



# PLANNING COMMITTEE

## MINUTES

28 JULY 2022



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**MINUTES OF THE PLANNING COMMITTEE OF THE PORT PHILLIP  
CITY COUNCIL HELD 28 JULY 2022 IN ST KILDA TOWN HALL**

The meeting opened at 6:00pm.

**PRESENT**

Cr Martin (Chairperson), Cr Baxter, Cr Bond, Cr Copsey, Cr Crawford, Cr Cunsolo, Cr Pearl, Cr Sirakoff

**IN ATTENDANCE**

Kylie Bennetts, General Manager City Growth and Development. Donna D'Alessandro, Manager City Development, Scott Parkinson, Coordinator Statutory Planning Gateway Ward, Michael Mowbray, Coordinator Statutory Planning Lake Ward, Phil Beard, Principal Planner, Joanne McNeill, Executive Manager, Governance and Organisational Performance, Naomi Phillips, Council Business Officer, Merryn Shaw, Governance and Council Meetings Officer.

*The City of Port Phillip respectfully acknowledges the Traditional Owners of this land, the people of the Kulin Nations. We pay our respect to their Elders, past and present. We acknowledge and uphold their continuing relationship to this land.*

**1. APOLOGIES**

Councillor Clark has been granted leave from Council from 28 July 2022 until 30 August 2022.

**2. CONFIRMATION OF MINUTES**

**MOVED Crs Baxter/Pearl**

That the minutes of the Planning Committee of the Port Phillip City Council held on 23 June 2022 be confirmed.

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

**3. DECLARATIONS OF CONFLICTS OF INTEREST**

Cr Cunsolo declared that she had a material conflict in relation to Item 6.3 Statutory Planning Delegated Decisions.

Cr Pearl declared that he had a direct conflict of interest in Item 6.3 Statutory Planning Decisions.



## 4. PUBLIC QUESTION TIME AND SUBMISSIONS

The following submissions were made verbally and can be listened to in full on our website: <http://webcast.portphillip.vic.gov.au/archive/php>

### **Council Report Submissions:**

#### **Item 6.1 – 102 Canterbury Road, Middle Park**

- Adam Jackson
- Patrick Archer
- Ronald Burggraf
- Helen Cvjetan
- Odette Angliss
- Philippa Taylor
- Owain Stone
- Fiona Broderick
- Paul Davies
- Pat Ness
- Jack Kagan
- Simon Riordan
- Joanna Bainbridge
- Teresa Kucynska
- William Land
- Edward Small
- Keith Dudson

**The following submissions were read out in summary by a Council officer**

- Adrian Jackson
- Edward Small

#### **Item 6.2 – 103 Beach Street Port Melbourne**

- John Vathis
- Jill Maddox
- Tim Normal
- Elizabeth Morrison
- Bill Fisher
- Lloyd Elliot  
(Applicant)
- Peter Murphy
- Ian Evans

## 5. COUNCILLOR QUESTION TIME

Nil.

## 6. PRESENTATION OF REPORTS

Discussion took place in the following order:

- 6.1 102 Canterbury Road, Middle Park
- 6.2 103 Beach Street Port Melbourne
- 6.3 Statutory Planning Delegated Decisions - June 2022



## 6.1 102 Canterbury Road, Middle Park

### Purpose:

- 1.1 To determine an application for the partial demolition (external demolition), construction of buildings and works to create a roof top terrace to accommodate an additional 200 patrons, extension to the existing 'red line' area for the sale and consumption of liquor (to the roof top terrace) and waiver of the car parking and bicycle parking requirements at the Middle Park Hotel.

### MOVED Crs Bond/Copsey

The Statutory Planning Committee adopt Recommendation 'Part A' and 'Part B'.

### RECOMMENDATION A

- (a) 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 Planning Permit.
- (b) That a Notice of Decision to Grant a Planning Permit be issued for partial demolition (external only), construction of a roof deck/terrace, extension of the existing 'red line' area and reduction of car parking and bicycle facilities at 102 Canterbury Road, Middle Park.

