



2. The proposed building will be a 118 metre tall, 37 storey residential building which will be setback 3 metres from Dudley Street, a minimum of 10 metres from the Harbour Esplanade boundary and at least 8 metres from Digital Drive.
3. The building is to have a GFA of 56,584m<sup>2</sup> and will contain 360 residential apartments and a 4.5 star 176 room hotel with a 200 seat restaurant, swimming pool, gym, conference centre, hotel administration and 255 associated car parking spaces accessed from Harbour Esplanade as well as 86 bicycle parking spaces.
4. The ground floor accessed from Harbour Esplanade will contain the main access hotel foyer, bicycle store and supporting services for the hotel. The ground floor also provides access to an area of outdoor seating and open space that will developed as a gateway between the proposed building and the road intersection to the north.
5. Loading dock, bike parking and change facilities, waste storage area, are all located on the level below ground, known as level 0 however due to the topography of the site this is accessed from Harbour Esplanade.
6. The submission is supported by comprehensive reports including a planning report, landscape studies, a wind tunnel assessment and traffic report.

#### **SITE AND SURROUNDS**

7. The subject site is located on the north west parcel of Digital Harbour precinct with Dudley Street to the north, Harbour Esplanade to the west and Digital Drive to the east. The site is essentially a square shape with a frontage of 59 metres to Dudley Street; a depth of 42 metres to Harbour Esplanade and a site area of 2,960 square metres (m<sup>2</sup>).
8. Currently the subject site is being used as an open air car park for 1010 La Trobe (Customs House).
9. Development surrounding the site is described as follows:

North:

- To the north is the future EGate site (which is nominated as an urban renewal site in State Planning Policy) and Dudley Street (a Road Zone Category 1).

South:

- The southern boundary a vacant site which is currently proposed to be developed in the future for the purpose of an educational facility which is currently the subject of a public tender process lead by Places Victoria.

East:

- The parcel of land identified as public open space linking to EGate and a large amount of fill that must be retained on site on the corner of Wurundjeri Way and Dudley Street.

West:

- To the west the site abuts Harbour Esplanade with The Quays development (two residential towers of approximately 100m in height) on the other side of the road.

#### **STATUTORY CONTROLS**

10. The following controls apply to the site, with planning permit triggers are described below:

<b>Planning Control</b>	<b>Permit/ Application Requirement(s)/ Decision Guidelines</b>
Docklands Zone-Schedule 5 – Digital Harbour (DZ5)	Under Clause 37.04-2 a permit is required to use the land unless specifically exempted by the schedule.

	<p>Under Clause 37.04-4 a permit is required to construct a building or construct or carry out works unless the schedule specifies otherwise.</p> <p>Schedule 5:</p> <ul style="list-style-type: none"> <li>• The purpose of the Docklands Zone is to provide for a range of commercial, residential, educational, technology, business and leisure uses within a mixed use environment, and to provide a distinctive entry to Melbourne Docklands from the northern edge of the city.</li> <li>• The proposed land use, development on the subject site is exempt from notice and review requirements of the Planning and Environment Act 1987 (the Act) under the DZ5.</li> <li>• Decision guidelines are contained in Schedule 1 and at Clause 65.</li> </ul>
Car Parking Overlay	<p>Under Schedule 9 of the parking overlay a permit is required to provide parking spaces in excess of the rate of 1.5 spaces per dwelling. This would equate to 789 spaces which is greater than the 255 spaces proposed therefore no permit is required.</p> <p>The limitation policy allows for 1600 spaces throughout the wider Digital Harbour precinct.</p>
Development Plan Overlay	<p>Schedule 6 (DPO6) The proposed building is consistent with the current Digital Harbour Development Plan (Amended April 2011) which was approved by the Minister on 26 July 2011.</p>
Design and Development Overlay-Schedule 12 (Noise Attenuation Area)	<p>Under Clause 43.02-2 a permit is required to construct a building.</p> <p>Schedule 12:</p> <ul style="list-style-type: none"> <li>• Any new or refurbished development or any conversion of part or all of an existing building that will accommodate new residential or other noise-sensitive uses must:</li> <li>• Be designed and constructed to include noise attenuation measures. These measures must achieve a maximum noise level of 45 dB in habitable rooms with windows closed when music is emitted from the Major Sports and Recreation Facility in the Melbourne Docklands Area.</li> <li>• Be fitted with ducted air conditioning if the new or refurbished development is within 400 metres of the centre point of the Docklands Major Sports and Recreation Facility.</li> <li>• Have external glazing and doors and the air conditioning or ventilation system in all new residential and other noise sensitive use and development designed by a recognised acoustic consultant.</li> </ul>
Design and Development Overlay-Schedule 53 (Digital Harbour Precinct)	<p>Under Clause 43.02-53 a permit is required to construct a building or to construct or carry out works if the requirements of Table 1 are met.</p> <p>Schedule 53 states that:</p> <ul style="list-style-type: none"> <li>• A permit is not required to construct a building or</li> </ul>

