed 10% of the gross floor area of the top building level.

3.0 Design Requirements

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Proposed C104

Theme A - 'engaging, accessible'

Design requirements A1: Pedestrian connections

- Development of the site must provide:
 - a direct pedestrian laneway linking Beach Street and Waterfront Place, between the heritage Station building and new built form on the western edge of site. ~~and~~
 - ~~a direct north-south pedestrian laneway linking Beach Street and Waterfront Place through the site, that aligns with the entrance to the existing pier/boardwalk at the eastern edge of the freight terminal.~~
- Building frontages to Waterfront Place must be set back 2m from the property boundary, to allow for widening of the footpath .
- Buildings located at the western boundary of the site must provide for a ground level east-west pedestrian access way that creates a visual connection between the tram stop, the central courtyard space and the north/south pedestrian laneway.
- Pedestrian linkages through the site must be designed so as to provide unrestricted access to the public on a 24-hour basis. They should be straight and direct, providing a clear line of sight through the walkways and must be a minimum of 5m in width.

A permit cannot not be granted to vary any of these requirements.

Design requirements A2: Access

- Built form should provide multiple pedestrian entries to all street frontages.
- Ground floor level of new built form should be at the same level as the outside ground level, or no more than 300mm higher, to allow easy transition between buildings and the abutting footpaths.
- Vehicle entrances, loading/deliveries area and utilities/infrastructure along the building frontage should be minimised, and, where provided these elements should be subtly integrated into the building façade.
- ~~Vehicle access to any on-site car parking or loading bays should be from Beach Street, east of the central north/south pedestrian link.~~
- Vehicle access to any on-site car parking or loading bays should be from Beach Street and should allow for all turning movements to/from the vehicular entry to the site.
- Frontages to Beach Street, between the roundabout and north/south pedestrian link should be set back between 1m and 3m from the street frontage, to allow for a small 'verandah' or terrace space between the building frontage and the street boundary.

Design requirements A3: Public spaces

- The layout of buildings on the site must provide for the creation of a ground level courtyard space ~~adjoining the central north/south pedestrian link.~~
- New public spaces must be open to the sky and visible from the surrounding streets, while being mindful of wind and other microclimate considerations. Spaces should be located and oriented to receive reasonable direct sunlight access.

A permit cannot not be granted to vary any of these requirements.

- A small public space should be provided at the eastern 'point' of the site, close to the roundabout. This public space should be activated by public art or a small kiosk/pavilion building to define the site's 'point' or edge to the roundabout.
- ~~The courtyard and other public spaces should be:~~
 - ~~open and accessible,~~
 - ~~visible from the surrounding movement network including, Beach Street and Waterfront Place,~~
 - ~~approximately 400 sqm in area, and~~
 - ~~located for good solar access.~~
- All public space should be within 0.5m of natural ground level.
- ~~The public courtyard should provide for significant 'in-ground' tree planting. To maximise tree growth and health raised planters will not be supported.~~

Design requirements A4: Connections

- Ground floor building frontages should be designed to maximise interaction between the buildings and the public realm.

Theme B / 'responsive'

Design requirements B1: Building height and massing – eastern area

- ~~Building height in the eastern area of the site must be in accordance with Figure 1 of this Schedule and:~~
 - ~~Any tower form must not exceed 10 storeys in total height (including podium).~~
 - ~~Any tower form should be located to the east of the central courtyard and the north/south pedestrian link.~~

~~Any tower form which is higher than 7 storeys must incorporate a podium, lower level that is a maximum of 3 storeys in height.~~

- As shown in Figure 1 to this Schedule, building heights must not exceed:
 - 3 storeys and 11 metres in the northern section (the Beach Street interface)
 - 3 storeys and 11 metres in the southern section (the Waterfront Place interface)
 - 5 storeys and 17.5 metres in the western central section, the station interface A permit.

A permit cannot be granted to vary any of these requirements.