That the decision be issued as follows

### 1. Amended Plans required

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) An additional four publicly accessible bicycle hoops located on the nearby footpath to Canterbury Road or Armstrong Street to the technical design specification of Council.
- b) The south-east wall of the roof deck setback an additional 4m from that boundary so as to terminate at the peaks of the existing roof hips below.
- c) The roof deck awning facing Canterbury road indicated as being a lightweight retractable feature.
- d)
- e) Floor plan notations to reflect the revised patronage required by Condition 11.
- f) A waste management plan in accordance with Condition 5 of this permit.
- g) A Patron and Noise/Amenity Management Plan in accordance with Condition 9 of this permit.

### No Layout Change

- 2 The development and extent of demolition 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 plant, equipment or 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.

#### **Waste Management**

- 5 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:

- Land use type.
- 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.
- Collection must be after 10am on any day.
- 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.
- Scaled waste management drawings.
- Signage.

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

#### **Plant & equipment noise levels**

- 6 Any new/additional air conditioning, refrigeration plant and any other heating plans or similar related to the permitted roof deck must be screened and baffled and/or insulated to minimise noise and vibration to ensure compliance with noise limits determined in accordance with Division 1 and 3 of Part 5.3 - Noise, of the *Environment Protection Regulations 2021* to the satisfaction of the Responsible Authority.

#### **Music/live performances - background**

- 7 **Music played on the roof deck must not exceed background music noise levels at any time the roof deck is operating to the satisfaction of the Responsible Authority with no live music including DJs permitted to operate on the roof deck at any time.**

#### **Amenity**



- 8 The amenity of the area must not be detrimentally affected by the development 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, vapour, steam, soot, ash, dust, wastewater, waste products, grit or oil.

**Patron and Noise/Amenity Management Plan**

- 9 Before the permitted roof deck is allowed to operate, a Patron and Noise/Amenity Management Plan must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. All activities forming part of the use must comply with the endorsed plan. The plan must include:
- a) The permitted operating hours and patron numbers under conditions 10 and 11 of this permit,
  - b) Seating provided for 65% of patron capacity for the primary purpose of food consumption.
  - c) Day to day venue management practices, particularly relating to complaints and incidents in the venue including:
    - i. Staff being trained in the responsible service of alcohol.
    - ii. The measures to be taken by management and staff to ensure patrons depart the premises and the surrounding area in an orderly manner.
    - iii. The measures to be taken by management and staff to ensure that patrons queue to enter the premises in an orderly manner and maintain satisfactory clearance for other pedestrians on the footpath.
    - iv. The measures to be taken by management and staff to ensure that patrons do not cause nuisance or annoyance to persons beyond the land.
    - v. Staff communication arrangements.
    - vi. Liaison with Victoria Police, the City of Port Phillip and local residents.
    - vii. A telephone number provided for residents to contact the premises and linked to the complaints register;
    - viii. The maintenance of a complaints register, which must, on reasonable request, be made available for inspection by the Responsible Authority.
    - ix. Encourage smokers to use the designated smoking area within the premises.
    - x. Measures to control noise emissions from the premises.
    - xi. Waste management practices.
  - d) Signage to be used to encourage responsible off-site patron behaviour. Signs must be displayed at the entrance/exit and in the toilets requesting

# MINUTES - PLANNING COMMITTEE MEETING - 28 JULY 2022



that patrons leave the building in a quiet and orderly manner so as not to disturb the peace and quiet of the neighbourhood to the satisfaction of the Responsible Authority.

Once submitted and approved, the Patron and Noise/Amenity Management Plan must be carried out to the satisfaction of the Responsible Authority.

*The meeting adjourned from 7:49pm to 8:10pm to ensure all amendments to the officer's motion were correct.*

## **Operating Hours**

- 10 The sale and consumption of liquor **within the roof deck** may only operate between the hours of:
- Sunday to Thursday: 10am to 9pm
  - Friday and Saturday: 10am to 10pm

## **Patron Numbers**

- 11 No more than **200** patrons must occupy the extended red line area to the roof deck hereby approved and seating must be provided for a minimum 65% of these patrons at all times while the roof deck is operating.

