



**VICTORIAN PRIDE CENTRE AMENDMENT C149 -
SUBMISSION TO THE INDEPENDENT ADVISOR**

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1. PURPOSE

- 1.1 To consider community views expressed through consultation sessions and written submissions received to date in relation to proposed Amendment C149 to the Port Phillip Planning Scheme which is required to facilitate the development of the Victorian Pride Centre.
- 1.2 For Council to endorse a submission in relation to the above to an Independent Advisor recommended by the Minister for Planning, at Council's request.

2. EXECUTIVE SUMMARY

- 2.1 On 20 June 2018, Council endorsed a planning process in response to a request by the board of the Victorian Pride Centre (VPC) for Council to initiate a request to the Minister for Planning to amend the Port Phillip Planning Scheme via Section 20(4) of the *Planning and Environment Act 1987*.
- 2.2 Proposed Amendment C149 rezones part of the site so that it is entirely within the Commercial 1 Zone and incorporates a site-specific planning control. These changes will enable the development of the VPC in Fitzroy Street, St Kilda.
- 2.3 A site-specific control is required because the proposed development does not meet the mandatory street-wall, building height and upper level setback requirements contained within Schedule 6 of the Design and Development Overlay (DDO6) at Clause 43.02 of the Port Phillip Planning Scheme.
- 2.4 A streamlined amendment process was endorsed to allow the VPC to meet milestones related to the release of project funding and to deliver the project by the scheduled opening in November / December 2020.
- 2.5 The streamlined amendment process includes a community consultation period on the proposed Amendment C149 (including the plans for the VPC) as well as the appointment of an Independent Advisor to review submissions and provide

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recommendations to Council. The Minister for Planning responded to Council's request by recommending an Independent Advisor on 12 July 2018.

- 2.6 Community consultation commenced on 2 July 2018 and will continue until 3 August 2018. Community feedback was received verbally at three drop-in sessions, and through written submissions via Council's 'Have Your Say' online engagement platform.
- 2.7 Responses received from the community have generally been positive in relation to the proposal which indicates a level of support for the proposed use and development of the VPC. However, a range specific concerns have been raised that require careful consideration and response.
- 2.8 The process endorsed provides for Council to consider submissions from the community and endorse a submission to the Independent Advisor. Given the timeframes, the recommended Council submission (Attachment 1) considers all issues raised in community feedback (written and verbal) received up to 26 July 2018.
- 2.9 A final decision on whether to support proposed Amendment C149 (including development plans and conditions) and whether to request any changes will be considered by Council at a future meeting once the recommendations from the Independent Advisor are received.



3. RECOMMENDATION

That Council:

1. Receives and considers the written and verbal submissions in response to proposed Amendment C149 to the Port Phillip Planning Scheme (received by 26 July 2018) as detailed in Attachment 1.
2. Endorses the written submission to proposed Amendment C149 to the Port Phillip Planning Scheme, which includes responses to written and verbal submissions received by 26 July 2018, provided at Attachment 1.
3. Requests the advice and recommendations of the Independent Advisor Mr Peter Allen (as recommended by the Minister for Planning) in relation to proposed Amendment C149 to the Port Phillip Planning Scheme, having consideration to the following specific matters:
 - a. The content and effect of the proposed Amendment and supporting information.
 - b. The draft Incorporated Document, inclusive of development plans and conditions.
 - c. Relevant sections of the *Planning and Environment Act 1987*.
 - d. Relevant policy and provisions of the Port Phillip Planning Scheme.
 - e. The views expressed in all submissions received during the consultation period ending 3 August 2018.
 - f. The findings and recommendations of a Crime Prevention Through Environmental Design Assessment of the portico, rear plaza and underground car park components of the proposed development.
 - g. The design of the portico element of the proposed development more generally, including potential impacts on the adjacent street tree.
 - h. The proposed car parking dispensation and associated Traffic and Parking Assessment.
 - i. Consideration of any changes to the proposed amendment, including the Incorporated Document, deemed appropriate to respond to issues raised in submissions or any other matters listed above.
4. Notes the following next steps:
 - a. Provision of all written submissions, including Council's endorsed submission, to the Independent Advisor for consideration.
 - b. Receipt of the report and recommendations of the Independent Advisor.
 - c. Council consideration of the report and recommendations of the Independent Advisor.
 - d. Council decision whether to formally request that the Minister for Planning approves Amendment C149 to the Port Phillip Planning Scheme, pursuant to section 20(4) of the *Planning and Environment Act 1987*.

