

**Report to the Future Melbourne (Planning) Committee**

**Agenda item 6.2**

**Planning Permit Application: TP-2018-728  
570 Victoria Street, North Melbourne**

**12 November 2019**

**Presenter:** Jane Birmingham, Practice Leader Land Use and Development

**Purpose and background**

1. The purpose of this report is to advise the Future Melbourne Committee of a planning permit application seeking approval for use of the ground floor at 570 Victoria Street, Melbourne as a restricted recreational facility (yoga studio) and car parking to the satisfaction of the responsible authority (refer Attachment 3 – Selected Plans).
2. The applicant is Isha Foundation Australia Inc. c/- Glossop Town Planning and the owner is the Panarcadian Association of Melbourne.
3. The site is located within the General Residential Zone Schedule 1 and is covered by Heritage Overlay (HO3), and Parking Overlay Schedule 12. The site is currently occupied by a three storey rendered brick building which was previously used as a function and reception centre. Those uses have now ceased. There is no on-site car parking.
4. Specifically, this application seeks approval to use the ground floor of the existing building which is approximately 440 square metres in area for yoga sessions. A maximum of 180 people are proposed. The yoga sessions will operate Monday to Friday from 10am to 11pm and Saturday, Sunday and Public Holidays from 6.30am to 10.30pm. The programs will be run by volunteers and there will be no permanent staff on site. No on-site car parking is proposed. A total of 10 bicycle spaces will be provided on-site.
5. The application was amended pursuant to Section 57A of the Planning and Environment Act 1987 (the Act) on 26 April 2019. The key changes related to increasing the maximum number of people from 95 to 180 and providing specific operating hours.
6. Public notice of the initial and amended applications was undertaken. This resulted in a total of 16 objections. The primary concern raised is the waiver of the car parking requirements and the impact on the availability of the existing on-street parking spaces.

**Key issues**

7. The key issues relate to the appropriateness of the proposed use having regards to the residential context and the impact on the surrounding area as a result of the proposed operating hours, maximum number of people, noise and reliance on on-street parking.
8. Pursuant to Clause 52.06 of the Melbourne Planning Scheme, car parking spaces for the proposed use must be provided to the satisfaction of the responsible authority. Management supports the proposal, subject to conditions restricting the yoga sessions to a duration of 1 hour and 45 minutes, a maximum of 60 people during normal business hours and a maximum of 120 people during the evenings, weekends and public holidays.
9. Subject to the above conditions being imposed on any permit to issue, together with standard noise conditions and the requirement to provide an operational management plan, the proposed use as a yoga studio will not have an unreasonable impact on the amenity of the surrounding area. Compared to the previous function centre use, the yoga studio will be of low intensity particularly with regards to the number of people and noise.

**Attachments:**

1. Supporting Attachment (Page 3 of 24)
2. Locality Plan (Page 4 of 24)
3. Plans (Page 5 of 24)
4. Delegate Report (Page 6 of 24)

**Recommendation from management**

10. That the Future Melbourne Committee resolves to issue a Notice of Decision to Grant a Permit subject to conditions outlined in the delegate report (Attachment 4).

## Supporting Attachment

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### Legal

1. Division 1 of Part 4 of the Act sets out the requirements in relation to applications for permits pursuant to the relevant planning scheme. Section 61 of the Act sets out that the Council may decide to grant a permit, grant a permit subject to conditions or refuse to grant a permit on any ground it thinks fit.
2. As objections have been received, sections 64 and 65 of the Act provide that the responsible authority must give the applicant and each objector notice in the prescribed form of its decision to either grant a permit or refuse to grant a permit. The responsible authority must not issue a permit to the applicant until the end of the period in which an objector may apply to the VCAT for a review of the decision or, if an application for review is made, until the application is determined by the VCAT.

### Finance

3. There are no direct financial issues arising from the recommendations contained within this report.

### Conflict of interest

4. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a direct or indirect interest in relation to the matter of the report.

### Health and Safety

5. Relevant planning considerations such as traffic and waste management and potential amenity impacts that could impact on health and safety have been considered within the planning permit application and assessment process.

### Stakeholder consultation

6. Public notice of the application was undertaken in accordance with the Act and resulted in 16 objections at the time of writing this report.

### Relation to Council policy

7. Relevant Council policies are discussed in the attached delegate report (refer to Attachment 4).

### Environmental sustainability

8. The policy at Clause 22.19, Energy, Water and Waste Efficiency applies to applications for construction of a building for the purposes of office, retail, education centre and accommodation. As this application does not seek to construct a building or carry out any external works, this policy is not relevant to the consideration of the application.

# Locality Plan

## 570 Victoria Street, North Melbourne





# 570 VICTORIA STREET NORTH MELBOURNE

## Ground Floor Plan



scale:  
 1:200 @ A3

**DELEGATED PLANNING PERMIT APPLICATION REPORT**

<b>Application number:</b>	<b>TP-2018-728</b>
<b>Applicant / owner:</b>	<b>Isha Foundation Australia Inc c/o Glossop Town Planning / Panarcadian Association of Melbourne and Victoria Limited</b>
<b>Address:</b>	Ground, 570 Victoria Street, NORTH MELBOURNE VIC 3051
<b>Proposal:</b>	Use of the ground floor as a Restricted Recreation Facility (Yoga Studio) and car parking to the satisfaction of the Responsible Authority
<b>Cost of works:</b>	N/A
<b>Date of application:</b>	27 August 2018
<b>Responsible officer:</b>	Esha Rahman, Senior Urban Planner

**1 SUBJECT SITE AND SURROUNDS****1.1 Subject site**

The subject site is located on the north side of Victoria Street at a distance of approximately 43 metres to the west of Curzon Street in North Melbourne. A Council Lane identified as 'CL405' is located to the rear northern boundary of the subject site.

