

5. The planning permit application was submitted on 23 March 2010 for buildings and works associated with a 36 storey mixed use building comprising retail (other than gambling), commercial and residential uses, amendment to the approved Development Plan SP/07/0057, variation to the covenant AD304197 and use of the land for residential dwellings.
6. This preamble was amended on 28 October 2010 when the applicant applied under section 50 of the Act to remove reference to the variation of the covenant as this has been dealt with under a separate process (Permit TP-2010-416 was issued by the City of Melbourne on 30 June 2010 varying the restriction imposed by the covenant), and to vary the requirement for ducted air-conditioning. Revised plans were submitted with this application.
7. Further amendment of the preamble took place on 30 June 2011 to delete the reference to the Development Plan, so that the applicant now seeks a permit for 1) Development of the land for a multi-level mixed use building. 2) Use of the building for multiple dwellings and retail premises (other than a gambling premises) located at ground floor.
8. The proposed development can be broadly described as a 126.8 metre (36 storey) high residential tower with lower level office and retail. It has a residential address fronting Harbour Esplanade and a commercial and retail address fronting La Trobe Street. The development will provide for a total of 48,910 square metres of gross floor area (49,755 square metres including plant) being comprised of:
 - 31,472 square metres of residential floor space, comprised a mix of 336 studio, one bedroom or two bedroom apartment dwellings;
 - 3,000 square metres of commercial office/retail tenancies of varying sizes located at levels G through 6;
 - 916 square metres of landscaped communal open space located on the podium rooftop at level 7;
 - A total of 338 car parking spaces located across levels 1 – 6 (being 30 spaces for commercial uses and 308 spaces for residential uses) contributing 11,486 square metres;
 - 8 motorcycle parking spaces and 134 bicycle parking spaces.

Podium levels

9. In terms of its relationship with the surrounding streetscape, the proposed development features a highly articulated seven storey podium ranging in height from 15 to 33 metres. Wrap around alternating layers of metal cladding are a prominent feature of the podium with the upper levels being generally dominated by alternating sections of grey and blue glazing. The ground floor podium will be set back by 3.5 metres from the northern boundary, 2.1 metres from the eastern boundary and 11.7 metres from the primary western boundary. The southern facade of the podium will be built hard up against the 2.1 metre wide pedestrian easement which runs along the southern site boundary.
10. The podium features a considerable amount of ground level activation to both the northern, western and southern facades with the western elevation being the primary focus for ground level integration with the surrounding area. The western periphery of the site's ground level interface will be primarily occupied by a public forecourt which encloses an occasional stage and a large media projection screen which will dominate the centre of the ground floor façade of the podium. A glass canopy will project from the top of the podium roof towards Harbour Esplanade over this area by 13.6 metres to shelter the forecourt from wind and weather impacts.
11. The residential lobby entrance will be located at the south western corner of this elevation and will be partially shielded from the forecourt area to the north by a projecting retail component which extends to the northern elevation. Ninety two bicycle parking spaces are proposed to be located at western periphery of the forecourt area next to Harbour Esplanade.

12. The northern elevation of the podium features a strong retail frontage and dominates the La Trobe Street interface. Two separate retail premises are proposed along this elevation with almost the total façade being comprised of shop front glazing with the commercial lobby entrance being located between these tenancies. Higher up the podium is a narrow terrace which provides a view out over La Trobe Street from the upper level office component. This feature is integrated into the layers of alternating metal cladding and glazing which provide screening to the internal car parking areas and help define the shape of upper podium office levels.
13. The southern elevation of the building abuts a 2.1 metre wide pedestrian thoroughfare easement and is generally comprised of glazing with a water feature at the south western corner. Discreet entrance to the bicycle store is to the east of the water feature.
14. The rear or eastern elevation of the building is built hard up onto a 2.1 metre wide pedestrian easement which will provide a footpath between the development and the rear private service lane which runs north to intersect with La Trobe Street. This laneway is part of Lot 1 on PS432271H which accommodates the adjoining Channel 7 Building. An access easement affecting Lot 1 provides right of way access to this service lane from the subject property. Vehicular access to the subject development will be provided via separate ramps located towards the northern boundary with a separate loading dock located further to the south to provide for deliveries and waste removal. Access to the bicycle store is also available from the carpark vehicle ramp.
15. Above ground level the eastern elevation of the podium features primarily alternating layers of metal cladding and minimal clear glazing. This is principally to screen the car park levels within. This elevation is also to be book ended by two prominent 'art walls' which will dominate the south eastern and north eastern corners of the podium. The content to be displayed within these structures has not been defined.