## **Storage and Disposal of Garbage**

- 12 Any additional provision for storage and disposal of garbage and waste related to the permitted roof deck must be made to the satisfaction of the Responsible Authority. All new garbage storage areas – if required - must be screened from public view.

## **Time for starting and completion**

- 13 This permit will expire if one of the following circumstances applies:
- a) The development is not started within two years of the date of this permit.
  - b) The development is not completed within two years of the commencement of works hereby approved.
  - c) The sale and consumption of liquor within the roof deck is not started within 2 years of the date of this permit.

In accordance with Section 69 of the *Planning and Environment Act 1987*, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

## **RECOMMENDATION B – VCAT APPEAL**

Should the applicant lodge a failure appeal, Council will revert the decision to a stated position for the purposes of a subsequent VCAT appeal.

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

**Cr Sirakoff called for a DIVISION.**

**FOR: Crs Bond, Baxter, Copsey, Crawford, Pearl and Martin**

**AGAINST: Crs Sirakoff and Cunsolo**

**The MOTION was CARRIED.**



## 6.2 103 Beach Street Port Melbourne

### Purpose:

- 1.1 To determine an application to amend a planning permit to redesign the building, add an additional storey (resulting in a five-storey building), increase the number of dwellings from 12 to 22, modify the façade and building envelope, delete the food and drinks premises and increase in the floor area of the supermarket, add an additional level of basement with an increase in parking provision from 30 to 51 spaces and internal changes.

### MOVED Crs Cunsolo/Pearl

#### 4. RECOMMENDATION A – REFUSAL TO AMEND A PERMIT

- 4.1 That the Responsible Authority, having caused the application to be advertised and having received and noted the objections, issue a Notice of Refusal to Amend a Permit.
- 4.2 That a Notice of Refusal to Amend a Permit be issued for the construction of a building and carrying out works in the Comprehensive Development Zone, buildings and works for accommodation pursuant to the Environmental Significance Overlay, reduction of parking pursuant to Clause 52.06 at 103 Beach Street.
- 4.3 That the refusal be based on the following grounds:
  1. The proposal is inconsistent with the State and Local Planning Policy Framework of the Port Phillip Planning Scheme including Clauses 15, 21.04, 21.05-3 and 21.06-4 of the Port Phillip Planning Scheme.
  2. The proposal is inconsistent with the Comprehensive Development Zone at Clause 37.02 (Schedule 1) of the Port Phillip Planning Scheme.
  3. The overall height of the building and the lack of upper floor setbacks from the side and southern boundaries would result in unreasonable visual bulk and overshadowing impacts on the adjacent public realm.
  4. The proposal is an overdevelopment and would not be in keeping with the orderly and proper planning of the area.

#### 5. RECOMMENDATION B – REFUSAL OF CONSENT

- 5.1 That the Responsible Authority determines that the application plans are not to its satisfaction for the following reasons:
  1. The proposal is inconsistent with the State and Local Planning Policy Framework of the Port Phillip Planning Scheme including Clauses 15, 21.04, 21.05-3 and 21.06-4 of the Port Phillip Planning Scheme.
  2. The proposal is inconsistent with the Comprehensive Development Zone at Clause 37.02 (Schedule 1) of the Port Phillip Planning Scheme.
  3. The overall height of the building and the lack of upper floor setbacks from the side and southern boundaries would result in unreasonable visual bulk and overshadowing impacts on the adjacent public realm.
  4. The proposal is an overdevelopment and would not be in keeping with





the orderly and proper planning of the area.

**6. RECOMMENDATION C – AUTHORISE THE MANAGER CITY DEVELOPMENT FOR ANY VCAT APPEAL**

- 6.1 Authorise the Manager City Development to instruct Council’s Statutory Planners and/or Council’s solicitors on any VCAT application for review should one be lodged.