The site is identified as Lot 1 and 2 in the Plan of Subdivision no: TP 576083Q. The site is not affected by any restrictive covenants or easements.

The site is regular in shape and has a total site area of approximately 1094 m<sup>2</sup> with a frontage to Victoria Street of approximately 23 metres.

The site is currently occupied by a three storey rendered brick building. Built in 1914, the building previously contained offices and cinemas. These uses were converted to a ballroom and reception centre known as 'Candelles Ballroom' in the 1970s. A search of planning records highlights that there have been no planning permits issued in the last 15 years for the use of the site as a function centre. The use continued to operate under the provision of 'existing use rights'. The function centre use has now ceased for a period greater than two years. The ground floor of the building is currently vacant and the upper level is used by the owners of the property (Panarcadian Association of Melbourne and Victoria) to hold meetings and events. The subject planning application pertains to the ground level only. There is no on-site car parking.

## Aerial Photo / Locality Plan



Figure 1: Aerial map of subject site which is shown in red.

### 1.2 Surrounds

The subject site is located in a residential area. Surrounding uses are predominantly residential.

To the immediate east of the subject site at 552 – 568 Victoria Street is a three storey brick warehouse built to all boundaries which is used for offices. The sites to the west, north and south are single storey detached or semi-detached dwellings.

#### 1.2.1 Existing on-street car parking

To the south of the subject site is Victoria Street which contains two way traffic and kerbside parallel on-street parking lanes. The on-street car parking spaces in the immediate vicinity are restricted as follows:

- 1P between 7.30am to 6.30pm Monday to Friday and 7.30am to 12.30pm Saturday.
- 2P between 7.30am to 6.30pm Monday to Friday and 7.30am to 12.30pm Saturday.
- 4P between 7.30am to 6.30pm Monday to Friday and 7.30am to 12.30pm Saturday.
- 1/2P between 7.30am to 6.30pm Monday to Friday and 7.30am to 12.30pm Saturday.
- 1/4P.

There are a few unrestricted on-street parking spaces located in the median on Curzon Street. It is noted that many of the time restrictions do not apply to residents in the area who have resident parking permits.

Refer to figure 2 below which show the existing on-street parking restrictions within approximately 250 metres of the subject site.



Figure 2: Existing on-street parking restrictions approximately 250 metres within walking distance of the subject site. (Source: Traffic Impact Assessment Report prepared by TraffixGroup dated 8<sup>th</sup> April 2019.)

### 1.2.2 Public transport

The subject site has good access to public transport, including as follows:

- Tram Route 57 operates along Victoria Street/Errol Street with the nearest stop located 180 metres to the east of the site, and provides a connection between the City and West Maribyrnong,
- Bus Routes 216 and 219 operate along Spencer Street within 360 metres walking distance of the site and provide connections to Brighton Beach, Sunshine Railway Station and Gardenvale via Footscray, North Melbourne, Southern Cross and Elsternwick Railway Stations,
- Bus Routes 401 and 403 operate along Queensberry Street to the north of the site and provide express shuttle connections between North Melbourne Railway Station, Footscray Railway Station and Melbourne University via Royal Melbourne Hospital, and
- North Melbourne Railway Station is located approximately 700m walking distance to the southwest of the site.

Additionally, Flagstaff Railway Station (on the City loop) is located within 1.2km walking distance of the site.



## 2 BACKGROUND AND HISTORY

### 2.1 Pre-application discussions

A telephone discussion was held with an Urban Planner prior to the lodging of this planning application. The applicant was advised that pursuant to the zoning of the subject site (General Residential Zone Schedule 1), a planning permit would be required for the proposed use.

### 2.2 Planning Application History

There is no directly relevant history or background for this application.

### 2.3 Amendments during the process

The planning application initially sought approval to use the ground floor of the existing building as a yoga studio with a maximum of 95 people (participants and volunteers) with the following program summary:

Table 1: Yoga Program Summary

Program	No. of Participants	No. of Volunteers	Frequency	Day	Time
Yoga and Meditation	80	10 – 15	Bimonthly	Thursday & Friday Weekend	6pm-9pm 8:30am-6:30pm
Hatha Yoga	40 – 60	5	Bimonthly	Weekend	9am-6pm
Free Meditation	40 – 60	5	Monthly	Wednesday	6:30pm-7:30pm
Free Yoga	40 – 60	5	Monthly	Wednesday	6:30pm-7:30pm
Group Meditation	80	Incl.	Monthly	Weekend	5pm-7:30pm

Figure 3: Table showing the proposed program summary and operating hours (Source: TraffixGroup report dated 7 January 2019).

Concerns were raised in relation to the operating hours and the applicant was advised to provide specific operating hours rather than stating bi-monthly or monthly. The applicant was also made aware that, should a permit be issued, conditions would generally be imposed restricting the maximum number of people and allowing specific operating hours. This resulted in the applicant reconsidering the application and in January 2019, the applicant requested Council to put the application on hold.

On 26 April 2019, pursuant to Section 57A of the Act, an amended planning application was submitted. The key changes relate to the maximum number of people and the operating hours as set out below.

## 3 PROPOSAL

The plans and documents which have been considered in the assessment are identified in the Table below:

Plan / Report Title	Date Stamped
Copy of Title: Vol. 03744, Fol. 715	22/05/2019
570 Victoria Street Ground Floor Plan	April 2019
Application to amend a Planning Application Report Prepared by Glossop Town Planning	April 2019
Blueprint Building Permits: Maximum Patron Capacity Report	17 April 2019
TraffixGroup: Traffic Engineering Report	8 April 2019

Waste Management plan	20 May 2019
Letter Response to Objections from Applicant	8 October 2019

The application, as detailed in the planning report prepared by Glossop Town Planning dated April 2019, seeks approval to use the ground floor of the existing building as a yoga studio run by Isha Foundation Australia Inc.