The Residential Tower

16. On the rooftop of the podium is an area of communal open space located on the eastern side of the development with internal access for residents provided at level seven. The proposed tower above can be generally characterised as being star shaped in plan view with a number of the vertical faces of the tower being juxtaposed to the rectangular form of the podium below so that the studio, one bedroom and two bedroom apartments provided within take advantage of views to the south west, south east, north west and north east. The tower is generally dominated by sheer blue and grey glazing with the concrete balconies provided along the western and eastern elevations being the only contrasting elements.

Variation for the requirement of ducted air conditioning under DDO12 (Noise Attenuation)

17. The DDO12 technically requires that the residential component of the building be fitted with ducted air conditioning. The purpose of this requirement is to ensure that each dwelling benefits from an air conditioning and ventilation system that gives occupants the option of closing their windows and balcony doors during a Docklands Stadium event.
18. The applicant has sought advice from Watson Moss Growcott Australia who have recommended various alternatives that achieve sufficient ventilation while ensuring noise level in habitable rooms does not exceed 45dB.
19. The applicant has applied for a variation of the requirements of DDO12 as part of the planning permit, with the view that any conditions imposed on any planning permit issued can be addressed in the detailed design stage.

Development Plan DP07/0057 & Development Plan DP07/0175

20. The Development Plan DP07/0057 was approved in May 2005 with a revision approved in December 2007 permitting a 17 storey office building. An extension of time was granted in January 2011. Planning permit 2010/6245 included a request to amended Development

Plan 07/0057 however this is not necessary as the 'development plan' in this instance is an old format planning permit approval and will in effect be superseded by 2010/6245.

21. Similarly Development Plan 07/0175 was approved on 10 January 2001 and represented an office development combined with the channel 7 site. It was approved under the 'old format' and has since expired.

PLANNING CONTROLS AND PERMIT REQUIREMENTS

22. The subject site is zoned Docklands Zone - Schedule 4 and is affected by the Design and Development Overlay – Schedules 12 (DDO12) and 52 (DDO52) and Development Plan Overlay – Schedule 5 (DPO5).

23. Permit requirements are as follows:

| | |
|---|--|
| <p>Docklands Zone – Schedule 4 (Stadium Precinct)</p> | <ul style="list-style-type: none"> • For the use of the site for a shop that is at the ground floor level and a restricted recreation facility (such as a gymnasium) • For the residential use of the land, the development being to the north of the Major Sport and Recreation Facility. • For buildings and works. |
| <p>Design and Development Overlay – Schedule 12 (Noise Attenuation Area)</p> | <ul style="list-style-type: none"> • Permit required for noise sensitive uses (residential). |
| <p><i>Design and Development Overlay – Schedule 52 (Stadium Precinct)</i></p> | <ul style="list-style-type: none"> • To build a tower over 75m. <i>Please note that the applicant did not apply for this in the permit application, but it is assumed that this is part of the application, and will essentially be granted as part of the process.</i> |
| <p><i>Development Plan Overlay – Schedule 5 (Stadium Precinct)</i></p> | <ul style="list-style-type: none"> • Nil: Section 1 of this Schedule states that a permit can be granted to use or subdivide land, construct a building or construct or carry out works before a development plan has been prepared to the satisfaction of the responsible authority. As such, there is no approved development plan for the precinct and this Overlay does not trigger the requirement for a permit. |

Docklands Zone – Schedule 4 (Stadium Precinct)

24. Docklands Zone - Schedule 4 is located at Clause 37.05 of the Melbourne Planning Scheme. This Schedule relates to the docklands stadium precinct environs. The purposes of this schedule are:

