

**ORDINARY MEETING OF COUNCIL
23 FEBRUARY 2009**

ORDER OF THE DAY

ORDER 2	UPDATE REPORT TO COUNCILLORS ON ST KILDA TRIANGLE DEVELOPMENT
LOCATION/ADDRESS:	ST KILDA TRIANGLE ST KILDA
EXECUTIVE DIRECTOR:	GEOFF OULTON, EXECUTIVE DIRECTOR COMMUNITY DEVELOPMENT AND PLANNING
PREPARED BY:	ANITA LANGE, SPECIAL PROJECTS MANAGER
FILE NO.:	12/02/30-09
ATTACHMENTS:	1. TRIANGLE UPDATE TABLE 2. ST KILDA TRIANGLE DEVELOPMENT DA – CONTRACT NOTICES AND VARIATIONS

1. PURPOSE

- 4.1. This report provides an update to Councillors on the main topics relating to the St Kilda Triangle Site following the last update on the 27th October 2008.
- 4.2. As per Attachment 1, this update is divided into:
 - 4.2.1. Pre-site handover
 - 4.2.2. Contract administration
 - 4.2.3. Other contract requirements
 - 4.2.4. Construction commencement
 - 4.2.5. General project management topics

2. RECOMMENDATION

- 4.3. That Council notes the Triangle Site project update.
- 4.4. That a further update be provided to Council in 3 months.

Attachment 1 – Triangle Update Table

1. Progress on preliminary and secondary conditions:

Requirement	Status
Preliminary Conditions – achieved on 22nd November 2007	
Secondary Conditions – date extended to 25 August 2010 or the date which is 24 months after the date on which any Dispute Proceeding in connection with the Developer's Project is Determined (as defined in the Development Agreement), provided certain requirements are met. The developer may also request a further extension provided the developer is progressing various additional milestones.	

2. Progress on coordination structure to monitor Development Agreement Commitments:

Requirement	Status
Project Control Group	
The role of the PCG is to coordinate project delivery and review the progress and quality of works, the performance of the developer and agree any remedial measures required.	15 meetings held to monitor progress against contract milestones and discuss matters arising including: - Satisfaction of conditions - Progress on additional milestones - Contamination plan
Design Review Committee	
The purpose of the Committee is to provide independent expert architectural and urban design advice to the design development process on the project to assist the achievement of the optimum design outcome for the St Kilda Triangle development.	Meetings are on hold. The Office of the State Government Architect has been briefed on the project and has been invited to participate in future design discussions.
Tenancy Review Committee	
The purpose of the Committee is to provide a forum for discussion to achieve the St Kilda Triangle Tenancy Guidelines, the general policy objectives of the project and opportunities to maximise the St Kildaness outcomes for the project in relation to tenancy matters.	No further meetings – on hold

3. Progress on planning approval process

Milestone	Status
Development plan approval	
Development Plan lodged with the Council for statutory approvals	<ul style="list-style-type: none"> Application for review of DP approval under S149B of the P&EA1987 lodged 9/9/08 VCAT hearing held 9 -11 February 2009. Member has reserved his judgment.

4. Progress on other Triangle Site issues

Issue	Status
Palais Theatre	
Lease administration	On track
Heritage Vic (HV)	HV are being kept in the loop with proposed development, no issues to date
Interim Protection Order (IPO) – amendment to Palais Theatre registration	The IPO has expired. 4 submissions have been received. HV will hear the matter in mid April 2009. Items are not considered to be at imminent threat.
Progress on the Palace Site	
Temporary use of the site	<p>Site has been converted to temporary car park.</p> <p>Site was used for arts and cultural uses such as So Co Cargo (1 week), general activities and street art wall for St Kilda Festival.</p> <p>Currently finalising the Site Activation Plan in conjunction with the Developer as per the Development Agreement. The principles underlying the SAP are:</p> <ul style="list-style-type: none"> - Activities and/or events should be of a type or use that showcases the potential of the site to contribute to the arts, cultural and recreational life of the community - Activities and/or events should improve community access and use of the site including promoting the Palais Theatre - Activities and/or events should assist the building of community understanding of how the site could function and contribute to the arts and cultural life of the community in the future - Activities and/or events should be varied and occur on a regular basis throughout the year - Activities and/or events should be open to all and easily accessible, though a fee for certain services would be appropriate - Activities and/or events should link to any existing precinct wide activities - Activities and/or events must be consistent with the Council’s Business Sponsorship Policy <p>A budget of \$25k this financial year will be allocated.</p> <p>Fencing was erected in mid February 2009. Signage details are currently being finalised prior to erection.</p>
Condition of the Palace site	Restricting archaeological diggers and public access is no longer an issue as site has been converted to a temporary car park