Pursuant to Clause 73.03 of the Melbourne Planning Scheme, a yoga studio falls under the definition of a 'Restricted Recreation Facility'.

Isha Foundation Australia is a volunteer-run, non-profit organisation offering yoga programs under the name of 'Isha Yoga'. Some of the programs are fee based, and some are offered free of charge. In Australia, the organisation conducts a variety of yoga and meditation programs in Sydney, Perth and Brisbane and is seeking to establish a permanent centre (five year lease) in Melbourne at the subject site.

In particular, the proposal seeks to use the ground floor of the existing building in the following ways:

- The existing multi-function space which has an area of approximately 440 m<sup>2</sup> will be used for yoga sessions.
- The existing ground floor kitchen space to the rear will be used for food assembly (primarily fruit and nuts) and onsite food preparation. There will be no sale of food.
- The existing retail area fronting Victoria Street will be for a registration and waiting area.
- A total of 10 bicycle spaces will be provided in the open space located adjacent to the eastern boundary of the site.
- A maximum of 180 persons are proposed to be on the premises at any one time.
- The programs will be run by volunteers and there will no permanent staff on site.

The table below summarises the intended usage, including the proposed number of attendees and proposed days and times.

Day	Times	Participants	Volunteers	Total No.	Comments
Monday to Friday	10am – 4pm	55	5	60	Corporate/other
	4pm – 6pm	-	30	30	Setup
	6pm – 10pm	150	30	180	Program time
	10pm – 11pm	-	30	30	Wind down
Saturday, Sunday and Public Holiday	6:30am – 7:30am	-	30	30	Setup
	7:30am – 8pm	150	30	180	Program time
	8pm – 10:30pm	-	30	30	Wind down

Figure 4: The table as shown in the submitted planning report outlining the maximum number of participants and volunteers and proposed hours (Source: TraffixGroup traffic impact assesment report dated 8 April 2019) .

The sessions proposed for Monday - Friday between 10am to 4pm are intended for corporate clients and will run as demand requires.

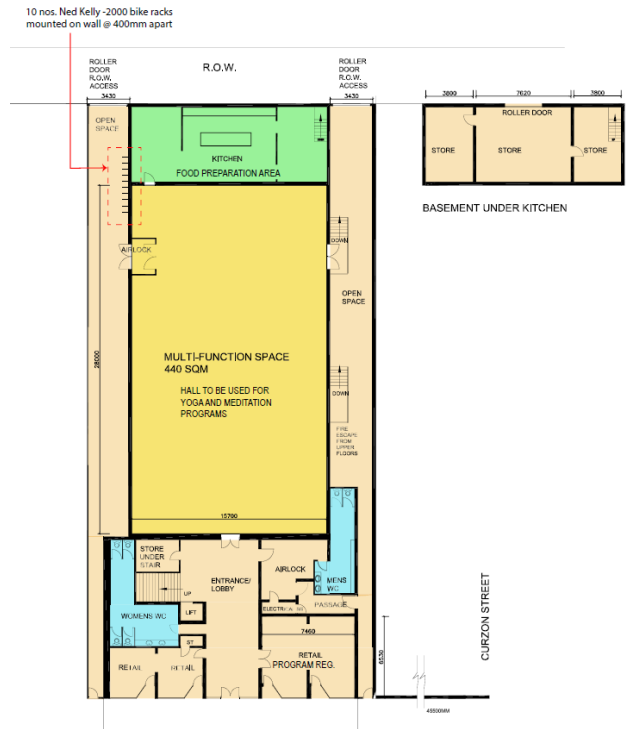


Figure 5: Proposed ground floor plan (Source: Glossop Town Planning Report April 2019).

No buildings and works are proposed as part of this planning permit application.

There are no car parking spaces provided on site and the proposed use does not seek to provide any.

The bins will be stored and located in the open area situated adjacent to the eastern boundary of the site and will be wheeled to Victoria Street for collection.

#### 4 STATUTORY CONTROLS

The following clauses in the Melbourne Planning Scheme require a planning permit for this proposal:

Clause	Permit Trigger
Clause 32.08 General Residential Zone, Schedule 1	Pursuant to the table in Clause 32.08-2, a planning permit is required to use the subject site for Leisure and Recreation which includes a Restricted Recreation Facility. A yoga studio falls within this use.
Clause 43.01 Heritage Overlay Schedule 3 (North and West Melbourne Precinct)	Pursuant to Clause 43.01-1, a permit is required to demolish, construct a building or construct of carry out works. As no building and works are proposed as part of this proposal, no planning permit is required pursuant to this clause.
Clause 45.09 Parking Overlay Schedule 12	Schedule 12 Clause 45.09 outlines maximum car parking rates for residential development. As this proposal does not relate to residential development, this clause does not apply.
Clause 52.06 Car Parking	Pursuant to Clause 52.06-2, before a new use commences, the number of car parking spaces required under Clause 52.06-5 must be provided to the satisfaction of the responsible authority.  The table to Clause 52.06-5 does not outline a car parking rate for a restricted recreation facility. As such, pursuant to Clause 52.06-6, the

	car parking spaces must be provided to the satisfaction of the responsible authority.
Clause 52.34 Bicycle Facilities	<p>Pursuant to Clause 52.34-1, a new use must not commence until the required bicycle facilities and associated signage has been provided on the land.</p> <p>Pursuant to Clause 52.34-2, a permit may be granted to vary, reduce or waive any requirement of Clause 52.34-5 and Clause 52.34-6.</p> <p>The table to Clause 52.34-5 does not outline any specific rates for a restricted recreation facility. For a minor sports and recreation facility (which includes a restricted recreation facility) it outlines the following rates:</p> <ul style="list-style-type: none"> <li>• 1 space per 4 employees.</li> <li>• 1 each 200m<sup>2</sup> of new floor area for visitors.</li> </ul> <p>Pursuant to the above rates, the proposal has a statutory requirement to provide a total of nine bicycle spaces on-site; seven employee spaces and two visitor spaces.</p> <p>A total of 10 bicycle spaces will be provided on site therefore exceeding the above requirements. As such, no permit is required pursuant to this clause.</p>