4. KEY POINTS/ISSUES

Council Submission to Independent Advisor



- 4.1 A submission to the Independent Advisor ([Attachment 1](#)) has been prepared for Council's consideration and includes:
- relevant background and site analysis information;
 - a strategic assessment of the proposed Amendment and the associated development proposal;
 - an overview of the public consultation process and the key issues raised;
 - Council's position in response to community feedback; and
 - specific changes recommended to proposed Amendment C149 at this point in time.

Overview of Public Consultation & Key Topics

- 4.2 An overview of the consultation feedback received up to 26 July 2018 is included in Section 6 of the recommended Council submission ([Attachment 1](#))
- 4.3 Written and verbal feedback demonstrates general support for the proposed use and development of the VPC in the most part. Community comment highlighted that:
- the proposal supports diversity and the LGBTIQ community;
 - the proposed development would provide a catalyst for the revitalisation of Fitzroy Street;
 - the proposed building design would visually improve the Fitzroy Street streetscape;
 - there are perceived social and economic benefits associated with the proposal; and
 - the uses proposed would increase day-time activity along Fitzroy Street which would increase passive surveillance and vibrancy.
- 4.4 The key topics of discussion raised within the community feedback include the following:
- building height and setbacks;
 - the portico;
 - safety issues related to Jackson Street and the underground car park;
 - car parking provision; and
 - proposed licensed areas.
- 4.5 A recommended Council response to these matters is included in the table provided in Section 7 of the submission ([Attachment 1](#)).

Discussion of Key Issues Raised in Feedback

Building height and setbacks



- 4.6 DDO6 applies specifically to the St Kilda area including Fitzroy Street, Acland Street and the Esplanade. It contains a series of design objectives, preferred character statements and specific development requirements that are of direct relevance to the proposal. In particular, DDO6-2 relates specifically to Fitzroy Street between Grey Street and Acland Street.
- 4.7 The proposed development does not meet the mandatory height and setback requirements in DDO6-2. To determine the appropriateness of the proposed variations, it has been assessed against the key design aim of preserving the prominence of the George Hotel and the Prince of Wales Hotel within Fitzroy Street. This assessment is detailed in section 5.1 of Attachment 1 but in summary, it is considered the proposed VPC design does not compromise this aim.
- 4.8 During the process of consultation, the board of the VPC provided Council with updated development plans (on 25 July 2018). These plans show a reduced upper level setback of 1.2 metres to Fitzroy Street which has been proposed to enable a vertically aligned structural system to transfer the building loads without the need for other measures which would impact on ceiling heights, construction costs and lead to increased material use.
- 4.9 It is considered that these deviations from this mandatory requirement would also not result in an outcome that would compromise the primacy of the George Hotel or the Prince of Wales Hotel within Fitzroy Street because the site is located in the shallow valley of the middle section of the street and still contributes to the creation of a generally consistent street wall effect.

The Portico

- 4.10 The proposed development provides a feature portico as an awning which would extend the full width of the Fitzroy Street frontage. An occupiable terrace is proposed above the portico which is proposed to be utilised by its adjoining office space. The portico is supported by columns that are up to approximately 2 – 2.4 metres wide, which creates a colonnade along Fitzroy Street.
- 4.11 The proposed portico and associated terrace space creates a potential issue of policy at Clause 22.06 of the Port Phillip Planning Scheme, where there is an aim to discourage building designs that dominate or imply ownership of public spaces. In addition to this, there are some potential concerns related to maintaining sight lines, protecting the longevity of the adjacent street tree and preserving daylight to the footpath.
- 4.12 Notwithstanding this, it is noted that the portico is a deliberate and well-designed element of the proposed building that is intended to highlight the VPC as a landmark site accommodating a facility of State significance. On this basis, there is an argument to support this outcome, subject to the consideration of the above listed factors.



