MINUTES OF THE PLANNING COMMITTEE OF THE PORT PHILLIP CITY COUNCIL HELD 27 MARCH 2019 IN ST KILDA TOWN HALL.

The meeting opened at 6:30pm.

PRESENT
Cr Baxter (Chairperson), Cr Bond, Cr Brand, Cr Copsey, Cr Crawford, Cr Gross, Cr Simic, Cr Voss

IN ATTENDANCE
Lili Rosic, General Manager City Strategy and Sustainable Development, George Borg Manager City Development, Richard Schuster Planning Coordinator Lake Ward, Phillip Beard, Senior Planner, Damian Dewar, Manager Strategy and Design, Kathryn Morland, Senior Strategic Planner, Kelly White, Senior Strategic Planner.

The City of Port Phillip respectfully acknowledges the Yalukut Weelam Clan of the Boon Wurrung. We pay our respect to their Elders, both past and present. We acknowledge and uphold their continuing relationship to this land.

1. APOLOGIES

Moved Crs Gross/Simic

That an apology be received and a leave of absence granted to Cr Pearl.

A vote was taken and the MOTION was CARRIED.

2. CONFIRMATION OF MINUTES

MOVED Crs Gross/Voss

That the minutes of the Planning Committee of the Port Phillip City Council held on 27 February 2019 be confirmed.

A vote was taken and the MOTION was CARRIED unanimously.
3. DECLARATIONS OF CONFLICTS OF INTEREST
Nil

4. PUBLIC QUESTION TIME
Nil.

5. COUNCILLOR QUESTION TIME
Nil.

6. PRESENTATION OF REPORTS

Discussion took place in the following order:

1. 36 St Kilda Road, St Kilda
2. 6-70 Buckhurst Street (Report has been withdrawn)
3. Amendments C160 and C161 to the Port Phillip Planning Scheme (Update Amendments)
4. Statutory Planning Delegated Decisions - February 2019
6.1 36 St Kilda Road, St Kilda

**Purpose**

1.1 To consider and determine an application for construction of a part seven and part nine storey building (26.7m) comprising 13 dwellings, 60m² of commercial space (ground level only, not including the mezzanine) and a reduction in car parking provisions. The application is not subject to delegated approval due to the number of objections received.

The following speakers made a verbal submission in relation to this item:

**Monica Cameron**

Spoke on behalf of the applicant and spoke in support of the proposed development.

**MOVED Crs Crawford/Voss**

3.1 That the Responsible Authority, having caused the application to be advertised and having received and noted the objections, issue a Notice of Decision to Grant a Permit

3.2 That a Notice of Decision to Grant a Permit be issued for construction of an eight storey building comprising 13 dwellings and a reduction in car parking at 36 St. Kilda Road, St, Kilda.

3.3 That the decision be issued as follows:

**Amended Plans**

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans forming part of the application but modified to show the following:

a) The entire building including rear balconies to be setback at least 9m from the nearest building on the adjoining property to the east, whilst maintaining the balcony privacy screening at all levels facing the rear boundary.

b) The ground floor frontage to St. Kilda road showing:
   - The commercial tenancy frontage abutting the front title boundary for its full width and having at least 80% of its frontage as clear glass,
   - The recess for the ground level dwelling entry reduced (door moved closer to the front boundary) by 1m.

c) Reference to and notations to include details of the updated Sustainable Management Plan required under condition 7, most specifically being:
   - Notations for rainwater tank reuse e.g. “connected to toilets and irrigation”.
   - The location, capacity and reuse of the fire test water tank.
   - Location of clothes drying lines.
- External shading to light well windows.
- Notation that double glazing will be used on both main facades,
- Location of external plant including the location and capacity of any solar panels.
- An elevation of the lightwell windows including details of window operability for natural ventilation.
- A notation on balconies and roof terrace that an external tap and drain is provided.
  The extent of any vegetation to roofs (main roof, roof terrace and lightwell roof
d) Provision of a ground level weather protection canopy above the entrances to both the shop and the apartment access.
e) Detail of acoustic measures (including the use of double glazing) to the building facades
f) The car stacker platform as a minimum of 5.4m in length together with a charging point for electric vehicles and accommodating four cars

g) The vehicle access ramp to the car stacker shown as meeting the relevant gradient requirements of Clause 52.06
h) Deletion of the mezzanine level from the commercial tenancy
i) Suitable planting and landscaping for the rooftop terrace
j) A notation that the ground level party wall shared with abutting No. 38, is not to be altered, dismantled or changed in any way together with any consequent reduction in the size of the ground floor retail being depicted accordingly.