	<p>construct or carry out works in accordance with an Existing Old Format Approval. In this schedule, "Existing Old Format Approval" has the meaning given to it in Clause 37.05-4.</p> <ul style="list-style-type: none"> <li>• A permit is not required to construct a building or construct or carry out works if the requirements of Table 1 to this schedule are met.</li> <li>• 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.</li> <li>• Building height is the vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the building, with the exception of architectural features and building services.</li> </ul> <p><b>Table 1 to Schedule 53</b></p> <p>The site is part within DDO53 Area 1 (which has a 60m maximum building height except for one tower in the north west corner of the module not exceeding 100 metres). As the proposed building is 118m in height a permit is require under this Clause.</p>
<p>Loading and Unloading of Vehicles (Clause 52.07)</p>	<p>Under Clause 52.07 no buildings or works may be constructed for the manufacture, servicing, storage or sale of goods or materials unless space is provided on the land for loading and unloading vehicles as specified within the table.</p> <p>The site provides a loading facility that meets the requirements of the Clause; therefore no permit is required.</p>
<p>Bicycle Facilities (Clause 52.34)</p>	<p>Under Clause 52.34-1 a new use must not commence until the required bicycle facilities and associated signage has been provided on the land. The standard requires the provision of 130 bicycle spaces plus including 47 visitor parking spaces. The application provides for 86 spaces on site as well as the necessary facilities and therefore a permit is required under this provision. However it is proposed to increase the level of provision to meet the requirements of the scheme through a condition on the permit.</p>
<p>Integrated Public Transport Planning (Clause 52.36)</p>	<p>Under Clause 52.36-1 an application must be referred in accordance with Section 55 of the Act to the Director of Public Transport for a commercial development more than 10,000 sqm of leasable floor area.</p> <p>On 7 May 2013 the application was referred to the Director of Public Transport. PTV has no objection subject to the inclusion of conditions</p>

### General Provisions

11. **Responsible authority for administering and enforcing the Scheme:** The schedule to Clause 61.01 indicates that the Minister for Planning is the responsible authority for considering and determining applications in accordance with Divisions 1, 1A, 2 and 3 of Part 4 of the

*Planning and Environment Act 1987* for approving matters required by the scheme in relation to developments with a gross floor area exceeding 25,000 square metres.

12. **Decision Guidelines:** Under Clause 65.01 before deciding on an application the responsible authority must consider as appropriate a number of matters, including Section 60 of the Act.
13. **Referral and Notice Provisions:** Under Clause 66.03 an application must be referred to the person or body specified as the referral authority. For this application referral was given under Section 55 to PTV/Director of Public Transport, Places Victoria and VicRoads.

## **POLICY FRAMEWORK**

### **State Planning Policy Framework (SPPF)**

14. The following policies within the SPPF are relevant:

- Clause 11.01-2 (Activity Centre Planning)
- Clause 13.04-1 (Noise Abatement)
- Clause 15.01-1 (Urban Design)
- Clause 15.02 (Sustainable Development)
- Clause 18 (Transport)