Cr Crawford FORESHADOWED that she might move an alternative motion should the motion fail.

Cr Cunsolo FORESHADOWED that she might move an alternative motion should the motion fail.

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

**Cr Cunsolo called for a DIVISION.**

**FOR: Crs Pearl, Cunsolo and Martin**

**AGAINST: Crs Bond, Baxter, Copsey, Crawford and Sirakoff**

**The MOTION was LOST.**

**MOVED Crs Cunsolo/Pearl**

**RECOMMENDATION A NOTICE OF DECISION TO AMEND A PLANNING PERMIT**

- 4.1 That the Responsible Authority, having caused the application to be advertised and having received and noted the objections, issue a Notice of Decision to Amend a Planning Permit.
- 4.2 That a Notice of Decision to Amend a Permit be issued for the construction of a building and carrying out works in the Comprehensive Development Zone, buildings and works for accommodation pursuant to the Environmental Significance Overlay, reduction of parking pursuant to Clause 52.06 at 103 Beach Street with the following changes.

**Amended Conditions**

The conditions to be (with changes shown for conditions to be deleted as ~~strikeout~~ and new conditions shown in **bold**).

**Amended Plans Required**

- 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 drawn to scale with dimensions and two copies must be provided. The plans must be generally in accordance with the advertised plans prepared by **Carr Architecture entitled “103 Beach Street Port Melbourne”, plan no’s plan no’s TP-000, TP-101, TP-149 to TP-156, TP-200, TP-201, TP-300, TP-301, TP-302, TP-400, TP-401, TP-402, TP-700**



**to TP-706, TP-750 to TP-757 and TP-903, all revision 1, dated 11.02.2022.**

**Plans council date stamped 18/02/2022, but modified to show:**

- (a) A minimum 6m<sup>3</sup> storage space dedicated for each apartment within the basement level
- (b) All plan and elevation drawings to be fully dimensioned, including natural ground level, floor levels, and incremental and total wall and building heights and lengths, with heights to be expressed to Australian Height Datum (AHD) ~~and/or reduced levels~~
- (c) Any changes required by condition 12 (Sustainable Management Plan)
- (d) Any changes required by condition 13 (Water Sensitive Urban Design)
- (e) Any changes required by condition 16 (Waste Management Plan)
- (f) Any changes required by condition 17 (Landscape Plan)
- (g) Any changes required by condition 32 (Environmental Audit Overlay)
- (h) Any changes required by condition 36 (Noise Attenuation for Apartments)
- (i) A full schedule of materials, finishes and paint colours, including colour samples (colour samples in a form that is able to be endorsed and held on file), must be submitted to the satisfaction of and approved by the Responsible Authority
- (j) Deleted (November 2020)
- (k) Provide full details of indicative internal supermarket layout including location of shelving, aisles and checkouts
- (l) Provide full details of all internal and external levels, including the **AHD levels** for the building ground floor relative to surrounding external areas and pedestrian spaces
- (m) Double glazing to all external windows of the dwellings.
- (n) Plans showing two toilets and associated amenities for exclusive use of PTV/ Yarra Trams, located to the north-western portion of the site with access provided from the northern elevation, generally consistent with the plan referred to as ~~190515\_SK13 Amenities prepared by Wood Marsh and Dated 15 May 2019 TP 151~~ **Ground Floor Plan prepared by Carr Architecture, revision 1 dated 11.02.2022.** Plans are to include detailed design plans to the satisfaction of Yarra trams and PTV.
- (o) ~~Modifications to the building to increase the clearance height above the shared path on the eastern side of the building to a 5m height for a width of 1.5m and 3.5m height for the remaining 3.5m width as depicted in the Wood Marsh Plan TP 304 entitled East Façade Tram Interface dated 15/02/2019. No columns for the building must extend into any part of the shared path.~~