No Layout Change
2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

External colours and Finishes
3. All external materials, finishes and paint colours are to be to the satisfaction of the responsible authority and must not be altered without the written consent of the Responsible Authority.

Equipment and Services Above Roof Level
4. No equipment, services and architectural features other than those shown on the endorsed plans shall be permitted above the roof level of the building unless otherwise agreed to in writing by the Responsible Authority.

Plant & Equipment
5. No plant, equipment or domestic services (including any associated screening devices) or architectural features, other than those shown on the endorsed plan are permitted, except where they would not be visible from the primary street frontage (other than a lane) or public park without the written consent of the Responsible Authority.

Outdoor Lighting
6. Outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.

7. Updated Sustainable Management Plan
Before the permitted development begins, an updated Sustainable Management Plan must be submitted to the responsible authority. The document must be generally in accordance with that originally submitted, but modified so as to include reference to the following:

- The provision of better and improved natural daylight provision to the ground floor lift lobby via a rooflight/solar tube arrangement.

**Incorporation of water sensitive design and Sustainable Design Initiatives**

8. Before the occupation of the development approved under this permit, the project must incorporate the water sensitive urban design initiatives listed in the endorsed Water Sensitive Urban Design Report and the sustainable design initiatives listed in the Sustainable management Plan to the satisfaction of the Responsible Authority, and thereafter maintained to the satisfaction of the Responsible Authority.

**Maintenance Manual for Water Sensitive Urban Design Initiatives**

9. Before the development starts (other than demolition or works to remediate contaminated land) a Maintenance Manual for Water Sensitive Urban Design Initiatives must be submitted to and approved by the Responsible Authority. The manual must set out future operational and maintenance arrangements for all WSUD (stormwater management) measures. The program must include, but is not limited to:

- inspection frequency
- cleanout procedures
- as installed design details/diagrams including a sketch of how the system operates
- The WSUD Maintenance Manual may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Builder’ User’s Guide or a Building Maintenance Guide.

**Implementation of Sustainable Design Initiatives**

10. Before the occupation of the development approved under this permit, a report from the author of the Sustainable Design Assessment/Sustainable Management Plan approved pursuant to this permit, or similarly qualified person or company, must be submitted to the satisfaction of the Responsible Authority. The report must confirm that all measures and recommendations specified in the Ecologically Sustainable Design report have been implemented and/or incorporated in accordance with the approved report to the satisfaction of the Responsible Authority.

**II. Site Management Water Sensitive Urban Design**

The developer must ensure that:

a) No water containing oil, foam, grease, scum or litter will be discharged to the stormwater drainage system from the site;

b) All stored wastes are kept in designated areas or covered containers that prevent escape into the stormwater system;

c) The amount of mud, dirt, sand, soil, clay or stones deposited by vehicles on the abutting roads is minimised when vehicles are leaving the site.

d) No mud, dirt, sand, soil, clay or stones are washed into, or are allowed to enter the stormwater drainage system;
e) The site is developed and managed to minimise the risks of stormwater pollution through the contamination of run-off by chemicals, sediments, animal wastes or gross pollutants in accordance with currently accepted best practice.

**Walls on or facing a boundary**

12. Before the occupation of the development allowed by this permit, all new or extended walls on or facing the boundary of adjoining properties and/or a laneway must be cleaned and finished to a uniform standard to the satisfaction of the Responsible Authority. Unpainted or unrendered masonry walls must have all excess mortar removed from the joints and face and all joints must be tooled or pointed also to the satisfaction of the Responsible Authority. Painted or rendered or bagged walls must be finished to a uniform standard to the satisfaction of the Responsible Authority.

**Share Car Allocation/Operation by Owners' Corporation**

13. Before the occupation of the development approved under this permit, four cars must be purchased, owned, maintained and operated as a car share arrangement by or on behalf of the Owners’ Corporation and must be made available for residents of the building at all times. A Share Car Management Plan to the satisfaction of the Responsible Authority is to be submitted to the Responsible Authority setting out how the share cars are to be made available at all times to residents of the dwellings and the methods of reservation, management, maintenance and replacement of vehicles as necessary. When satisfactory to the Responsible Authority, the Share Car Management Plan will be endorsed and form part of this permit. The operation of the car share scheme must be in accordance with the Share Car Management Plan.

**Car Stacker and Bicycle Lift Maintenance and Provision**

14. The mechanical car stacker and the bicycle/motorcycle lift are to be maintained in a good working order and be permanently available for the parking of vehicles and the moving of bicycles/motorcycles in accordance with their purpose, to the satisfaction of the Responsible Authority.

**Car parking Areas must be Available**

15. Car and bicycle parking areas and access lanes must be developed and kept available for those purposes at all times and must not be used for any other purpose such as storage to the satisfaction of the Responsible Authority.