### **Municipal Strategic Statement (MSS)**

15. Clause 21.02 (Municipal Profile) recognises that the City of Melbourne is the premiere location for many of the State's economic, infrastructure and cultural facilities, and attracts a substantial daily population with people travelling to the city for work, leisure and shopping. In addition, the most significant gains in resident population are expected in the Central City, Docklands and Southbank.
16. Clause 21.03-1 (Vision) recognises the diverse roles of the city and local areas, with a vision being '*a thriving and sustainable City that simultaneously pursues economic prosperity, social equity and environmental quality*'.
17. Clause 21.04 (Land Use) sets out objectives and strategies to '*ensure residential development takes into account the amenity impacts of established and future uses, including noise impacts, and provides acoustic insulation in dwellings to protect future occupants*'.
18. Clause 21.05-2 (Structure and Character) identifies the need to reinforce valued characteristics of some areas and establish a new built form character for others in areas that have the capacity to absorb future development.
19. Clause 21.05-3 (Public Environment) notes the challenge in ensuring that new developments add positively to the overall character of Melbourne and 'create an accessible, safe, inclusive and engaging public environment'. Associated strategies seek to encourage excellence in urban design, public realm and improve pedestrian permeability and amenity.
20. Clause 21.05-5 (Sustainable Built Form) seeks to create a built environment that adopts environmentally sustainable design practices.
21. Clause 21.06-1 (Public transport) seeks to increase the patronage of public transport by (amongst other things) encouraging development in locations which can maximise the potential use of public transport.
22. Clause 21.07-1 (Environmentally Sustainable Development) encourages a reduction in the generation of greenhouse gas emissions and promotes energy efficiency in regards to resource use and waste reduction.

### **Local Planning Policy Framework (LPPF)**

23. The following policies within the LPPF are relevant:

- 21.02 (Municipal Profile)
- 21.08 (Local Areas)

- 22.18 (Urban Design within the Docklands Zone)

### **Other relevant policy/ matters**

24. Other relevant policy/ matters include:

#### *Approved Development Plan*

25. The proposed development complies with the approved Digital Harbour Development Plan – Amended April 2011.

#### *Amendment C162*

26. Amendment to the Melbourne Planning Scheme C162 (Municipal Strategic Statement) has been adopted by Council and is 'seriously entertained' planning document. The amendment includes themes which are applied to the local areas. The site is identified in the Docklands Existing Urban Renewal area which encourages the establishment of leading edge industries through the development and promotion of Digital Harbour and the installation of high technology infrastructure.

#### *Amendment C209*

27. On 16 November 2012 amendment C209 has been authorised and exhibited and is due to go to Panel in September. A condition in the amendment excludes sites in Docklands which are subject to a separate development agreement to provide public open space within the precinct. A development agreement exists for Digital Harbour.

#### *Access Docklands*

28. The proposed development complies with the objectives of Access Docklands by providing lower car parking provision, higher bicycle provision and is in close proximity to public transport infrastructure.

### **NOTIFICATION**

29. Under Schedule 5 of the Docklands Zone and Schedule 1 and 38 of the Design and Development Overlay, an application to 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.

### **REFERRALS**

30. The application was referred to the Department's Urban Design Unit, Places Victoria, the City of Melbourne, and pursuant to Section 55 of the Act to the Director of Public Transport, Places Victoria and VicRoads. The following comments were provided:

31. **Urban Design (DTPLI):** Offered general support for the application, subject to more detailed design in relation to the landscape plan, wind conditions, natural light, public realm lighting plan, visual permeability, way finding signage and materials and finishes. These matters can be resolved through appropriate conditions which have been included on the permit.
32. **Places Victoria:** Offered support for the proposed development subject to standard conditions and requested the submitted plans be amended to show:
  - a. Habitable rooms which lack direct access to natural light are to include an operable opening of no less than 50% of the length of the dominant wall.
  - b. Details of service access arrangements to the Lower Ground Floor substation on Dudley Street
  - c. Details of the bike storage facade treatment.
  - d. ground level elevations at an appropriate scale to demonstrate the framing of entries and tenancies through the use of a number of materials to reduce the dominance of floor to ceiling glazing, and
  - e. Details of the screens recommended by the Wind Assessment Report (December 2012) and the Acoustic Assessment as required by a condition.

f. Digital Drive completion

33. **City of Melbourne:** Application referred on 7 May 2013. The Council response (received on 26 June 2013) provides general support for the application subject to consideration of:
- accessibility issues,
  - completion of Digital Drive,
  - street furniture,
  - standard engineering matters,
  - waste and title consolidation.

These matters can be resolved through appropriate conditions.

34. **Public Transport Victoria:** offered no objection to the proposal subject to two conditions being included on any permit issued. These conditions require that no disruption to tram services along Harbour Esplanade be made and no damage be made to tram infrastructure. Letter dated 27 June 2013.
35. **VicRoads:** offered no objection to the proposal or suggested conditions. Several issues relevant to the wider traffic flow within Docklands was raised which have been forwarded to Council's Engineering Branch.