**A section plan that shows the entire length of the building above the shared path on the eastern side of the building, clearly showing a clearance height of 3.8 m would be provided above the shared path with details of the locations of columns, planter boxes and planting within the shared path.**

- (p) ~~Details of the surface treatment for the footpath on the northern side of the building and the edge treatment between the footpath and the public car park. Deleted (July 2022).~~
- (q) Details of the materials, finishes and treatments to the paving and the underside of the overhang along the shared path on the eastern side of the building to identify and provide visual interest to the shared path **and provide design methods to slow the speed of cyclists within the shared path**
- (r) The materials schedule amended to detail that the timber for the pergola would be recycled.
- (s) Details of operable windows to bedrooms on levels 1 and 2.
- (t) Elevation plans and the materials schedule amended to include details of the proposed double glazing to windows.
- (u) Deleted (November 2020).
- (v) A notation added to the roof plan to clarify the solar PV unit, including details of capacity.
- (w) Details of electric vehicle charging provision within the basement.
- (x) A notation provided to the water tank in the basement to detail its capacity and that it would be used for toilet flushing and irrigation.
- (y) Deleted (November 2020).
- (z) **A light, reflective colour roof ballast noted on the roof plan and materials schedule.**
- (aa) **The proposed corner splays located adjacent the driveway are kept at least 50% clear of visual obstructions and any obstructions are less than 900mm in height.**
- (bb) **The ground floor plan updated to show that the vehicle access ramp can allow for two B99 vehicles to pass each other.**
- (cc) **The ground floor plan updated to show the details of the existing bollards on the adjacent laneway to the west of the site.**
- (dd) **Vegetation within the planter adjoining the shared path to:**
  - **Low growth – a maximum of 600mm in height; and**
  - **High growth – pruned to clear 1800mm below.**



- (ee) **Levels 3 and 4 of the building to be setback a minimum 5m from the eastern and western boundaries.**
- (ff) **A second entrance to the supermarket on the southern side of the building.**
- (gg) **All doors to the substation and services on the western side of the building to be redesigned so as to not open out into the adjacent laneway.**
- (hh) **The vehicle access ramp to the basement modified to allow for sufficient clearance height for a 2.1m high waste vehicle to be able to access the basement.**
- (ii) **Delete the roof terraces and associated stair access from top level units, delete central stair to roof, and minimise lift overrun, the highest parapet reduced to RL 22.5 around plant equipment in the centre of the roof. A roof access hatch to access services is allowed.**
- (jj) **The entrance to the apartments on the ground floor modified so that the entrance is from the north (Beach Street) side of the building.**

#### **No alterations**

- 2 The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason without the prior written consent of the responsible authority, unless the Port Phillip Planning Scheme exempts the need for a permit.

#### **Architectural input and supervision**

- 3 The applicant must retain **Carr Architecture** to complete the design and provide architectural oversight of the delivery of the detailed design as shown in the endorsed plans and endorsed schedule of materials and finishes during construction except with the prior written approval of the Responsible Authority.

#### **Covenant**

- 4 The uses and development approved by this permit must not commence until the relevant written consents are obtained from Mirvac (Beacon Cove Pty Ltd) or its nominee pursuant to Restrictive Covenant X354973K registered on the title of the Subject Land OR the requirement for consent by Mirvac or its nominee is removed from Restrictive Covenant X354973K.

If the requirement for consent persists in the covenant, prior to the endorsement of plans the written consents of Mirvac or its nominee must be provided to the Council.



#### **Licence Over Crown Land**

- 5 Prior to the commencement of the development, the applicant must provide evidence in writing to the satisfaction of the responsible authority that it has secured a lease or licence pursuant to the Crown Land (Reserves) Act 1975 with the responsible authority in its capacity as committee of management for access to and use of Part Lot O on Plan of Subdivision 406491Q to the north of the subject land to the satisfaction of the responsible authority.
- 6 The permit holder must maintain a licence or lease over the access point and car parking land to the north of the subject land to the satisfaction of the responsible authority throughout the duration of the uses and development allowed by this permit.