- *To provide for a range of commercial, residential, recreational, educational, technology, business and leisure uses within a mixed use environment.*
- *To encourage integrated and compatible land use and development within the area surrounding the stadium facility.*

- *To ensure that the Major Sports and Recreation Facility includes the opportunity to cater for a wide range of sporting events, as well as a range of entertainment and leisure activities.*
25. Section 1 of this Schedule indicates that the use of the subject site for the purposes of an office does not require a permit although the use of the site for a shop that is at the ground floor level and a restricted recreation facility (such as a gymnasium) does require a permit.
26. A planning permit is usually not required for the use of land for the purposes of a dwelling provided that they are located on the southern side of the stadium. However, as the subject site is located to the north west of the stadium, a use permit is required for the residential component of the proposed development.
27. Section 4 of this Schedule also indicates that a permit is required for buildings and works (other than certain forms of minor works) on the subject site.
28. A permit required for use or buildings and works under this zone is exempt from the public notice provisions of Section 52 and the appeal rights of Section 81 of the Planning and Environment Act 1987.

Design and Development Overlay – Schedule 12 (Noise Attenuation Area)

29. The Design Objectives of this overlay are:
- *To ensure that new or refurbished developments for new residential and other noise sensitive uses constructed in the vicinity of the Docklands Major Sports and Recreation Facility include appropriate acoustic measures to attenuate noise levels, in particular music noise, audible within the building.*
 - *To ensure that land use and development in the vicinity of the Docklands Major Sports and Recreation Facility is compatible with the operation of a Major Sports and Recreation Facility.*
30. This control requires that a new development which provides for a sensitive use, such as a dwelling, must be designed and constructed to incorporate noise attenuation measures to protect the amenity of residents from noise generated by the adjoining stadium.
31. Under section 3 of this overlay an application to construct a building or construct or carry out works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

Design and Development Overlay – Schedule 52 (Stadium Precinct)

32. The Design Objectives of this overlay are:
- *To ensure that vistas to the east, into the Central Business District, and to the west across Victoria Harbour water body are recognised.*
 - *To prevent any overshadowing of the playing surface of the major sports and recreation facility greater than the shadow that is already cast by the existing facility roof when fully open.*
33. Within Section 2.2 of the Schedule a table is provided which specifies the preferred maximum building heights for four different areas within the Stadium Precinct. Any development which complies with the relevant building height control in this Table does not require a permit under this Overlay.
34. The subject site is located within Area 1 which has a preferred building height of 25 metres with the exception of two towers not exceeding 75 metres. The subject proposal has a height of 126.8 metres and therefore a permit is required under this Overlay.
35. An application must be accompanied by a site analysis and urban context report which demonstrates how the proposed buildings and works achieves each of the Design Objectives of this schedule, and any local planning policy requirements.

Development Plan Overlay – Schedule 5 (Stadium Precinct)

36. This DPO5 relates to the preparation and approval of a Development Plan for land bounded by LaTrobe Street to the north, Wurundjeri Way to the east, Harbour Esplanade to the west, and Bourke Street to the south.
37. Section 1 of this Schedule states that a permit can be granted to use or subdivide land, construct a building or construct or carry out works before a development plan has been prepared to the satisfaction of the responsible authority. As such, there is no development plan for the precinct and this Overlay does not trigger the requirement for a permit.

Further information

38. Further information was not sought.

Public Notification

39. In accordance with the provisions of the Zone and the applicable Overlays, the proposal was exempt from notification requirements and third party review rights.

Referrals

40. Pursuant to Section 55 of the Act the Director of Public Transport and VicUrban were referred the application and both parties provided written confirmation that they had no objection to the granting of a permit, subject to conditions provided within their referral responses. The nature of these conditions are further detailed below:

Director of Public Transport Referral Comments

41. In their letter dated 20 January 2011, DoT does not object to the grant of a planning permit subject to conditions be placed on any permit issued.