## 5 STRATEGIC FRAMEWORK

### 5.1 State Planning Policy Framework (SPPF)

The relevant provisions of the SPPF are summarised as follows:

- Clause 13.05-1S Noise abatement which seeks ‘to assist the control of noise effects on sensitive land uses’.
- Clause 13.07-1S Land use compatibility which seeks ‘to safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects’.
- Clause 17.02-1S Business which seeks ‘to encourage development that meets the community needs for retail, entertainment, office and other commercial services’.
- Clause 18.02-1 Sustainable personal transport which seeks ‘to promote the use of sustainable personal transport’.
- Clause 18.02-2S Public Transport which seeks ‘to facilitate greater use of public transport and promote increased development close to high-quality public transport routes’.

### 5.2 Local Planning Policy Framework (LPPF)

#### 5.2.1 Municipal Strategic Statement (MSS)

Council’s Municipal Strategic Statement (MSS) is contained at Clause 21.

The subject site is located within the North and West Melbourne area.

Clause 21.16-5 identifies North Melbourne as having a strong residential base as well as commercial and industrial uses. The clause states that North Melbourne should provide a balance of residential and commercial uses that maintains an emphasis on local community and liveability.

#### 5.2.2 Local Policies

The relevant local policy is summarised as follows:

Clause 22.14 Discretionary uses in the neighbourhood and general residential zones which seeks to achieve the following objectives as relevant:

- To facilitate non-residential uses in residential areas only where they are compatible with the residential character and amenity and serve the needs of the local community.
- To discourage new non-residential uses that have a negative impact on residential amenity or would be more appropriately located within Mixed Use or Commercial Zones.

The clause outlines the following policies of relevance:

- Discourage new non-residential uses in the Residential Zones unless there is a net benefit to local residents and the local community.
- Ensure the intensity of non-residential uses are appropriate to a residential context.
- Minimise the effects of non-residential uses on residential amenity (by controlling numbers of operators, practitioners, staff levels, hours of operation, traffic and parking movements, light, noise and air emissions).
- Encourage non-residential uses to locate:
  - In buildings that were purpose-built for predominantly non-residential purposes.
  - On corner sites that have direct access to a road in a Road Zone.
  - On sites that are located adjacent to the boundary of a non-residential zone.
- Ensure that responsibility for management of operational impacts such as traffic, parking, odour, light spill, signage and noise falls upon the agent of change to minimise impacts on the neighbourhood.

## **6 ZONE**

The subject site is located within the General Residential Zone Schedule 1 where a planning permit is required to use the site as a restricted recreation facility (yoga studio).

One of the purposes of this zone is to allow educational, recreational, religious, community and a limited range of non-residential uses to serve local community needs in appropriate locations.

## **7 OVERLAY(S)**

The subject site is affected by the Heritage Overlay (HO3) and the Parking Overlay Schedule 12. As outlined in the table to Section 4 of this report, as no building and works are proposed as part of this application which proposes a non-residential use, the overlays are not relevant to the consideration of this application.

## **8 PARTICULAR PROVISIONS**

The following particular provisions apply to the application:

- Clause 52.06, Car Parking
- Clause 52.34, Bicycle Facilities

## **9 GENERAL PROVISIONS**

The following general provision applies to the application:

- Clause 65, Decision Guidelines, which includes the matters set out in Section 60 of the Planning and Environment Act 1987.

## 10 PUBLIC NOTIFICATION

### 10.1 Initial application

It was determined that the proposal may result in material detriment. Notice of the proposal was given by ordinary mail to the owners and occupiers of surrounding properties and by posting two notices on the front and rear site for a 14 day period, in accordance with Section 52 of the *Planning and Environment Act 1987*.

### 10.2 Amended application

It was determined that the amended proposal may result in material detriment. Notice of the application was given by ordinary mail to the owners and occupiers of surrounding properties and by posting two notices on the front and rear site for a 14 day period, in accordance with Section 52 of the *Planning and Environment Act 1987*.

## 11 OBJECTIONS

The application has received a total of 16 objections. None of the objections were withdrawn as a result of the amended application.

The main concerns raised are the proposed hours of operation, the maximum number of people being excessive and the impact on the availability of the existing on-street parking spaces particularly for the surrounding residents who have resident parking permits.

Many of the objectors recommended that, should this application be approved, the existing on-street parking restrictions should be varied to allow for an increase in the number of resident permit only parking spaces in the area.

Other concerns raised are noise impacts and traffic resulting from the large number of people entering and exiting the venue.

The applicant was provided with an opportunity to respond to the objections. The applicant responded via a letter dated 8 October 2019 outlining the following justification (summarised):

- The proposed use compared to the previous function centre use which catered for 350 patrons represents a reduction in the intensity of use.
- The sessions proposed for Monday to Friday, between the hours of 10am – 4pm are intended for corporate clients and will only run as demand requires.
- The permit applicant is agreeable to conditions on any permit to issue restricting daytime classes to 1 hour 45 mins, restricting to 60 people on site during 10 and 4pm, and for evening classes limiting the maximum number of people on site to 90.
- The use is confined to the ground floor of the existing building which will adequately attenuate any noise. The proposed use does not include any live or amplified music.
- The air lock which operates on the western side of the building will mitigate any potential noise emissions and ensure that there are no unreasonable amenity impacts to this property.