Upper Esplanade Market	
Upper Esplanade Market temporary relocation	Temporary relocation on hold pending construction commencement.
Progress on Operating Plan	
Operating plan	Has been amended as part of Deed of Variation 2. No further work anticipated in the short term
Progress on Communications	
Communication plan	Communication plan on hold until outcome of the legal proceedings are known
Proposed additional Cultural facility	
Proposed national cultural facility above Linden Building	On hold pending the outcome of the legal proceedings
Other items	
FOI	<p>A number of FOI requests have been made in relation to the Triangle, some of which are currently before VCAT.</p> <p>The St Kilda Triangle Development Agreement (with redactions), current to 22 November 2007, was posted on the Port Phillip website on 17 November 2008. The Agreement was posted following BBC's withdrawal of their reverse application. Additional information was released on 28 January subsequent to the Compulsory Conference and the Agreement on the Port Phillip website was subsequently updated on 3rd February 2009.</p> <p>A current version of the Development Agreement (as amended) is being prepared and will be posted on the council website (with redactions) once agreed between the parties (as required by the Development Agreement). The State Government will also post this version on their website to comply with state government policy.</p>
Parliamentary Select Committee on Public Land Development	No further follow up is anticipated
Ombudsman report on Triangle Site	The Ombudsman has been requested to investigate and report on the probity of the St Kilda Triangle development processes followed by the State Government and the Port Phillip Council.

5. Progress on other St Kilda's Edge issues not the subject of a separate report

St Kilda Life Saving Club	
St Kilda Life Saving Club investigation	Council are currently undertaking an investigation into options for housing the St Kilda Life Saving Club in a manner consistent with the principles of Council's Life Saving Club Strategy, St Kilda Urban Design Framework, Community Hubs Policy, City of Port Phillip Financial

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	<p>Principles and the Life Saving Victoria Future Clubhouse Guidelines.</p> <p>A Steering Group has been established, a consultant (Stratcorp Consulting) appointed and the project has just commenced. The Consultant is currently doing situational analysis, background research and consultation with the club to be followed by consultation with the community and on-site surveys. The feasibility report is due to be reported to the council in mid 2009.</p>
SKE Committee	
SKE Committee Instrument of Delegation, TORS and membership	These matters are for the new Council to consider.

**ATTACHMENT 2 - ST KILDA TRIANGLE DEVELOPMENT DEVELOPMENT AGREEMENT-
CONTRACT NOTICES AND VARIATIONS**

Contract Notices to BBC

1	Commissioning Test Acceptance Criteria (CTAC) and approval of construction costs schedule	Approval of full construction schedule of costs and deferral of the Commissioning Test Acceptance Criteria, until the date the Secondary Satisfaction Conditions	30/10/07
2	Development Plan	Approval of the draft Development Plan by Project Administrator in accordance with the requirements of the Development Agreement.	30/10/07
3	Gresham's approval	Approval of Gresham Property Funds Management Limited as a mezzanine financier to the developer	13/11/07
4	Preliminary Conditions	Notice confirming satisfaction of preliminary conditions	22/11/07
5	Advise of assistant Project Administrator	Notice advising of Mr R O'Loughlen as assistant Project Administrator for the period between 5/12/07 to 10/1/08	4/12/07
6	Advice regarding Independent Assessor	Notice advising of agreement to appoint Napier Blakely as Independent Assessor	18/12/07
7	Advice on Secondary Satisfaction Time (SST) new date	Notice approving extension of SST to 25 August 2009	24/9/08

Variations to DA

1	Variation 1	Extension to SST	10/5/08
2	Variation 2	Further extension to SST	24/10/08