**Landscaping Plan for Roof**

16. Before the permitted building is occupied, a landscape plan for the roof terrace is to be submitted to the responsible authority. If suitable, this plan will be endorsed and will form part of this permit with all landscaping shown on the plan to be completed within 6 months of the building’s completion.

**Waste Management Plan**

17. Before the development starts (other than demolition or works to remediate contaminated land), a Waste Management Plan based on the City of Port Phillip’s Waste Management Plan Guidelines for Developments must be prepared by a Waste Management Engineer or Waste Management Planner to the satisfaction of the Responsible Authority and endorsed as part of this permit. The Plan must include reference to the following:
• The estimated garbage and recycling volumes for the whole development.
• Bin quantity, size and colour.
• The garbage and recycling equipment to be used.
• Collection frequency.
• The location and space allocated to the garbage and recycling bin storage area and collection point.
• The waste services collection point for vehicles.
• Waste collection provider.
• How tenants will be regularly informed of the waste management arrangements.
• Scaled waste management drawings.
• Signage.

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

**Time Limits**

18. This permit will expire if one of the following circumstances applies:

(a) The development is not started within 3 years of the date of this permit.
(b) The development is not completed within 2 years of the date of commencement.

The Responsible Authority may extend the periods referred to if a request is made in writing:

• before or within 6 months after the permit expiry date, where the use or development allowed by the permit has not yet started; and
• within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

**Permit Notes**

• This permit does not authorise the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.

• The applicant/owner would provide a copy of this planning permit to any appointed Building Surveyor. It is the responsibility of the applicant/owner and Building Surveyor to ensure that all building development works approved by any building permit is consistent with this planning permit.

• The developer shall show due care in the development of the proposed works so as to ensure that no damage is incurred to any adjoining properties.

• Except in the case of an emergency, a builder must not carry out building works outside the following times, without first obtaining a permit from Council’s Local Laws Section:
  Monday to Friday: 7.00am to 6.00pm; or
  Saturdays: 9.00am to 3.00pm.
An after hours building works permit cannot be granted for an appointed public holiday under the Public Holidays Act, 1993.

**AMENDMENT**

MOVED Crs Brand/Simic

That Amended Plans clause 1(h) be replaced with the following words:

That the mezzanine level in the commercial tenancy be reduced to no more than 2/3 of the ground floor area of that tenancy.

A vote was taken and the AMENDMENT was LOST on the casting vote of the Chairperson.

**ORIGINAL MOTION WAS PUT**

A vote was taken and the MOTION was CARRIED.

Cr Bond called for a DIVISION.

FOR: Crs Baxter, Brand, Copsey, Crawford, Gross, Simic and Voss

AGAINST: Cr Bond

A vote was taken and the MOTION was CARRIED.

6.2 6-70 Buckhurst Street (Report has been withdrawn)

6.3 Amendments C160 and C161 to the Port Phillip Planning Scheme (Update Amendments)

**Purpose**

1.1 To present Prescribed Amendment C160 and Amendment C161 for consideration, that give statutory effect to the Port Phillip Heritage Review Update (David Helms Heritage Planning, February 2019) and three individual heritage assessments, as well as correct anomalies in the Port Phillip Planning Scheme.

The following speakers made a verbal submission in relation to this item:

**Leonie King**

Requested that the planned heritage overlay be withdrawn for 154 Mitford Street and spoke to the effects that the heritage overlay would have on her ability to mitigate flood impacts on her property.
Christopher Fogarty
Raised issues around procedural fairness and late notice provided to affected residents on this matter.

Sasha Krien
Spoke on behalf of residents at 2, 4, 6 and 8 Milton Street Elwood who strongly support the proposed rezoning.

Ben Cohen
Mr Cohen spoke to his negative experiences in dealing with Council in regards to the incorrect grading of his property in Oak Grove, Ripponlea. Mr Cohen asked Council to support his request to rectify this issue.

Nick Keenan
Spoke against the proposal on the basis that residents at 59 Queens Road have not been given sufficient time to seek advice on the matter, potential negative financial impacts on property owners and the questionable heritage significance of the site.

Malcolm Ramsay
Spoke against the proposal and stated that, like other affected property owners, he only received notice of this issue two days prior to this committee meeting. Mr Ramsay stated that his Council rates are high due to the redevelopment opportunities of the site, yet this proposal would compromise those opportunities and asked for more time for residents to seek advice on this proposal.

Bart Nemmers
Spoke in support of the withdrawal of the heritage overlay amendment for 59 Queens Road. Stated that residents have not been able to identify the architect of the building, therefore questioned the architectural significance of the building.