#### **Car Parking for Non Residential Uses**

- 7 The use of the supermarket ~~and food and drink premises~~ (or any potential future retail or commercial use) depicted on the endorsed plans must not commence until the northern vehicular access to the subject land is constructed in accordance with the endorsed plans. This access point must be maintained thereafter on an ongoing basis to the satisfaction of the responsible authority.
- 8 The supermarket ~~and food and drink premises~~ (or any potential future retail or commercial use) depicted on the endorsed plans must at all times be provided with access to and use of a minimum of 10 car parking spaces to the satisfaction of the responsible authority, in addition to the car parking spaces provided within the basement of the development.
- 9 If access to and use of the 10 car parking spaces cannot be provided at any time, or ceases to be made available to the supermarket ~~and food and drink premises~~ (or any potential future retail or commercial use), then the use of the subject land for the supermarket ~~and food and drink premises~~ depicted on the endorsed plans must cease immediately and must not recommence unless this permit is amended or the car parking spaces are provided.

#### **Shared Bicycle/pedestrian Path**

- 10 Before any aspect of the use of the land starts, the permit holder must either:
  - (a) create an easement of way on title to the subject land, or
  - (b) enter into an agreement with the responsible authority under section 173 of the *Planning and Environment Act 1987* in a form to the satisfaction of the responsible authority and at the permit holder's expense, to be registered on title to the subject land. The agreement must include a requirement to maintain relevant public indemnity insurance and



undertake ongoing reasonable maintenance of relevant parts of the building;

allowing the public free, safe and unhindered access to a 5 metre wide strip at ground floor on the eastern side of the building for the purpose of a shared bicycle and pedestrian path to be constructed to the specifications of the responsible authority at its expense.

#### **Walls on or Facing the Boundary**

- 11 Prior to the occupation of the building(s) allowed by this permit, all new or extended walls on or facing the boundary of adjoining properties and/or the laneway must be cleaned and finished to a uniform standard. Unpainted or unrendered masonry walls must have all excess mortar removed from the joints and face and all joints must be tooled or pointed 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.

#### **Sustainable Management Plan**

- 12 Before the development starts (other than demolition or works to remediate contaminated land) an amended Sustainable Management Plan that outlines proposed sustainable design initiatives must be submitted to, be to the satisfaction of and approved by the responsible authority. When approved, the Plan will be endorsed and will then form part of the permit and the project must incorporate the sustainable design initiatives listed. The Sustainable Management Plan must be generally in accordance with the **SMP submitted for the amendment application prepared by GIW Environmental Solutions dated 16 September 2021** but modified to provide the following:

- **Correctly identify the permeability in the north western corner of the site and update the WSUD response accordingly**

#### **Water Sensitive Urban Design**

- 13 Before the development starts (other than demolition or works to remediate contaminated land) a Water Sensitive Urban Design Report that outlines proposed water sensitive urban design initiatives must be submitted to, be to the satisfaction of and approved by the Responsible Authority. The report must demonstrate how the development meets the water quality performance objectives as set out in the Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO) or as amended.

When approved, the Report will be endorsed and will then form part of the permit and the project must incorporate the sustainable design initiatives listed.



**Maintenance Manual for Water Sensitive Urban Design Initiatives (Stormwater Management)**

- 14 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 program must include, but is not limited to:
- (a) inspection frequency
  - (b) cleanout procedures
  - (c) 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 Building User's Guide or a Building Maintenance Guide.

**Site Management Water Sensitive Urban Design**

- 15 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.

**Waste Management**

- 16 Before the development starts (other than demolition or works to remediate contaminated land), an amended Waste Management Plan based on the ~~draft "Best Practice Guidelines for Kerbside Recycling at Multi-Occupancy Residential Developments (Sustainability Victoria June 2006)~~ **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:
- (a) The private collection of rubbish from the basement.