- 4.13 As a result, Council officers have requested a Crime Prevention Through Environmental Design (CPTED) assessment, daylight analysis and further arborist advice to further consider the impacts of the portico and to identify any measures and / or design changes that could manage these issues.
- 4.14 The submission ([Attachment 1](#)) recommends conditional support for the portico subject to the outcomes of the above matters and the advice of the Independent Advisor noting that Council will have a further opportunity to consider its view on this matter when it considers the report and recommendations of the Independent Advisor.

Safety

- 4.15 Submissions have raised the potential for safety issues in relation to:
- the Jackson Street interface (rear) of the proposed development which incorporates a small open area with bike hoops and seating around the retention of two mature peppercorn trees; and
 - the entrance, design and operation of the underground car park which is required to remain open to the public.
- 4.16 Council officers consider that these issues would also benefit from a CPTED assessment to determine whether refinements would be desirable to address these concerns. Once complete, this assessment will be forwarded to the Independent Advisor for consideration before Council finalises its position on Amendment C149.

Car Parking

- 4.17 The proposed development provides a total of 27 car spaces within a basement car park. 20 of the bays would be available for public use (effectively replacing the current public car park), and 7 are for the sole use of the VPC occupants. The VPC request is supported by a Traffic Impact Assessment provided by Irwin Consulting.
- 4.18 The provision of 27 car spaces represents a significant shortfall in the number of car parking spaces compared with the base requirements of the Port Phillip Planning Scheme of over 200. However, it is acknowledged that the proposed development:
- is well located with respect to public transport;
 - provides a generous amount of bicycle parking (43 bicycle spaces) with end-of-trip facilities;
 - is in an area where there is a significant amount of parking available proximate to the site, including both short-term and long-term spaces; and
 - contains uses which are likely to experience peak demand at different times of the day to other uses proximate to the site.



- 4.19 It is also noted that there are many sites in the same activity centre with similar uses to that do not provide any on-site parking.
- 4.20 Ordinarily, the Traffic Impact Assessment would be required to identify where the shortfall of car parking (car parking demand) would be accommodated, or how the car parking demand would be reduced (such as providing Myki Cards to all staff through the implementation of a Green Travel Plan for instance). Council officers consider that this detail is required before a conclusion can be reached on the car parking dispensation.
- 4.21 Council officers have requested that the Traffic Impact Assessment is further updated to provide this information as soon as possible and that this be forwarded to the Independent Advisor for consideration before Council finalises its position on this matter.

Proposed licensed areas and amenity impacts

- 4.22 While there has been some support for the proposed building to contain a number of function spaces, some feedback has highlighted concerns around the potential for adverse amenity impacts including noise and anti-social behaviour, given the proximity of the proposed development relative to the adjacent Jackson Street residential area. There were also concerns around the potential for the building to be used as a nightclub.
- 4.23 It is considered that the proposed development would be unlikely to generate substantial impacts on nearby residential properties on the basis that there are conditions within the draft Incorporated Document that require the development to:
- confine licenced areas to those marked within 'red lines' on the development plans;
 - confine the sale and consumption of liquor to be between 10am to 1am for indoor licensed areas; and 10am to 10pm for outdoor licensed areas;
 - limit the number of patrons for licensed areas to 90 on the ground floor, 140 on the level 2 function space and 100 on the roof top;
 - restrict the use of outdoor areas after 10pm;
 - require doors and windows to outdoor arears to be closed after 10pm; and
 - require compliance with the noise levels stipulated by the relevant State Environment Protection Policies for noise and for monitors and limiters to be fitted to control this outcome.
- 4.24 Notwithstanding these safeguards, it is noted that the draft Incorporated Document could allow the building to also operate as a nightclub which has been raised as a concern through consultation.