- Massing and location of built form must generally be in accordance with Figure 1 of this Schedule.
- Any tower form should ~~utilise~~ use design techniques to avoid a monolithic or bulky appearance. These may include vertical recesses, ‘breaks’ in the form, lightweight materials, transparency and other techniques
- Any tower form is to be elongated or linear in plan, oriented generally north-west to south-east, so as to appear most slender as viewed from the beach to the east of Waterfront Place.
- Detail design and materials of the tower form should reinforce its visual lightness and reduce the sense of bulk or mass.

Design requirements B2: Building height and massing – western area

- Building height in the western area of the site must be in accordance with the range of heights shown in Figure 1 to this Schedule.
- Building heights must not exceed:
 - ~~3 storeys in the northern section, the Beach Street interface~~
 - ~~5 storeys in central section (facing the rear of heritage Station building)~~
 - ~~7 storeys in the southern section, the Waterfront Place interface.~~
 - 3 storeys and 11 metres in the northern section (the Beach Street interface)
 - 3 storeys and 11 metres in the southern section (the Waterfront Place interface)
 - 5 storeys and 17.5 metres in the western central section, the station interface A permit.

A permit cannot be granted to vary these requirements.

- Massing and location of built form must generally be in accordance with Figure 1 of this Schedule.
- ~~Tower forms should generally be set back significantly from the podium edges. Tower form may be located close to, or over, the podium edge at the narrow tower ends, subject to a high quality design outcome.~~
- Tower forms must be set back from the podium edges so that the podium reads as the dominant form from the street views. The narrow edges of the tower form may be located close to or even touch the podium edge, subject to a high-quality design outcome that does not cause the tower to dominate over the podium.
- Tower forms shall be set back from the 5 storey western edges so that this edge reads as the dominant form over the station.

Design requirements B3: Railway station

- The scale and massing of any new development must be sensitive to the heritage rail station and must demonstrate minimal visual impact when viewed from the 109 tram terminus.
- The location and form of new buildings must reinforce the heritage rail station as a ‘stand-alone’ building and provide a clear separation in building mass.

- ~~▪ Built form in proximity to or adjoining the heritage rail station must be of low-medium scale (up to 5 storeys) to ensure the railway station is not “dwarfed” when viewed from Port Plaza.~~
- Where 5 storeys are proposed at the station interface, the upper two storeys shall be set back behind the northern and southern 3 storey podiums and designed so that the podiums are the dominant forms from the street and promenade views, as shown in Figure 1.
- As shown in Figure 1 to this Schedule, building heights must not exceed:
 - 3 storeys and 11 metres in the northern section (the Beach Street interface)
 - 3 storeys and 11 metres in the southern section (the Waterfront Place interface)
 - 5 storeys and 17.5 metres in the western central section, the station interface A permit.

A permit cannot not be granted to vary any of these requirements.

Design requirements B4: Maritime heritage

- Building design, materials and public art should reflect and respond to the maritime heritage and character of this location in a refined and authentic way, and avoid ‘themed’ or pastiche techniques.
- Public art must be integrated with new built form and public spaces on the site, to reflect and respond to the history, heritage and character of the location in accordance with Clause 22.06 of this planning scheme.

Design requirements B5: Activation and integration

- ~~▪ On site car parking must be located in full basement levels (not half basement) so as not to disrupt or reduce pedestrian activation and interpretation of building frontages.~~
- ~~▪ Podium frontages must be articulated and visually ‘broken up’, creating visual interest and diverse expression in the building form.~~
- Where car parking is contained within the podium levels, it must be sleeved with activated spaces or the facade designed with high quality architectural screening to completely disguise the car park use of the areas.

A permit cannot be granted to vary any of these requirements.

- The design of ground level frontages, including frontages to through site pedestrian links, should provide for activated frontages for at least 80% of frontages.
- Building design should incorporate weather protection for pedestrians on the Waterfront Place frontage.