VicUrban referral comments

42. VicUrban has indicated that the proposal is generally consistent with the provisions of Clause 22.18 (Urban Design within the Docklands Zone) and provides a built form of appropriate scale for the locality and a range of uses that compliment the surrounding Docklands area. However, further consideration of a number of aspects of the proposal has been raised in VicUrban's comments including:

- *Further detailing and refinement of the ground plane and shop fronts along the northern elevation with regards to the scale of tenancies, vertical rhythm of doors and columns and the depth and articulation of the façade*
- *Further detailing of the southern elevation façade and shop frontage to ensure visual interest and response to the public thoroughfare*
- *Further details of the podium roofscape treatment*
- *A materials and finished board is required in support of information previously submitted*
- *Provision of plans for the ground level elevations at a scale of 1:50 which demonstrate scale and flexibility; vertical rhythm; fine grain articulations at street level; quality of material.*
- *Greater use of façade materials other than glazing*
- *A continuous footpath treatment along the eastern elevation*
- *Further details of the functional aspects of the public realm and landscaping*
- *Further details of wind mitigation measures and wind tunnel testing*
- *An assessment against the Docklands ESD guidelines*

- *Further details of WSUD aspects*
- *Evidence of compliance with the sound mitigation requirements of DDO12*
- *Submission of an urban art strategy*

43. Draft conditions were circulated to Vic Urban on 31 May 2011 and a response was received on 1 June 2011 and 24 June 2011.

City of Melbourne comments

44. The application was referred to the City of Melbourne (CoM) under section 52(1)(b) of the Act. Council responded on 4 March 2011 with comments from Traffic Engineering, Urban Design, Land Surveys and Waste Management. Council generally supports the application with the recommendation that advice provided below is incorporated into the conditions to any permit that may be approved.

45. Traffic Engineering offer general support for the proposal, but put forward the following comments:

- *The Channel 7 overflow parking will be affected by the development. While it is advised that Channel 7 is reducing its commitment to the provision of staff car parking, approval for parking changes along this access road must also be obtained prior to any works commencing.*
- *It is advised that Channel 7 have in the order of 100 car spaces under their building. Surveys undertaken by the applicant have indicated that the PM peak hour flows from Channel 7 were 37 vehicles/hour, with approximately 9 vehicles/hr turning right. Based on the above ratio, it is advised that there would be approximately 44 right turning movements during the PM peak exiting on to La Trobe Street from Channel 7, the nearby Salta development and the proposed development. This would equate to approximately 2 vehicles/hour. While Engineering Services offer no objection in this regard, a condition of any permit should state that the Council and DoT reserve the right to close the median break and require a left in/left out access arrangement.*

46. Council's Urban Design Unit offer general support for the proposal, with the following comments:

- It is important to ensure that the pedestrian link from the stadium to Harbour Esplanade has adequate public lighting.
- In regard to the La Trobe Street frontage, Council normally prefer tenancies to be designed to have enclosed/inhabited space up to the site boundary, however the developer is confident the tenants will successfully occupy the set-back space.
- In regard to the landscape plan the paving should be bluestone to the public realm footpaths managed by by CoM and to match that proposed on the adjacent development at 295 La Trobe Street to the west of the subject site. All works should be to CoM Engineering Services approval.
- Street trees are to be to CoM Urban landscapes [REDACTED] approval.

47. Council's Land Surveys Unit made the following comments:

- There is a wind deflection canopy to the west of the building. Part of that is outside the title to the development and is inside the title to numbers 150-170 Harbour Esplanade (Lot 1 on PS432271H (HSV7)). At the very least it will require the consent of the landowner.
- The commercial building (levels 3 and above) intrude into a light and air easement benefiting HSV7. The easement should be removed from the affected locations. The removal should require the consent of HSV7.

- Note the 'stadium link' is more than just a pedestrian easement. It also allows for maintenance access. By virtue of Clause 5.3(e) it is vehicular also. A five meter clearance must be retained for emergency service access.
- It should be noted that the property does not enjoy light and air rights to its southern and eastern boundaries.

48. The Waste Management Unit at Council noted that the submitted Waste Management Plan complies with Council's Waste Guidelines 2010 and is to the satisfaction of the Group Manager of Engineering Services. Confirmation over access rights to the Channel 7 access ramp, however, is required.