- 4.25 Given that this goes beyond the intended ancillary functions of the building, it is proposed that this use be removed on the basis that 'food and drink premises' and 'function centre' would still be permissible.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 On 2 July 2018, Council commenced community engagement on proposed Amendment C149 through Council's 'Have Your Say' online engagement platform. The receipt of written submissions will continue until 3 August 2018. All submissions received throughout consultation will be provided to the Independent Advisor.
- 5.2 As of close of business 26 July 2018, 30 written submissions had been received.
- 5.3 In addition to the receipt of written submissions, three information sessions were held which were attended by 54 participants. Council officers and representatives from the VPC were available to discuss and receive feedback from the community at these sessions.
- 5.4 Informal discussions have been held with interested parties as requested, including representatives from the Fitzroy Street Business Association.
- 5.5 Council's submission to the Independent Advisor takes into consideration community views expressed at 'drop-in' sessions as well as submissions received up until 26 July 2018.
- 5.6 Council is not able to consider all submissions from the community prior to making its own submission due to the constrained timeframes. All submissions and the report of the Independent Advisor will be available for Council to consider at the time it makes a final decision on the amendment.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 Council is undertaking a robust community engagement process to ensure community is aware of the proposed use and development of the VPC on Fitzroy Street, and is able to have their views considered.
- 6.2 The appointment of an Independent Advisor to review submissions provides a level of probity and advice to Council and the Minister for Planning to consider in determining the merits of the proposal.
- 6.3 The combination of the above has been designed to enable a request to the Minister for Planning to amend the Port Phillip Planning Scheme via Section 20(4) of the *Planning and Environment Act 1987*. In this regard, it is noted that State Government Practice Note 29 - *Ministerial Powers of Intervention for Planning and Heritage Matters* refers to circumstances when the Minister may undertake a section 20(4) amendment. This includes where the matter is one of



genuine State Significance (Criterion 1), and where the issues have been reasonably considered and the views of affected parties are known (Criterion 2).

7. FINANCIAL IMPACT

- 7.1 Council has committed \$13 million in the form of land to support establishment of the VPC in St Kilda. In turn, this project is expected to deliver significant economic benefits to the Fitzroy Street Precinct, through the provision of a new hub for the LGBTIQ community.
- 7.2 Any significant delays in this project may impact the VPC in relation to project funding.

8. ENVIRONMENTAL IMPACT

- 8.1 The proposal proposes to retain the two peppercorn trees along Jackson Street at the rear of the proposed building, retain the established Chinese elm on Fitzroy Street and proposes landscaping for all outdoor spaces including the terrace and rooftop areas. In addition, the draft Incorporated Document requires the preparation of a sustainability management plan prior to the development of the site commencing.

9. COMMUNITY IMPACT

- 9.1 The VPC project aligns strongly with the Council's commitment to diversity, and is a clear demonstration of its commitment to the wellbeing of the LGBTIQ community.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 A four-year priority initiative of the *Council Plan 2017-27* under Strategic Direction 1: 'we embrace difference, and people belong' is to establish the Pride Centre in St Kilda.

11. IMPLEMENTATION STRATEGY

TIMELINE

3 August 2018

- Closure of Council's 'Have Your Say'
- Council submission and all other written submissions provided to the independent advisor

15 August 2018

- Anticipated date of receipt of a report and recommendations from the Independent Advisor.

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5 September 2018

- Ordinary Council Meeting to consider submissions received, and recommendations from the independent advisor.
- Council to decide whether to support the amendment (including development plans and conditions) or request any changes, and whether to request the Ministers approval for proposed Amendment C149.

11.1 COMMUNICATION

- 11.1.1 The establishment of the VPC in Fitzroy Street, St Kilda, aligns with Council's commitment to celebrate diversity within our community.
- 11.1.2 Council has considered feedback received from the community to date on the proposal in drafting its submission to the Independent Advisor.
- 11.1.3 An Independent Advisor appointed by the Minister for Planning will review all submissions received and will provide an additional level of consideration and advice to Council and the Minister for Planning regarding the merits of the proposal.
- 11.1.4 Prior to deciding whether to request that the Minister for Planning approve Amendment C149, Council will have a further opportunity to consider all feedback and advice received.

12. OFFICER DIRECT OR INDIRECT INTEREST

- 12.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.

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ATTACHMENTS 1. Attachment 1: Proposed Amendment C149 - Council Submission to the Independent Advisor