Andrew Nicholls
Spoke against the proposed rezoning, particularly at his property in Port Melbourne, and expressed his deep concern of the proposed changes. Mr Nicholls asked “What is the Council trying to achieve by expanding the scope of the significant grading in Port Phillip in this way?”

Gene Volovich
Spoke against the proposed rezoning at 96 Grey Street, St Kilda, and questioned the perceived heritage value of the property.

MOVED Crs Gross/Copsey
That Planning Committee:

3.1 Endorse the findings of the following heritage reports and assessments:
- Port Phillip Heritage Review Update (February 2019) prepared by David Helms Heritage Planning provided at Attachment 1
- 588-590 City Rd, South Melbourne (May 2017) prepared by Context Pty Ltd provided at Attachment 2
- 2-6 Blanche Street and 110-118 Barkly Street, St Kilda (December 2017), prepared by Context Pty Ltd provided at Attachment 3
- 58, 59 & 60 Queens Road, Melbourne Heritage Assessment (November 2017) prepared by Peter Andrew Barrett and provided at Attachment 4.

3.2 Resolve to prepare Amendment C161 to the Port Phillip Planning Scheme to make a series of updates and technical corrections and to update heritage provisions to give effect to the heritage reports listed in 3.1, generally in accordance with the documentation at Attachments 5 – 10.

3.3 Request the Minister for Planning to authorise the preparation and exhibition of Amendment C161 to the Port Phillip Planning Scheme, pursuant to Section 8A of the Planning and Environment Act 1987.

3.4 Place Amendment C161 on exhibition, in accordance with Section 19 of the Planning and Environment Act 1987, subject to Ministerial Authorisation.

3.5 Request the Minister for Planning to prepare and approve Amendment C160 to the Port Phillip Planning Scheme to make obvious updates and technical corrections, pursuant to Section 20A of the Planning and Environment Act 1987, and generally in accordance with the documentation provided at Attachment 11 – 16.

A vote was taken and the MOTION was CARRIED unanimously.
6.4 Statutory Planning Delegated Decisions - February 2019

Purpose

To present a summary of all Planning Permits issued in accordance with the Schedule of Delegation made under Section 98 of the Local Government Action 1989 and Section 188 of the Planning & Environment Act 1987 adopted by Council on 24 July 1996 and as amended, for the Port Phillip Planning Scheme.

MOVED Crs Simic/Voss

That Council:

2.1 Receives and notes the February 2019 report (Attachment 1) regarding the summary of all Planning Decisions issued in accordance with the Schedule of Delegation made under Section 98 of the Local Government Action 1989 and Section 188 of the Planning & Environment Act 1987 adopted by Council on 24 July 1996 and as amended, for the Port Phillip Planning Scheme.

A vote was taken and the MOTION was CARRIED.

7. URGENT BUSINESS

Nil.

8. CONFIDENTIAL BUSINESS

The Chair read out the following as to why this item is being treated as a confidential matter:

Council is considering its position to put to a VCAT hearing with regards to a proposed amendment to the development at 14-16 The Esplanade, St Kilda currently occupied by the Novotel Hotel. The application is to be determined by VCAT and Council is a party to the hearing. We are considering our position in camera on the basis that Council must form an independent position as an independent party to the hearing and in the knowledge that:

- The applicant, at the direction of VCAT gave public notice on 16 January 2019 to 535 recipients (i.e. those given notice of the original application), with three notices displayed on site, to allow them the opportunity to become parties to the appeal.
- Notices include, inter alia, a description of the proposed changes including details of the changes from the previous plans, advice that a complete copy of the amended plans could be inspected at Council and on Council’s website, and that a copy of the amended plans are available on request from the applicant.
- The amended plans are displayed on Council’s website for ‘interested parties’.
- I note that the single party to the appeal has reached agreement with the applicant.

NOTE: The date of the Compulsory Conference is set for 4 April 2019, with a hearing date set for 27 May 2019 if required.
MOVED Crs Voss/Brand

That in accordance with Section 77(2)(a) of the Local Government Act 1989 (as amended), the meeting be closed to members of the public in order to deal with the following matters, that are considered to be confidential in accordance with Section 89(2) of the Act, for the reasons indicated:

8.1 14-16 The Esplanade, St Kilda

The information in this report is considered to be confidential in accordance with the Local Government Act 1989 (as amended), as it relates to:

89(2)(h). A matter which the Council or special committee considers would prejudice the Council or any person.

A vote was taken and the MOTION was CARRIED.

As there was no further business the meeting closed at 8.15pm.

Confirmed: 24 April 2019

Chairperson _______________________________