DPCD Urban Design Unit comments

49. DPCD's urban design unit were referred the application and were generally supportive of the proposal but has indicated the following aspects of the proposal require further consideration:

- Overshadowing: The height of the tower at 126.8m will overshadow the stadium pitch and this wider issue requires to be resolved prior to the permit being issued.
- Wind Effects: From the preliminary consultants' assessment it is clear there may be significant wind issues, with at least partial reliance on the new planting along Harbour Esplanade to protect from the west. To avoid inopportune mitigation measures it is crucial that full wind tunnel testing be undertaken prior to any permit approval and not as a condition.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Etihad Stadium Comments

52. Melbourne Stadiums Limited was informally referred the application. The have responded [REDACTED]. Their main concern is the effect of the additional overshadowing caused by the tower on the quality of the playing surface. [REDACTED]

[REDACTED] As the application is exempt from notice and advertising the Melbourne Stadiums Limited have no review rights of any decision through the Planning Scheme.

ASSESSMENT

State and Local Planning Policy Framework

53. The proposed development is considered to generally respond appropriately to State planning policies, in particular by providing housing choice and diversity in a centrally located area and supported by existing infrastructure and public transport.

54. The following policies within the LPPF are relevant to the consideration of the application:

Municipal Strategic Statement (MSS)

55. The proposed development is considered to generally support the relevant provisions of the Municipal Strategic Statement (MSS) and generally supports the vision for managing built form outlined within Clause 21.03-3 by proposing development which will add positively to the overall character of Melbourne by creating an accessible, safe, inclusive and engaging public environment.

56. The proposal is also consistent with the strategic intent for the Docklands area indicated within Clause 21.05 as it will provide for a high density residential and mixed use development which is adequately spaced with regard to neighbouring development so that access to outlook and sunlight is fairly distributed and direct overlooking to adjoining habitable rooms is minimised.

21.08 – Local Areas

57. Clause 21.08-2 describes the proposed vision for the Docklands area as *an urban waterfront for Victoria's Capital City that will be visually, physically and functionally integrated with central Melbourne and the Yarra River Corridor and a mixed use environment with all the services and facilities that provide for the local residential community, the local work force and visitors to the area.*

58. The proposal will help to contribute to achieving this vision by providing a mixed use development which reinforces linkages with the CBD, supports the operation of the Docklands stadium and provides ground floor retail services and facilities for the local area. High density residential development will support the objectives set out for housing and community. The proposal will also feature active street frontages and weather protection measures to contribute to a vibrant and attractive street environment.

Clause 22.02 – Sunlight to Public Spaces

59. The provisions of the Clause states that new development should not reduce the amenity of public spaces byway of additional overshadowing between the hours of 11am and 2pm. The proposed development features will provide a certain degree of overshadowing during the morning to midday period. The submitted shadow study report by Vipac Engineers indicates that there will be a shadow cast onto the public realm along Harbour Esplanade

by the proposed tower. However, it is considered that this will not constitute a significant impact on the amenity of the public realm given the shadow will have receded to a much more marginal size by midday. It is also considered that the area of public realm is undefined and part of the wider Esplanade area rather than a destination point such as a park or local hub. The overshadowing of this space is therefore not critical to the enjoyment of the area.

Clause 22.18 - Urban Design within the Docklands Zone

60. A comprehensive site analysis has been conducted and an urban context report has been submitted. The proposed development is considered to respond broadly to the objectives of this policy, by providing a high quality development which responds to the changing nature of Docklands by incorporating a range of different uses within one building with a high degree ground level interaction and engagement with the public realm.
61. Pedestrian linkages have been provided through and around the building and the provision of car parking facilities will not detract from the surrounding public realm and activated street frontages with walking and cycling being encouraged as the primary modes of transport to and around the development and connections to public transport facilities being maximised.
62. The development responds to and reinforces linkages and vistas to and from the CBD grid along La Trobe Street and Harbour Esplanade and provides an active street frontage with a public gathering space which addresses the Victoria Harbour promenade.

