



**STATUTORY PLANNING  
COMMITTEE**

**MINUTES**

**11 JUNE 2002**

# MINUTES OF THE STATUTORY PLANNING COMMITTEE OF THE PORT PHILLIP CITY COUNCIL HELD ON 11 JUNE 2002, IN THE COUNCIL CHAMBER, ST KILDA TOWN HALL

The meeting opened at 6.03pm.

## **PRESENT**

Cr Ray (Chairperson), Cr Brand, Cr Gross (from 6.21pm), Cr Johnstone, Cr Logan, David Spokes Chief Executive Officer, Geoff Oulton Director City Development, Bruce Phillips Manager Planning and Building Services, Sue Wilkinson Team Leader Statutory Planning, Bruce McKeon Manager City Works and Services, Jim Holdsworth Manager Urban Sustainable Design, Michael Juttner Urban Planner.

The Chairperson (Cr Ray) acknowledged the traditional owners of the land on which the Council meets, the Boonerwung language people and the Wurundjeri people as custodians.

## **1. APOLOGIES**

### **MOVED Crs Johnstone/Logan**

An apology was received and leave of absence granted to Crs Hill and Hutchens. It was noted that Cr Gross will be arriving late to the meeting.

**A vote was taken and the MOTION was CARRIED.**

## **2. CONFIDENTIAL MATTERS**

Nil.

## **3. DECLARATIONS OF PECUNIARY INTEREST**

Nil.

## **4. CONFIRMATION OF MINUTES**

Nil.

**5. QUESTION TIME**

Nil.

## 6. PRESENTATION OF REPORTS

The order of business was as follows:

- B1 27 CHARNWOOD ROAD, ST KILDA
- B2 71A ACLAND STREET, ST KILDA (VINEYARD RESTAURANT)
- B4 DELEGATE REPORT
- B3 SEABATHS

**B1            27 CHARNWOOD ROAD, ST. KILDA**

**Purpose**

The construction of a three level building containing 13 dwellings above basement carpark.

**MOVED Crs Brand/Logan**

That the Statutory Planning Committee being the Responsible Authority, (having caused the application to be advertised) and having received and noted 23 objections, is of the opinion that the construction of a three level building and basement carpark will not cause material detriment to any persons other than the applicant.

That a Notice of Decision to grant a planning permit be issued for the construction of a three level building and basement carpark containing 13 dwellings.

That a Notice of Decision be issued subject to the following conditions.

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 amended plans revised 14 February, 2002 but modified to show:
  - a) Relocation of the rear bedroom windows of the front dwellings (1<sup>st</sup> level) so as to face internally / south with appropriate translucent screening to the east of these two windows to 1.6m above floor level.
  - b) The kitchen window of the west facing centre dwelling (1<sup>st</sup> level) relocated so as to face north into the courtyard break and the upper level bedroom window of the central dwelling relocated from the east to face south across the upper level gap.
  - c) Screening to 1.6m above floor level the west face of the terrace of the rear, west facing dwelling (1<sup>st</sup> level).
  - d) Side setbacks of the upper level increased to 3.9m in accordance with the Good Design Guide and all side elevations clearly depicted with no wall on any boundary to be greater than 3.6m in height and all levels (RL's) depicted / corrected to show such wall height.
  - e) Increased use of face brick on the front elevation and returning at least 10m around both side elevations on ground and first floors to better relate to the character of abutting buildings together with the front fences depicted as high quality wood slat with at least 50% transparency.
  - f) The deletion of two basement carspaces and reduction in dimension of particular remaining carspaces so as to reduce basement length and width to enable natural ground landscaping at the front and portion of west of the site (in particular adjacent to vegetation on neighbouring properties and at rear if possible).

- g) Appropriate and substantial landscape planting above the basement with species that will be capable of maintaining a well established appearance in the long term, such planting to include some species at least 3m high at time of planting and capable of establishing above the basement car park.
- h) The car park access splay realigned / mirrored.
- 2. The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
- 3. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
- 4. An arborists report to the satisfaction of the Responsible Authority shall be prepared and submitted to Council. Such report shall be endorsed and form part of this permit. The report shall indicate suitable methods of ensuring that no long term damage during construction occurs to the trees in close proximity abutting to the west and indicate methods for planting substantial gardens above the basement car park.
- 5. All external materials finishes and paint colours are to be to the satisfaction of the responsible authority and are to generally reflect the predominant combinations of colours found in the immediate vicinity.
- 6. Prior to the occupation of the premises for the new use, areas set aside for parked vehicles and internal access lanes as shown on the endorsed plans and approved engineering plans must be:
  - a) Constructed to the satisfaction of the Responsible Authority.
  - b) Properly formed to such levels that they may be used in accordance with the plans.
  - c) Surfaced with an all weather seal coat to the satisfaction of the Responsible Authority.
  - d) Drained and maintained to the satisfaction of the Responsible Authority.
- 7. Parking areas and internal access lanes must be kept available for those purposes at all times.
- 8. The car parking allocation used in any Plan of Subdivision for this development shall:
  - a) include not less than 1 car space per single bedroom apartment
  - b) 2 car spaces for 3 or more bedroom apartments
  - c) visitor spaces (as required in the assessment) shown and marked accordingly, and the
  - d) remainder of car spaces allocated for the 2 bedroom apartments provided each unit has at least 1 car space.
- 9. All car parking spaces for the residential apartments shall be shown on any Plan of Subdivision as part lots to the dwelling lots.