- Program volunteers will be on site during all programs to ensure all participants enter and exit the building in a manner respectful of the surrounding properties.

## **12 REFERRALS**

### **12.1 Internal**

The initial and the recent formally amended applications were internally referred to Council's Traffic Engineering and Waste Departments. The following comments were provided (summarised).

#### **12.1.1 Traffic Engineering**

##### **Initial application**

As outlined in Section 2.3 of this report, the initial application sought approval for a maximum of 95 people with operating hours listed in Figure 3 of the report.

In support of the application, a car parking impact assessment prepared by Traffix Group dated 7 January 2019 was submitted which analysed the existing parking occupancies in the surrounding network. This was reviewed by Council's Traffic Engineering Department who, having regards to the findings in the submitted traffic report (including the site's proximity to reasonable public transport), did not have any objection to the use of the site as yoga studio during the evenings and on the weekends, subject to the implementation of a Green Travel Plan as a permit condition.

However, Council's Traffic Engineering Department advised that daytime weekday yoga sessions could not be supported as on-street parking during these times is in very high demand and could not cope with the estimated additional parking demand.

##### **Amended application**

As outlined in Section 3 of this report, the current amended application seeks approval for a maximum of 180 people during the evening on weekdays, weekends and public holidays. In support of this amended application, an updated traffic impact assessment report prepared by Traffix Group dated 8 April 2019 was provided.

The amended application, including the updated traffic impact assessment report, has been reviewed by Council's Traffic Engineering Department. Additionally, Council's Traffic Engineering Department undertook spot surveys of available parking facilities in the area surveyed by Traffix Group on Wednesday 3 July between 11am and midday. Council's Traffic Engineering Department provided the following comments (summarised):

- The majority of the spaces that are available in the survey area are the shorter term 1 and 2 hour parking spaces and very few longer term (4P and unrestricted) spaces.
- The proposed daytime sessions will generate a total of 60 participants / volunteers which would generate a parking demand of approximately 18 parking spaces (based on a rate of 0.3 spaces per patron). However, the two-hour limit may not be suitable for participants and especially for the volunteers as they may be required to be on-site for longer periods.
- It is considered that the evening sessions would place a greater pressure on the available parking in the area. As indicated in the Traffix Group survey, there were approximately 63 spaces available at 6pm, and the estimated demand would be in the order of 54 spaces.

- Based on the above data, it is considered that parking availability would be close to capacity, taking into consideration daily fluctuations, (as indicated in the recent survey results obtained by Engineering Services). Therefore, any additional demand on parking restrictions during this period would severely reduce the availability of parking spaces for residents in the area that arrive home at 6pm or later and create an unsustainable situation especially if any future development applications in this area were also based on a reliance on on-street parking facilities.
- Engineering Services therefore has concerns with the parking demand that is likely to be generated by the yoga studio, especially during the evening periods when the maximum patronage is expected. While it is acknowledged that there are reasonable public transport options in the area, these options are unlikely to be utilised after hours to anywhere near the same level as during daytime or weekend sessions.

The above traffic concerns were forwarded to the applicant who provided the following response:

‘After our review of the various referral comments, I would like an opportunity to provide some clarification and suggested permit conditions to address Council’s referral comments.

#### Day classes

The proposal sought to use the premises for daytime yoga session of up to 60 (55 participants and 5 volunteers) people between the hours of 10am and 4pm.

I can confirm that each class will run for a maximum of 1 hour and 45 (inclusive of Q&A at the end of yoga practices). Given the length of the class, there is no reason why patrons cannot rely on 2-hour on-street car parking when they do drive to the premises.

Moreover, the daytime classes are targeted at corporate clientele in the nearby area. It can be reasonably anticipated that a certain percentage of patrons will either car pool, walk, use public transport or cycle to the venue.

We suggest that appropriate worded permit conditions can be included on any permit issued to ensure that Council’s traffic engineer’s concerns can be appropriately addressed. The conditions can include:

- A limit of 1h 45min for each class;
- A limit of no more than 60 people on-site at any one time during 10am and 4pm. This allows either 1 large class or multiple smaller classes, provided that the maximum patron number does not exceed 60.

#### Evening, weekend and public holiday classes

For the evening classes, weekend classes and public holiday classes, the client is willing to accept a permit condition to limit the maximum number of people on site to 120 (90 participants and 30 volunteers). ‘

The applicant’s response was reviewed by Council’s Traffic Engineer who provided the following comments:

‘Based on the additional information provided by the applicant, it is accepted that there would be suitable on street parking facilities for a total of 60 people during the day based on classes only operating 1 hour and 45 minutes. 60 people should be the maximum number during the day.



Similarly, if the maximum number of people attending the venue during the evenings, weekends and public holidays was restricted to 120, then the on street parking facilities (based on the surveys provided) would accommodate the likely parking demand.

The applicant should nonetheless promote public transport and as such have a green travel plan as part of the conditions of permit.

In addition, as previously stated, the applicant should be advised that Council cannot guarantee the retention of the existing parking facilities and is likely to increase restrictions either by reducing the parking time periods or extending the operation of the parking restrictions further into the evening to protect residential amenity. Any issues that arise will be for the applicant to resolve.'