Zone and Overlay Provisions

Docklands Zone – Schedule 4 (Stadium Precinct)

63. The proposed development has been assessed against the provisions of Clause 37.05 and is considered to generally comply with the provisions of Schedule 4. The proposal will provide for a range of uses within a mixed use environment and it is considered that the proposed use of the site is adequately catered for by existing physical and community infrastructure and that the use of the land will not result in any detriment to the amenity of the surrounding area.
64. The siting and design quality of the proposed development is generally suitable for its proposed use and is in a form that is generally compatible with the area surrounding the stadium facility.

Design and Development Overlay – Schedule 12 (Noise Attenuation Area)

65. The proposed development is considered to generally comply with the provisions of Clause 43.02 Schedule 12 and the application has been accompanied by advice from an acoustic consultant (Watson Moss Growcott Acoustics Pty Ltd) in their report dated 26 October 2010 stating that the development can achieve compliance with the noise abatement requirements of the Schedule. This is particularly in regard to the variation of the requirement for ducted air conditioning. The report provides that there are various alternatives that achieve sufficient ventilation while ensuring noise level in habitable rooms does not exceed 45dB. This should be reinforced via permit conditions for further performance measures to be implemented within the detail design phase.

Design and Development Overlay – Schedule 52 (Stadium Precinct) - Area 1.

66. The proposed development does not meet the objective of Clause 43.02 Schedule 52 as the submitted application includes a shadow analysis report indicating that shadows from the proposed development would:
 - i. First reach the playing surface on 10th March at 4:20pm. The overshadowing will continue until the 6th October. It is worth noting that this timeframe spans almost exactly the AFL home and away season, wherein a game is played at the Stadium nearly every round, many of which are afternoon or twilight matches, when maximum additional overshadowing occurs (see below).

- ii. Cast shadows for more than 1 hour from 18th March onwards. The duration increases to an approximate maximum of 1 hour 41 minutes in April and September.
- iii. Cast additional overshadowing generally between 3 and 5pm.
- iv. Increase overshadowing of the playing surface by 13 per cent during days of maximum overshadowing (**see Diagrams 1 and 2**).



Diagram 1: Shadow diagrams for additional overshadowing (shown in orange) caused by the proposal on 22nd April.



Diagram 2: Shadow diagrams for additional overshadowing (shown in orange) caused by the proposal on 22nd August.

67. The proposed development is considered to adequately satisfy the majority of the decision guidelines and objectives provided within this schedule as it provides a built form which preserves significant vistas, adding to the western skyline of the City, does not unreasonably overshadow the public realm, provides an adequate degree of response to the surrounding streetscape and surrounding buildings and adequately ameliorates wind effects. It provides a high quality built form outcome through a well proportioned, slender and varied element tower.

68. The applicant provides these justifications for the departure from the height limit:

- i. *The unique building design is engaging, attractive and is worthy of a place within the city skyline as demonstrated by the slender and articulated shape of the tower;*
- ii. *The architectural quality and integrity of the design resolution will contribute to the range of building types in the Docklands area. The building conveys a finer grain development format apparent at street level and within the tower element, that is absent from neighbouring buildings;*
- iii. *The development will balance the extension of the western city skyline, countering the Etihad Stadium and the Victoria Point residential tower;*
- iv. *The height will provide for a comfortable transition to the traditional edge of the city. The building will not become a focus of the western skyline and will be complemented by the backdrop of some of the tallest buildings in the country;*
- v. *Although well proportioned, the profile of the building is not entirely uniform, with changing floor plates and a slim crown. As such, the building will appear to change shape when viewed from different vantage points;*
- vi. *The tapering tower form partly recessed behind a podium which is comparable to the height of the stadium will ensure the higher built form is recessive and does not present as a dominant feature of the pedestrian experience;*
- vii. *In terms of overshadowing, the applicant suggests that the additional overshadowing, at a maximum of 13% of the playing surface, is limited in comparison to the overshadowing caused already by the stadium structures (a point which is redundant as the objective of the schedule is to limit any further overshadowing than that which is caused by the stadium itself). They propose that the benefits that the development will bring to the site and to the general Docklands precinct balance the disbenefit of the minor overshadowing.*

69. Consideration has been given to the historic background to the control. Amendment C93 to the Melbourne Planning Scheme introduced DDO52, and this itself was a neutral translation of an old format Docklands Area control (419 – Docklands Stadium Precinct Development Controls). This control included a height control of 75 metres and a performance measure to prevent any overshadowing of the playing surface. These were discretionary controls.