Design requirements B6: Port Melbourne Waterfront

- Built form massing should be configured to provide differing visual experiences when viewed from different locations in the Port Melbourne waterfront area. Development must demonstrate complexity, variation and layering of forms, rather than simplistic, bold or bulky forms. This may be achieved through the use of building stepping, recesses, and bends or folds in facades.

Design requirements B7: Station pier interface

- Any development intended for residential or other sensitive uses must include acoustic protection for future occupiers and be designed and constructed to ensure noise levels do not exceed:
 - 30dBA in any bedrooms; and
 - 45 dBA in living areas,
 when the port facilities are in full operation.

- A report prepared by a suitably qualified acoustic specialist must be provided to demonstrate that this requirement has been achieved.

A permit cannot be granted to vary these requirements.

Design requirements B8: Sunlight and shadows

~~▪ New development must not overshadow the beach between the hours of 11.00am and 3.00pm on the 22 September.~~

- Development must not cast a shadow beyond the beach wall between the hours of 9:00am and 3:00pm at the September equinox. The beach wall is defined as the stone wall separating the paved promenade and the sandy beach.
- Development should minimise overshadowing beyond the beach wall between the hours of 9:00am and 3:00pm at the June solstice.

A permit cannot be granted to vary this requirement.

- Public spaces on the site should be located to maximise opportunities for optimal solar access.
- Buildings should be configured and designed to minimise negative amenity impacts of shadows on the public realm and other publicly accessible areas.
- Solar access to key building frontages should be maximised, such as areas identified for outdoor dining, community uses and residential outdoor spaces.
- Direct solar access to residential dwellings should be maximised.

Design requirements B9: Wind and microclimate

- Building forms should be designed to minimise wind impacts on the public realm and other outdoor spaces. Enclosing publicly accessible spaces is an appropriate design solution to wind mitigation.

Theme C | 'mixed'

Design requirements C1: Constructing flexible spaces

- Development on the site should be designed to accommodate a broad range of land uses, including:
 - retail and food and beverage spaces
 - community uses, such as meeting rooms, gymnasium, childcare or other facilities
 - small commercial office/studio spaces
 - townhouses or home/office units
 - residential apartments
 - shared amenities
 - accessible green roof spaces.

Design requirements C2: Dwelling diversity

- Any residential development must provide a mix of dwelling sizes, including 1, 2 and 3-4 bedroom dwellings, within the development to encourage a diversity of household types, including families.

A permit cannot be granted to vary this requirement.

Theme D | 'contributory'

Design requirements D1: Pedestrian safety

- Built form at the laneway entrances should be sited to ensure clear and inviting view lines into laneway space.

Design requirements D2: Streetscape

- Built form must be set back a minimum of 2 metres from the property boundary at Waterfront Place to create a widened footpath.
- Built form to the western site boundary (adjacent to the historic rail station) must be configured to enable the creation of a widened pedestrian space running north- south.

A permit cannot not be granted to vary any of these requirements.

- Building design and interface with Waterfront Place (the southern site boundary) should contribute to the public realm by creating an appropriately shaded, high quality, and activated streetscape.
- The pedestrian space to the western boundary is to be activated at ground floor and may enable intermittent service vehicle access to the rear of the historic rail station building. The pedestrian space should to create a direct line of sight from Beach Street (north) to the Waterfront Place and the landscaped buffer of the Station Pier environs to the south.

Design requirements D3: Greening buildings

- Buildings should include façade planting or 'green walls' to enhance the appearance and thermal/water conservation performance of new buildings.
- Significant rooftop and/or podium spaces should incorporate appropriate landscaping/planting, that are visible from the street where possible.

Design requirements D4: Balconies

- Balconies may extend beyond the building line along the Waterfront Place frontage, if the ground floor is set back 2 metres from the site boundary.
- At the Beach Street frontage, balconies should be contained within the site boundaries. A permit cannot be granted to vary this requirement.
- Upper level balconies should not overhang or protrude more than 0.5 metre into new pedestrian laneways through the site.
- Balcony designs and profiles should help to add interest, detail and human scale to the facades.
- Balcony balustrades should provide for views out from internal spaces, as well as appropriate privacy for residents.
- Balconies and terraces on the lower 3-6 floor levels should contribute to opportunities for passive surveillance and visual interaction with the public realm.