10. All visitor spaces shall be grouped together, located near the entrance to the car park and maintained in Body Corporate ownership
11. The owner must cause to be constructed, to conform with plans and specifications having prior Council approval and maintain to Council's satisfaction for a period of three months, the section of rear lane abutting the property. This section of lane is to be fully constructed with concrete and provided with a drainage system.
12. The entire section of laneway from the rear of the subject site to Crimea Street is to be upgraded with a smooth, hard, all weather surfaces entirely at the permit holders expense to improve its usability and vehicle passing opportunities to the satisfaction of the Responsible Authority in consultation with Council's Traffic Engineer. In addition, a traffic sign is to be erected facing Crimea Street reading "give way to oncoming traffic".
13. No equipment, services and architectural features other than those shown on the endorsed plan shall be permitted above the roof level of the building unless otherwise agreed to in writing by the Responsible Authority.
14. Prior to the commencement of the development hereby permitted the applicant must demonstrate how environmentally-positive features will be incorporated into the development where possible, to the satisfaction of the responsible authority and a report to this effect is to be submitted by the applicants to Council.
15. All piping and ducting, other than any down pipes above the ground floor storey of the building shall be concealed and any air-conditioning units installed shall be located so as to minimise noise and visual impact on abutting residents and are to be located behind sound reducing structures if necessary to the satisfaction of the Responsible Authority.
16. A landscape plan prepared by a qualified landscape designer, to the satisfaction of the Responsible Authority, is to be submitted for endorsement by the Responsible Authority. Once endorsed, the plan will form part of this permit. Such plan shall show all planting, paving and other landscaping details for the site. Such plan shall include appropriate species for long term establishment above the basement car park, planting at the perimeters of the site to be at least 3m high at time of planting and full details of watering and drainage systems.
17. All landscaping as shown on the approved landscape plans is to be completed within 6 months of the completion of the buildings and all landscaping (including paving) is to accord with the plans endorsed under this permit.
18. This permit will expire if one of the following circumstances applies:
  - a) The development is not started within 2 years of the date of this permit.
  - b) The development is not completed within 2 years of the date of commencement of works.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.

**NOTES:**

- a) The developer shall show due care in the development of the proposal so as to ensure that no damage is incurred to the buildings on adjoining properties.*
- b) The applicant/owner will 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 are consistent with this planning permit.*
- c) The development allowed by this permit will not be eligible for resident or visitor parking permits.*

**A vote was taken and the MOTION was CARRIED.**

**B2 71A ACLAND STREET, ST KILDA (VINEYARD RESTAURANT)**

**Purpose**

Application to use part of the footpath of O'Donnell Gardens outside the Vineyard Restaurant for outdoor dining until 3am, 7 nights a week. The proposal includes the provision of 25 tables and 80 chairs.

**MOVED Crs Brand/Johnstone**

**PART A**

That the Council, being the Responsible Authority, having caused the application to be advertised and having received and noted 6 objections, is of the opinion that the granting of a Planning Permit for use of part of the path in O'Donnell Gardens as a restaurant comprising 25 tables and 80 chairs in association with the existing restaurant and an increase in the liquor license area will not cause material detriment to any persons other than the applicant.

That Council issue a Notice of Decision to Grant a Permit on the following grounds:

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 submitted with the application but modified to show:
  - a) The outdoor seating area to be 3 metres wide at the western end and widening to 5.65 metres at the eastern end in accordance with the plan dated 7 June 2002 and to reflect the area previously occupied under the expired kerbside trading permit.  
All to the satisfaction of the Responsible Authority.
2. The use as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. Prior to commencement of the use permitted by this permit the proprietor of the restaurant must amend the Liquor License for the premises to include the area of the land allowed for use under this permit.
4. Prior to commencement of the use permitted by this permit, a Management Plan must be prepared by the proprietor of the restaurant and submitted to and approved by the Responsible Authority. The Management Plan must address issues relating to:
  - a) Departing patrons: Management and staff request all patrons to leave quietly and respect nearby residents. Management and staff will also assist patrons with obtaining taxis. Signs to this affect will be placed near the exits from the premises, to the satisfaction of the Responsible Authority.
  - b) Signs at exit points: The operator will erect a prominent notice at all exit points requesting patrons be quiet when leaving the premises after 10pm, to the satisfaction of the Responsible Authority.