## **ASSESSMENT**

### ***Land Use***

36. The proposed use for ground floor hotel lobby and associated facilities with residential above replaces a mostly underutilised and inactive site which makes a limited contribution to the area. The proposal is consistent the development plan. The use will create an active streetscape and is considered to be a desired outcome.

### ***Design and Built Form***

#### *Urban Context Response*

37. Digital Harbour is a predominantly commercial precinct which is slightly more than 50% completed at this stage. By permitting this proposal it will complete the Dudley Street, Harbour Esplanade corner frontage which is prominent for Docklands and the precinct. The proposal also provides more human interaction throughout the precinct with the completion of the road known as Digital Drive which is being ensured through a condition on this permit.
38. Schedule 53 to the Design and Development Overlay requires that a permit be granted to exceed the height in the Table to Schedule 53. The objectives of the DDO are to:
- To ensure that vistas to the east, into the Central Business District, and to the west across Victoria Harbour 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.
39. The proposed building does not overshadow the Etihad Stadium playing surface and the building is considered to comply with the vista objective. The height at 118 metres is considered appropriate as the development plan stipulates that a landmark building is to be provided on the site.

#### *Street Level Frontages & Pedestrian Safety*

40. The proposed development incorporates hotel based activities and bicycle facilities at ground floor level and access to an open space plaza which provides a level of pedestrian interest, interaction and amenity. The active frontages will also serve to increase the perception of safety in this area. A condition has been included on the permit which requires no opaque glass fronting the public open space to the east in order to provide visual permeability.

41. A pedestrian network will be provided through the site offering connections between Harbour Esplanade and Digital Drive. The building incorporates weather protection and at the southern part of the site a public walkway that allows for through block connectivity.

*Public Realm and Open Space*

42. The development includes the provision of an open space area known as North East Park and this area provides for a ultimate link across to the EGate site. A small area of open space will be developed on the harbour Esplanade frontage as well.
43. Conditions are to be included on the planning permit to ensure the delivery of the open space and the construction of Digital Drive.

*Microclimate (Wind, Weather Protection, Light and Shade/ Overshadowing)*

44. The Environmental Wind Assessment (MEL Consultants, received December 2012) submitted with the application concludes that wind conditions around the proposed development have been shown to be mostly either on or within the criterion for walking comfort with the exception of the north western and south east corners of the building at ground level. With the addition of some landscaping on the east side of the building wind conditions at the south eastern corner were shown to come within the criterion for walking. The north west corner is not considered to be an area that will be used as public open space, more for hard wearing landscaping, to be designed by Council officers.

*ESD*

45. The building is required to meet the requirements of Clause 22.19 Energy, Water and Waste Efficiency which requires a Waste Management Plan in accordance with the City of Melbourne's guidelines as well as an ESD statement proving that the proposed building will achieve the require performance under Clause 22.19-5. The proposed development is over 5,000 sqm therefore a 5 star rating under a current version of Green Star – Office rating tool or equivalent. The application states that the ESD performance exceeds the Docklands Award of Merit which is the requested target of Places Victoria and part of the development agreement. Compliance with the ESD requirements of the Scheme and Places Victoria's requirements will be achieved through permit conditions.

***Car Parking / Loading and Unloading of Vehicles/ Waste Collection/ Bicycle Facilities***

46. The articulation of the podium areas to be clad in perforated aluminium was raised by DPCD Urban Design as an issue requiring further attention and a condition has been attached to the permit to ensure this occurs.
47. The application provides a loading facility in accordance with the requirements at Clause 52.07. It is proposed to provide on-site loading facilities accessed via Harbour Esplanade. A swept path assessment provided within the Traffic Impact Assessment Report shows that the design vehicle can enter and exit the area appropriately.
48. The application provides for a total of 86 bicycle spaces, which is less than required by Clause 52.36, therefore a condition is on the permit to increase the level of parking to comply with the Scheme. The associated bicycle facilities (showers and changing rooms) will also be required to meet the requirements of the Scheme.

**CONCLUSION**

49. The development meets or exceeds the requirements of the Melbourne Planning Scheme and is supported, subject to conditions, by Places Victoria, City of Melbourne and statutory referral authorities.
50. The building complies with the approved Digital Harbour Development Plan and the provision of a residential/hotel building in Docklands is supported.

**RECOMMENDATION**

51. That you approve planning permit application 2013/004303 at 238 Harbour Esplanade, Docklands for the development of a multi level residential building subject to conditions.



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