Theme E | 'quality'

Design requirements E1: Local maritime feel

- Built form should ensure the development is 'of' the locality and relates to its heritage, function and the complex nature of the site.
- Built form should respond to the maritime heritage and character of the area in a way that is subtle, refined and authentic.

Design requirements E2: Beachfront

- ~~New buildings should incorporate sun shading devices as an integral part of the design, especially for north and west facing frontages. Balcony design and passive Environmentally Sustainable Design elements should be incorporated into building and façade design and not appear to be an afterthought or ‘tacked on’.~~
- ~~Building forms, window openings and outdoor spaces should be located and oriented to optimise benefit from climatic conditions, maximise comfort and ESD performance, and minimise impacts from unfavourable seasonal conditions.~~

Design requirements E3: Fine grained

- ~~Buildings should contain a significant variation in design and materials, within an integrated, cohesive framework, with the various buildings, podium forms and tower elements being visually distinct, and with further fine grain articulation and variation.~~
- ~~The composition of building forms and elements, public spaces and planting, should reinforce the location and a human scale to the development.~~

Theme F | ‘adaptable’

Design requirements F1: Adaptable floor plan

- Development should provide dwelling layouts and spaces which are flexible and adaptable to accommodate changing needs and demographics over time.
- Development should ensure a mix of dwellings types and sizes are provided to accommodate a range of household types (singles, families, children, students, group share houses etc.) and to contribute to the creation of a diverse community.

Design requirements F2: Flexible spaces

- The size, area and shape, structural elements, access and delivery arrangements, and building services of ground floor spaces should be configured for adaptability.
- Floor-to-floor heights, floor levels and threshold details should be designed to allow for a range of uses over time.
- Any above ground car parking areas should be designed to be adaptable to other uses in the future, through the use of appropriate ceiling heights, the location of service equipment, access and structural configuration.

5.0 Application Requirements

Any development application must be accompanied by a comprehensive site analysis, urban context and design analysis report addressing the following matters, to the satisfaction of the Responsible Authority:

- form, massing, profile, material finishes and detailed design of the proposed building/s.
- an assessment of off-site impacts of the proposed building. This includes:
 - overshadowing and / or overlooking, in particular overshadowing of public spaces
 - and / or key pedestrian streets. A shadow assessment shall be provided to
 - demonstrate that any solar access objectives for the precinct will be met.
- impacts of the proposed building on views to and from the site, and any view line identified for protection within the activity centre.
- details of the overall site yield / floor space and an assessment of the effects on services, traffic generation and parking demand.
- an assessment of access to and circulation through / around the site for pedestrians, cyclists and vehicles.

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Proposed
C104

- details of land use, including an assessment of how the proposed building engages with and contributes to the activity of the surrounding streets.
- how the proposed buildings and works achieve the Design Objectives Requirements of this Schedule.
- For residential development, 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.
- Provide shadow diagrams demonstrating that proposed buildings comply with this Schedule.

6.0 Decision guidelines

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

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Proposed C104

- The Design objectives of this Schedule.
- The Design requirements of this Schedule
- *The Design Guidelines 1-7 Waterfront Place (City of Port Phillip 2013).*
- Whether the proposed design or development is appropriate to the site by virtue of its proximity to the port.
- Whether the proposed design or development might impede the long term development and operation of the port.
- Whether the proposed design or development has the potential to expose people unnecessarily to any off-site impacts associated with the 24-hour, 7 day a week operation of the port.
- Whether the siting and design of the proposed development includes appropriate measures to ensure that the amenity of the proposed uses will not be impacted by off-site impacts associated with the 24-hour, 7 day a week operation of the port.
- Whether the proposal is compatible with the present and future operation of the commercial trading port as detailed in a port development strategy approved under the *Port Services Act 1995*.