- c) Sign at northern door: At 1am a sign will be erected at the north exit (which provides access to the outdoor seating area) displaying the words "No alcohol beyond this point", to the satisfaction of the Responsible Authority.
  - d) Security Patrol: The operator will provide security personnel who will make regular checks in the vicinity of the outdoor seating area on a half hourly basis after 9pm each night until closing time, to ensure that patrons disburse in an orderly manner and that no patrons associated with the restaurant congregate in O'Donnell Gardens or the surrounding area, to the satisfaction of the Responsible Authority.
  - e) Waste Management: The operator will employ a person to do a litter patrol and keep the area free of litter (including cigarette butts) on the path and grass in the immediate vicinity of the restaurant.
  - f) Emission and Management of Noise from Amplified Music: The operator will ensure all live music is managed in such a way to ensure any emissions are compatible with the restaurant use and conform to the Environment Protection Authority noise regulations, noting the existing problems regarding ventilation, and deficiencies of noise attenuation of existing structures. This will include ensuring windows are closed when amplified music (other than background music) is being played.
5. The use of the outdoor seating area hereby permitted must only operate between the hours of:
- Monday to Sunday                      7am to 3am the following day
- Except with the prior written consent of the Responsible Authority.
6. Alcohol must only be consumed in the outdoor seating area hereby permitted between the hours of:
- Monday to Saturday                      7am to 1am the following day
  - Sunday                                      10am to 1am the following day
  - Good Friday & Anzac Day              12 noon to 11 pm
- Except with the prior written consent of the Responsible Authority.
7. The furniture associated with the outdoor seating area hereby permitted must be removed when the use hereby permitted is not conducted, to the satisfaction of the Responsible Authority.
8. The use of the outdoor seating area hereby permitted must have no more than 25 tables and 80 seats.
9. Not more than 80 patrons are to be permitted to use the outdoor seating area at any time.
10. The garbage area at the rear of the premises must not be used and no garbage collection is permitted to take place from the premises between the hours of 1am and 7am on any day.
11. No form of public address system or sound amplification equipment shall be used in the outdoor seating area or broadcast to the outdoor seating area from inside the building.

12. The use of the outdoor seating area must not cause nuisance or be detrimental to the amenity of the neighbourhood by the emission of noise. In this regard the emission of noise must comply with the provisions of the Environment Protection Authority.
13. The amenity of the area must not be detrimentally affected by the use through the:
  - a) Transport of materials, goods or commodities to or from the land.
  - b) Appearance of any building, works or materials.
  - c) Emission of noise, artificial light, vibration, smell fumes, smoke, steam, soot, ash, dust, waste water, waste products, grit or oil.
  - d) Presence of vermin.
  - e) In any other way.
14. This permit relates to the use of the land and does not comprise an approval for the erection of any advertising signs. The location and details of any advertising signs to be erected on the land shall be the subject of a separate application.
15. This permit will expire if one of the following circumstances applies:
  - a) The use is not started within 1 year of the date of this permit.
  - b) At the expiration of eighteen (18) months from the date of this permit except if extended in writing by the Responsible Authority.

This permit may be extended if a written request from the proprietor is submitted to the Responsible Authority prior to the expiry of the permit as specified above. Such an extension will only be granted if the Responsible Authority is satisfied that the operator of the premises has satisfactorily complied with the conditions of this permit.

#### **PART B**

1. That the Council advise the operator of the Vineyard Restaurant;
  - a) That no kerbside trading will be permitted on Acland Street.
  - b) That in addition to planning approval, the operator must also seek approval to amend the relevant liquor license and Council licence as appropriate.
  - c) That Council will modify the Council licence of the property to denote no more than 156 patrons be allowed in internal and external areas.

#### **PART C**

The Landlord Committee must review the Council licence for the premises to ensure consistency with the planning permit conditions in addition to the applicable fees and charges that may be appropriate.

**A vote was taken and the MOTION was CARRIED.**

**B3 SEABATHS**

**Purpose**

To provide an update to Council and also seek a determination regarding a proposed landuse and hours of operation.

**MOVED Crs Johnstone/Brand**

1. That Council note the report of the Managers regarding the Seabaths complex and in particular the discussion regarding the proposed jazz lounge by the Seabaths centre management.
2. That Council resolve in principle to consider favourably the jazz lounge concept and acknowledge the need for extended hours of operation for viability of the specific nature of the use.
3. Council seeks further advice on the range of issues raised.

**A vote was taken and the MOTION was CARRIED.**

Note

\*Manager Planning and Building Services to circulate advice from Best Hooper to Councillors prior to the Ordinary Council Meeting to be held on 24 June 2002.

**B4 DELEGATE REPORT**

**Purpose**

To present Council with a summary of all Planning Permits issued under delegated authority

**MOVED Crs Johnstone/Logan**

That the Council receive and note the report regarding the summary of all Planning Permits issued in accordance with the Schedule of Delegation made under Section 98 of the Local Government Act 1989 and Section 188 of the Planning & Environment Act 1987 adopted by Council on 24 July 1996 for the Port Phillip Planning Scheme.

**A vote was taken and the MOTION was CARRIED.**

As there was no further business the meeting closed at 7.38pm.

Confirmed: 24 June 2002

Chairperson: \_\_\_\_\_