#### **12.1.2 Waste**

A Waste Management Plan prepared by Isha Foundation dated 20 May 2019 was submitted with the amended application. This was reviewed by Council's Waste Department who found it to be unacceptable and required addressing of the following items:

- A private operator for the collections has not been specified - this needs to be included in the WMP.
- The bins should be shown drawn to scale.
- The bins are to remain within the property boundary at all times except for when they are brought out in co-ordination with the collection vehicle at the time of collection.
- Consideration should be given to using 240L or 660L bins to reduce overall collection times.

This response was forwarded to the applicant who communicated with the Waste Department and resolved that these issues could be addressed by preconditions should a permit be issued.

#### **12.2 External**

The application was not required to be externally referred.

### **13 ASSESSMENT**

The application, as detailed in the planning report prepared by Glossop Town Planning dated April 2019 seeks approval to use the ground floor of the existing building as a restricted recreation facility (yoga studio) run by Isha Foundation Australia Inc.

The key issues for consideration in the assessment of this application are the appropriateness of the proposed use having regards to the residential context and the impact on the surrounding area as a result of the proposed operating hours, maximum number of people, noise and reliance on on-street car parking.

#### **14.1 Proposed use**

The subject site is located in a General Residential Zone Schedule 1 (GRZ1) where the use of the subject site as a restricted recreation facility (yoga studio), which is nested under the definition of 'Leisure and Recreation', is a Section 2 Permit Required Use.

While the purpose of the GRZ1 as outlined in Clause 32.08 of the Melbourne Planning Scheme is to predominantly encourage residential developments, one of its

purposes is also to allow a limited range of non-residential uses to serve local community needs in appropriate locations.

As outlined in Section 5.2.2 of this report, the objectives and policies set out in Clause 22.14 Discretionary Uses in the Neighbourhood and General Residential Zone are of relevance in considering the appropriateness of the proposed use in a residential area. In particular, the Clause seeks to ensure that the following policies are met:

- Discourage new non-residential uses in the Residential Zones unless there is a net benefit to local residents and the local community.
- Ensure the intensity of non-residential uses is appropriate to a residential context.
- Minimise the effects of non-residential uses on residential amenity (by controlling numbers of operators, practitioners, staff levels, hours of operation, traffic and parking movements, light, noise and air emissions).
- Encourage non-residential uses to locate:
  - In buildings that were purpose-built for predominantly non-residential purposes.
  - On corner sites that have direct access to a road in a Road Zone.
  - On sites that are located adjacent to the boundary of a non-residential zone.
- Ensure that responsibility for management of operational impacts such as traffic, parking, odour, light spill, signage and noise falls upon the agent of change to minimise impacts on the neighbourhood.

The proposed use will be undertaken in a building that has been built for non-residential purposes. The existing building was previously occupied by a reception centre which catered for weddings, seminars, parties and other entertainment events with up to 350 patrons. The ground floor which this subject application relates to was previously used as a function space. This use has now ceased.

The site faces an arterial road contained within the Road Zone Category 1 and adjoins a commercial use to the east.

It is considered that, when compared to the previous function centre use, the proposed use as a yoga studio will have limited impacts on the amenity of the adjoining residents having regards to maximum participant numbers, proposed hours of operation, noise and traffic. This is discussed in greater detail below.

#### **14.2 Maximum number of people and hours of operation**

The proposed hours of operation and the total number of participants and volunteers to be present on the premises are detailed in the table at Figure 4 of this report. In summary, the use is proposed to operate between the following hours:

- Monday to Friday: 10am to 11pm
- Saturday, Sunday and Public Holidays: 6.30am to 10.30pm

The table identifies that the maximum number of people on the premises will vary within those hours. The maximum number of 180 people will be at the premises between 6pm to 10pm on weekdays and between 7.30am to 8pm on weekends. During the daytime sessions on weekdays (10am to 4pm) the total number of participants and volunteers at the venue will be 60.

A maximum patron capacity report prepared by Blueprint Building Permits dated 17 April 2019 has been submitted with the amended application which outlines that the maximum patron numbers that can be accommodated on the entire ground level is

183. The maximum patron capacity report states that the maximum number of patrons that can be accommodated in the area where yoga sessions will be held is 156. Therefore, allowing a total of 180 people to occupy the area where yoga will be held is not consistent with the patron capacity report.

It is noted that a significant concern raised by the objectors and Council's Traffic Engineering Department is the car parking generation resulting from 180 people on the premises. This is discussed in greater detail below. To address this concern, the applicant has suggested a reduction in the maximum number of people on the premises to 120. This is supported by Council's Traffic Engineering Department. This will also ensure that the maximum numbers occupying the area where yoga will be held accords with the maximum patron capacity report.

The hours of operation proposed are not unreasonable for a yoga studio where many people are likely to attend sessions after business hours or on weekends. In addition, the nature of a yoga studio is such that it should operate quietly.

The varying of the session times and the maximum number of people at the premises is supported as it ensures that the premise is not always at its full capacity therefore assisting within minimising potential noise impacts. The impact as a result of noise will be discussed in greater detail below. Furthermore, it is noted that the sessions may not all operate to full capacity. However, should the maximum capacity be reached, the space can accommodate this.

#### **14.3 Noise**

The nature of a yoga studio is such that it should operate quietly. Only background music will be played. Noise from participants should be limited as they will be conducting yoga which is quiet in nature. In addition, the use will be wholly contained within the existing building which would attenuate noise. Nevertheless, should a permit be issued, standard conditions will be imposed requiring the provision of background music only and noise being kept to a minimum to ensure that any impact on the amenity of the adjoining residents is minimised.

One of the concerns raised by the objectors is the potential noise generated by participants entering and exiting the venue particularly after hours and on weekends when the premises is more likely to be at its full capacity. The entrance to the studio will be from Victoria Street which is an arterial road and the site adjoins a commercial property to the immediate east. The residential properties likely to be impacted by noise from people entering and exiting the venue are to the west of the site. The entry to the building is located centrally on the frontage. It is also considered that people attending yoga sessions will usually immediately enter and exit the venue. They are unlikely to loiter on the footpath.