70. The proposal exceeds the height requirements of the schedule, which limits height to 75m for a tower in this area of the overlay. The proposed height of the building is 126.8m: 51.8m above the preferred height. The granting of a permit for a building of this height may set a precedent for development applications in the area. A previous application to the north of the Stadium included a height limit condition to ensure no extra overshadowing of the playing surface (permit number 2007/0622A for 675 La Trobe Street, Docklands).

71. The decision guidelines of this provision of the scheme requires the responsible authority to consider the *prevention of any overshadowing of the playing surface of the major sports and recreation facility greater than the shadow which is already cast by the existing facility roof when fully open*. The issue has been carefully considered and weighted up against the other objective of DDO 52 and the provision of the zoning and state and local policy.

72. 

Particular Provisions

Integrated Public Transport Planning

73. The purpose of Clause 52.36 is to:

- *Ensure development supports public transport usage.*
- *To ensure that easily accessible public transport networks, which are appropriate to the scale of the development, and high quality public transport infrastructure are provided as part of new development.*
- *To ensure that development incorporates safe, attractive and convenient pedestrian access to public transport stops.*
- *To ensure that development does not adversely affect the efficient, equitable and accessible operation of public transport.*

The provisions of this Clause state that an application for a residential development of 60 or more dwellings is required to be referred to the Director of Public Transport in accordance with Section 55 of the Act. The application was referred in accordance with this Clause and the Director's referral comments have been detailed above.

Car Parking

74. The Schedule to Clause 52.06 states that, for development within the Docklands Zone, a permit is required to exceed the maximum car parking amounts of 1.5 spaces per dwelling and 1 space per 100 square metres of gross floor area for retail and office uses which results in a maximum amount of 504 residential spaces, 38 office spaces and 6 retail spaces. The proposed development will provide 338 car parking spaces distributed over levels 1 – 8 with 30 of those spaces being allocated for office and retail uses. As such, the proposal does not trigger the need for a permit under the provisions of this Clause.

75. The Traffic and Transport Assessment provided by Cardno Grogan Richards sated 11 November 2010 also makes reference to the 'CBD and Docklands Parking Plan 2008-2013' which specifies rates for parking provision for new developments. A review of this document revealed a parking requirement for the residential component of 1.5 spaces per dwelling (maximum requirement) and a varied rate between 1 and 4 spaces per 100m² for the commercial component. They consider due to the location of the development a rate of 1.0 spaces per 100m² is applicable and reproduces the rate specified in Clause 52.02-6 of the Scheme.

76. The provision of 8 motorcycle spaces is also considered acceptable.

77. The decision guidelines of this Clause also require that parking spaces arranged in a perpendicular layout must be provided at a minimum size of 2.6 metres by 4.9 metres with a 6.4 metre wide access way. The submitted Traffic by Cardno Grogan Richards states that the location and dimensions of the spaces provided will comply with all relevant standards and requirements of this Clause and inspection of the relevant floor plans confirms this and as such, the overall provision of car parking within the development is considered to be appropriate.

Bicycle Facilities

78. Bicycle parking provision for the development will be 92 residential/employee spaces and 42 visitor spaces, yielding a total of 134 which is above the statutory rate of 117 spaces required under Clause 52.34. The submitted plans also indicate that showers and a changing room will be provided on the ground floor adjacent to the bicycle store. As such, the provision of bicycle parking spaces within the development is considered to be appropriate.

Loading and Unloading of Vehicles

79. Clause 52.07 requires that a minimum of 27.4 square metres of loading bay area be provided for a total of 2,600 square metres of retail floor space or less. The proposal contains 880 square metres of retail uses and proposes 207 square metres of loading area which will adequately service waste removal and loading arrangements for the commercial and residential components of the development.