7.0 References

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Proposed C104

Design Guidelines 1-7 Waterfront Place, Port Melbourne (City of Port Phillip 2013).
Port Development Strategy 2035 Vision (Port of Melbourne Corporation 2009).

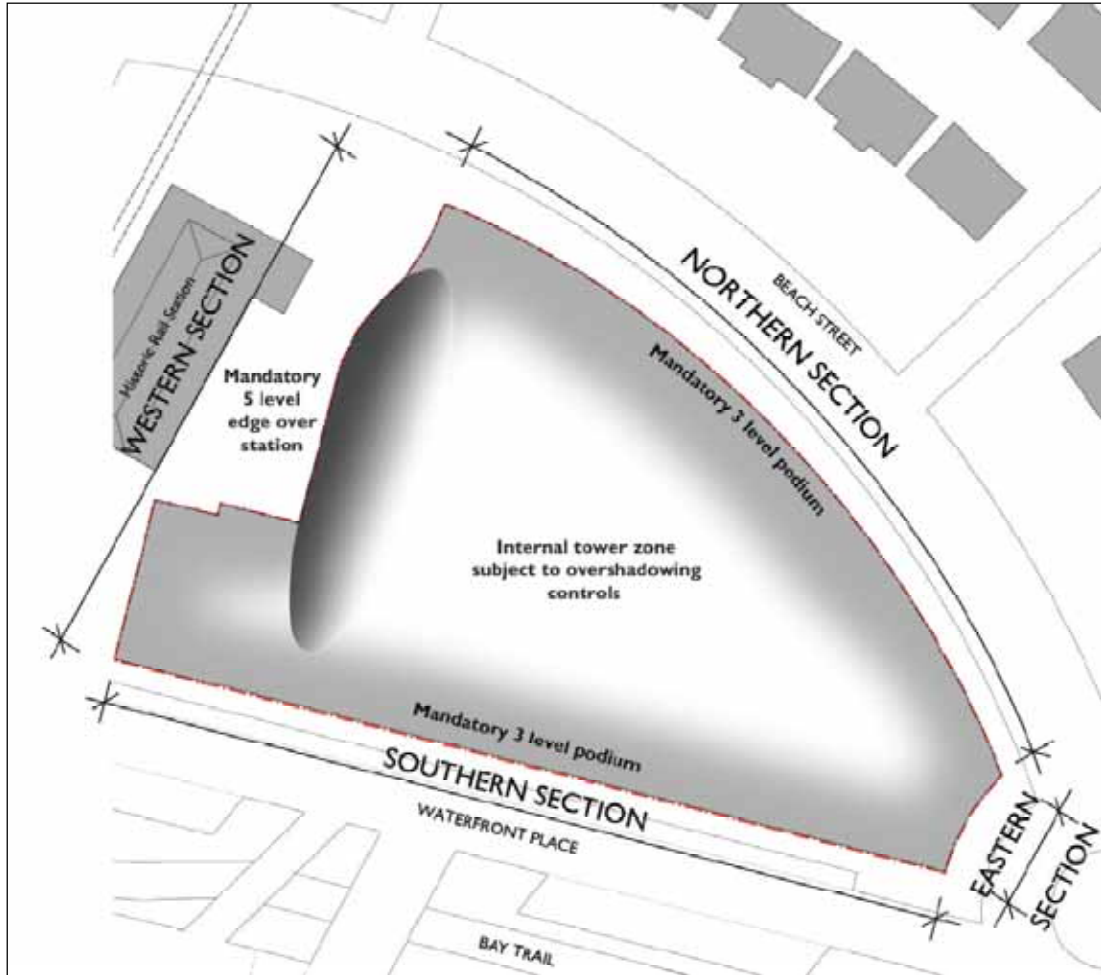


Figure 1