It is noted that the residential property to the west at 580 Victoria Street has windows oriented towards the subject site. Although the primary entry to the yoga studio will be from Victoria Street, there is an existing entry through an air lock located on the western side of the building. Should this side entry be used, the airlock would assist in minimising any potential noise emission. In addition, should a permit be issued, a condition will be imposed requiring entry to the venue be provided from Victoria Street.

To address car parking concerns it has been recommended that the maximum number of people at the premises be reduced to 120. This reduction along with standard noise conditions being imposed on any permit to issue will ensure that the noise is kept to a minimum. Furthermore, should a permit be issued, it is recommended that a condition be imposed requiring an operational management

plan. This would result in a plan being in place that would ensure efficient operation of the venue.

#### **14.4 Car parking**

As outlined in Section 4 of the report, the table to Clause 52.06-5 does not outline a car parking rate for the proposed use. As such, pursuant to Clause 52.06-6, car parking spaces must be provided to the satisfaction of the responsible authority.

One of the key concerns raised by all objectors relates to the increased demand for on-street car parking spaces as a result of the proposed use to the detriment of residents.

A policy of Clause 22.14 Discretionary Uses in the Neighbourhood and Residential Zones seeks to ensure that non-residential uses do not result in significant changes to traffic conditions in local streets or significantly increase demand for on-street car parking.

The amended application was accompanied by an updated traffic impact assessment report prepared by Traffix Group dated 8 April 2019 which reviewed existing parking occupancies in the surrounding road network. The report indicated that a number of spot car parking occupancy surveys were undertaken.

Traffix Group advised that, pursuant to the RTA Guide to Traffic Generating Developments, a gymnasium, which is listed under the definition of 'restricted recreation facility' and would typically include guided group classes such as yoga, has a rate of 3 spaces per 100 m<sup>2</sup> of gross floor area. As the subject site has a gross floor area of approximately 800 m<sup>2</sup>, the parking demand using the RTA rate is anticipated to be in the order of 24 spaces. This estimate was however acknowledged to be low based on the floor area especially when the maximum patron capacity of 180 is reached. Traffix Group therefore estimated a parking demand of 54 spaces based on the site's historical use as a place of assembly which, pursuant to the Car Parking provisions in Clause 52.06 of the Planning Scheme, requires a rate of 0.3 spaces per patrons.

Council's Traffic Engineering Department supported the use of this rate. They undertook spot survey of available parking facilities in the area surveyed by TraffixGroup and acknowledged that, while there are a significant number of spaces available in the survey area (250 metres walking distance of the subject site), the majority of these spaces are the shorter term 1 and 2 hour parking spaces. This was not considered suitable for participants and especially volunteers as they may be required to be on-site for a longer period. Council's Engineering Department raised significant concerns with the evening sessions which would place greater pressure on the available parking area.

The above concerns were forwarded to the applicant who suggested the following:

- A limit of 1h 45min for each class;
- A limit of no more than 60 people on-site at any one time during 10am and 4pm. This would allow either one large class or multiple smaller classes, provided that the maximum patron number does not exceed 60.
- Reducing the maximum number of people in the evening, weekend and public holiday classes to 120.

This was reviewed by Council's Traffic Engineering Department who support the changes. These requirements can be included as conditions on any permit issued.

In addition to the above, should a permit be issued, a condition will be imposed requiring a Green Travel Plan which would promote the use of sustainable transport

alternatives for the Centre's clientele and volunteers. This will assist in minimising impacts on the amenity of adjoining residents.

Further to the above, a reduction in the statutory car parking spaces is considered acceptable because:

- The site is well served by public transport.
- Bicycle parking is provided for staff which meets the statutory requirements. This is discussed in greater detail below.
- The former use as a Place of Assembly had a car parking credit of 90 spaces (based on events that catered for up to 300 patrons as outlined in the submitted Traffic Engineering Report prepared by Traffix Group dated 8 April 2019). It is acknowledged however that as the existing use rights have expired, this parking credit cannot be relied upon.

#### **14.5 Bicycle parking**

Pursuant to Clause 52.34 of the Planning Scheme, the proposal has a statutory requirement to provide a total of nine bicycle spaces on-site; seven employee spaces and two visitor spaces. It is proposed to provide 10 bicycle spaces on site which exceeds these requirements. This also assists in minimising dependency on on-street car parking especially for volunteers who will be able to ride in and park their cycles in the designated spaces on-site.

#### **14.6 Waste**

A Waste Management Plan (WMP) prepared by Isha Foundation dated 20 May 2019 was submitted with the amended application. This was reviewed by Council's Waste Department who found it be unacceptable and required certain matters to be addressed.

Discussions were undertaken between the applicant and Waste Department and it was agreed that should a permit be issued, the requirement to provide an updated WMP will be imposed as a condition.

#### **14.7 Conclusion**

It is considered that the proposal is consistent with the relevant sections of the Melbourne Planning Scheme, as discussed above.

Compared to the previous function centre use, the proposed use as a yoga studio will be of low intensity particularly with regards to the number of people and noise. It is considered that, subject to a reduction in the maximum number of people and conditions being imposed which seek to restrict session times, control and minimises noise and require an operational management plan, the proposed use will not have an unreasonable impact on the amenity of the surrounding area.

Furthermore, the subject site is well serviced by public transport. In addition to this, imposing conditions that reduce the maximum number of people, restrict session times and require a green travel plan will ensure that the proposal does not have an unreasonable impact on the existing on-street car parking supply in the surrounding area.