Wind Assessment

80. A desktop wind assessment has been carried out by Mel Consultants which indicates that given the site's location along the Docklands waterfront and the exposure of the tower to all wind directions, there is potential for a high degree of wind impact on the public realm around the base of the building, particularly along the western and northern facades.

81. The report also indicates that considerable amelioration measures have been integrated into the proposal, such as a single level setback to the tower along the northern façade (above the third floor) and the prominent canopy above the public forecourt area along the western elevation. The enclosure of the forecourt by the commercial and retail components should also provide a degree of shielding, although there will be a corresponding impact on solar access.

82. The submitted report also indicates a certain degree of reliance on further development of the Digital Harbour precinct to the north, Victoria Harbour to the south west as well as the implementation of the approved 'Melbourne's Veranda' street scaping works and further street tree planting along Harbour esplanade to provide more favourable conditions at the base of the development.

83. The submitted report indicates that conditions at the surrounding public areas along the most heavily exposed western and northern facades will achieve safety within the Waterfront criteria. A full wind tunnel test will be required by condition should a permit be issued to verify the degree of compliance with these criteria.

ESD

84. The applicant has submitted sustainability advice prepared by Simpson Kotzman Consulting Engineers. The report provides a very basic overview of the development's response to ESD principals including lighting and energy efficiency measures, through to permeable ground surfaces and water sensitive design and land scaping measures and indicates that the requirements of the 'Melbourne Docklands Ecologically Sustainable Development Guide (May 2006)' has been considered. While this indicates a good standard of achievement in relation to ESD a more detailed assessment should be required via the application of a condition to any permit issued.

Landscaping

85. An indicative landscaping treatment report has been prepared by Tract Consultants. The report indicates that landscaping to the design of the external treatments will respond to the podium treatment by providing a number of rectangular forms. The public forecourt area will be relatively open with various types of paving highlighting the area intended for the informal stage, residential entry point and the desire lines through the pedestrian thoroughfare to the north and the stadium link along the southern boundary.

86. The western Harbour Esplanade frontage will feature two rows of Norfolk Pines and a row of Plane Trees will be located along the northern La Trobe Street façade.

87. Given the expected lower wind speeds experienced along the eastern side of the site, it is acceptable that the podium rooftop area will feature lower level shrubs and ground covering plants arranged around crisscrossed sections of highlight paving.

88. The submitted indicative landscape treatment appears to provide an adequate degree of planting to contribute to wind amelioration and sheltering of public areas. More details of species and relationship to water use on site should be required via a condition on any permit granted.

Summary/ Conclusion

- 89. The proposal consists of a combined podium and residential tower development of 36 storeys to a height of 126.8m with lower level commercial and retail tenancies and associated car parking at 695 – 699 La Trobe Street, Docklands.
- 90. The proposal was exempt from notification but was referred to VicUrban, the Director of Public Transport, as well as the City of Melbourne (CoM) and DPCD’s internal Urban Design Unit. Each of these agencies generally supports the application.
- 91. Melbourne Stadiums Ltd, the occupier of the Etihad Stadium does not support the overshadowing of the playing surface. The current owner of Etihad Stadium, [REDACTED] supports the proposed development.
- 92. [REDACTED]
- 93. The proposed development is considered to respond appropriately to the intent of the zoning and State and Local planning policies in the Melbourne Planning Scheme, in particular by providing for a range of uses in a location well served by public transport. The overall design of the development is of high quality and is broadly considered to make a positive contribution to the surrounding built environment.
- 94. The main issue of discussion is the overshadowing of the stadium due to the height, which is above the discretionary height controls of the DDO52. While the proposal does not meet one of the objectives of DDO52 -to prevent additional overshadowing of the playing surface, there is significant justification for the approval of this proposal on the basis of the merit of the overall design. It is also note that this is the only area of non-compliance with the Planning Scheme and overall, the proposal is considered to be generally worthy of support. As with all planning applications, the responsible authority has to make a decision on often-competing planning policies and stakeholder interests. On this basis, it is recommended the permit is granted with conditions.

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