### **15 RECOMMENDATION**

That a Notice of Decision to Grant a Permit be issued subject to the following conditions:

1. Prior to the commencement of the use on the land, two copies of proposed floor plans, drawn to scale must be submitted to the Responsible Authority generally in accordance with the plan advertised but amended to show:
  - a. The removal of the 'retail' reference from the floor plan and replacement with 'registration and waiting areas'.
  - b. Any changes as required by the revised Waste Management Plan in condition 3 of the permit.

These amended plans must be to the satisfaction of the Responsible Authority and when approved shall be the endorsed plans of this permit.

2. The use as shown on the endorsed plans must not be altered or modified without the prior consent of the Responsible Authority.
3. Prior to the commencement of the use, a Waste Management Plan (WMP) shall be prepared and submitted to the City of Melbourne - Engineering Services. The WMP should detail waste storage and collection arrangements and be prepared with reference to the City of Melbourne Guidelines for Preparing a Waste Management Plan. Waste storage and collection arrangements must not be altered without prior consent of the City of Melbourne - Engineering Services.
4. All garbage and other waste material must be stored in an area set aside for such purpose to the satisfaction of the Responsible Authority.
5. Except with the prior written consent of the Responsible Authority, the use authorised by this permit must only operate between the hours specified below and must not exceed the maximum occupancy specified below:
  - a. Monday to Friday between the hours of 10am – 4pm with a maximum of 60 persons.
  - b. Monday to Friday between the hours of 4pm – 6pm with a maximum number of 30 persons.
  - c. Monday to Friday between the hours of 6pm – 10pm with a maximum of 120 persons.
  - d. Monday to Friday between the hours of 10pm – 11pm with a maximum of 30 persons.
  - e. Saturday, Sunday and Public Holidays between the hours of 6.30am – 7.30am with a maximum of 30 persons.
  - f. Saturday, Sunday and Public Holidays between the hours of 7.30am – 8pm with a maximum of 120 persons.
  - g. Saturday, Sunday and Public Holidays between the hours of 8pm-10.30pm with a maximum of 30 persons.
6. Except with the prior written consent of the Responsible Authority, each yoga sessions must be limited to 1 hour and 45 minutes.
7. No music higher than background music may be played without the prior written consent of the Responsible Authority.
8. No external sound amplification equipment or loud speakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose, to the satisfaction of the Responsible Authority.

9. A sign must be attached to an internal wall in a prominent position adjacent to the entry / exit point to advise participants and volunteers to leave the premises in a quiet and orderly fashion. The sign must be to the satisfaction of the Responsible Authority.
10. The use must not detrimentally affect the amenity of the area or the amenity of persons living in proximity of the site by reason of the emission of noise. The Responsible Authority, with just cause, may at any time request lodgement of an acoustic report, prepared by a suitably qualified acoustic consultant. The report must be to the satisfaction of the Responsible Authority and identify all potential noise sources and sound attenuation work required to address any noise issues and to comply with *State Environment Protection Policy, (Control of Noise from Commerce, Industry and Trade), No. N-1*, and *State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2*. The recommendations of the report must be implemented by the applicant to the satisfaction of the Responsible Authority.
11. Except with the prior written consent of the Responsible Authority, entry to the venue must be provided from the main entrance fronting Victoria Street.
12. Prior to the commencement of the use the applicant must submit an operational management plan describing:
  - a. The ways in which staff are to be made aware of the conditions attached to this permit.
  - b. Details of any proposed special events / programs.
  - c. Details of the provision of music.
  - d. Details of the maximum number of volunteers and participants to be permitted on the premises.
  - e. Lighting within the boundaries of the site.
  - f. Security lighting outside the premises.
  - g. General rubbish storage and removal arrangements including hours of pick up.
  - h. Noise attenuation measures (if applicable).
  - i. A complaint handling process to be put in place to effectively manage complaints received from neighbouring and nearby businesses and residents. This must include details of a Complaints Register to be kept at the premises. The Register must include details of the complaint received, any action taken and the response provided to the complainant.

The management plan must be to the satisfaction of, and be approved by, the Responsible Authority. Once approved, the management plan will form a part of the endorsed documents under this permit. The operation of the use must be carried out in accordance with the endorsed operational management plan unless with the prior written consent of the Responsible Authority.
13. Prior to the commencement of the occupation of the development, a Green Travel Plan (GTP) must be prepared by a suitably qualified person to the satisfaction of the Responsible Authority (Engineering Services). The GTP must:
  - (a) Describe the location in the context of alternative modes of transport and

objectives for the GTP.

(b) Outline GTP measures for the building including:

- (i) employee welcome packs to include public transport information
- (ii) other incentives for employees (ie provision of public transport ticket discounts if available)
- (iii) cycle parking and facilities available
- (iv) GTP management
- (v) monitoring and review.

Once approved the GTP will form part of the planning permit or any on-going management plan for the site to ensure the GTP continues to be implemented by the owners / management of the development site to the satisfaction of the Responsible Authority.

- 14. The design and specification of the bicycle parking spaces must be provided in accordance with the requirements of the Melbourne Planning Scheme and or to relevant Australian Standards, to the satisfaction of the Responsible Authority (Engineering Services).
- 15. The use of part of the site for food and preparation area must be ancillary to the use hereby approved to the satisfaction of Responsible Authority.
- 16. This permit will expire if the use is not started within two years of the date of this permit. The Responsible Authority may extend the permit if a request is made in writing before the permit expires, or within six months afterwards.

**NOTES:**

*Other Approvals May be Required*

This Planning Permit does not represent the approval of other departments of Melbourne City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria from that adopted for the approval of this Planning Permit.