- (b) The estimated garbage and recycling generation volumes for the whole development.
- (c) The garbage and recycling equipment to be used and the collection service requirements, including the frequency of collection.
- (d) The location of, proximity, screening of and space allocated both to the garbage and recycling storage areas and collection points.
- (e) The path of access for both users and collection vehicles.
- (f) How noise, odour and litter will be managed and minimised.
- (g) Approved facilities for washing bins and storage areas.
- (h) Who is responsible for each stage of the waste management process.
- (i) How tenants and residents will be regularly informed of the waste management arrangements.

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

#### **Landscape Plan**

- 17 Before the development starts (other than demolition or works to remediate contaminated land), a detailed Landscape Plan must be submitted to, approved by and be to the satisfaction of the responsible authority, generally in accordance with the Landscape Plan submitted with the amendment application that was prepared by **Acre Landscape Architecture entitled “Luxicon – 103 Beach Street Port Melbourne TP Landscape Plans September 2021”** When the Landscape Plan is approved, it will become an endorsed plan forming part of this Permit. The Landscape Plan must incorporate:

- (a) A survey plan, including botanical names, of all existing vegetation/trees to be retained;
- (b) Buildings and vegetation (including botanical names) on neighbouring properties within 3m of the boundary;
- (c) Significant trees greater than 1.5m in circumference, 1m above ground;
- (d) All street trees and/or other trees on Council land;
- (e) A planting schedule of all proposed vegetation including botanical names; common names; pot sizes; sizes at maturity; quantities of each plant; and details of surface finishes of pathways and driveways;
- (f) Landscaping and planting within all open space areas of the site;
- (g) Water sensitive urban design;
- (h) An automatic watering system for all vegetation;
- (i) Deletion of the landscaping depicted on the plans for the areas adjacent to the shared bicycle and pedestrian path.





- (j) Trees must not be sited over easements. All species selected must be to the satisfaction of the responsible authority.

#### **Completion of Landscaping**

- 18 The landscaping on the subject land as shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the responsible authority before the occupation of the development and/or the commencement of the use or at such later date as is approved by the responsible authority in writing.

#### **Landscaping Maintenance**

- 19 The landscaping as shown the endorsed Landscape Plan must be maintained, and any dead, diseased or damaged plant replaced in accordance with the landscaping plan to the satisfaction of the responsible authority.

#### **Urban Art Plan**

- ~~20 Before the occupation of the development allowed by this permit, an urban art plan generally in accordance with Council's Urban Art Strategy 2002 (or subsequently adopted strategy) must be submitted to and approved by the responsible authority. Urban art in accordance with the approved plan must be installed on the subject land prior to the occupation of the development to the satisfaction of the responsible authority. Deleted (July 2022).~~

#### **Number of Dwellings**

- 21 Without the written consent of the responsible authority, no more than ~~12~~ **22** dwellings may be constructed on the land.

#### **Parking and Loading Areas must be available**

- 22 Car and bicycle parking and loading 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

#### **Vehicle Crossings**

- 23 Before the occupation of the development allowed by this permit, vehicle crossings must be constructed in accordance with Council's current Vehicle Crossing Guidelines and standard drawings to the satisfaction of the Responsible Authority. All redundant crossings must be removed and the footpath, naturestrip, kerb and road reinstated as necessary at the cost of the applicant/owner and to the satisfaction of the responsible authority.

#### **Applicant to pay for Reinstatement**

- 24 Before the occupation of the development, the applicant/owner must do the following things to the satisfaction of the responsible authority:



- (a) Pay the costs of all alterations/reinstatement of Council and Public Authority assets necessary and required by such Authorities for the development.
- (b) Obtain the prior written approval of the Council or other relevant Authority for such alterations/reinstatement.
- (c) Comply with conditions (if any) required by the Council or other relevant Authorities in respect of alterations/reinstatement.

**Public Services**

- 25 Before the occupation of the development, any modification to existing infrastructure and services within the road reservation (including, but not restricted to, electricity supply, telecommunications services, gas supply, water supply, sewerage services and stormwater drainage) necessary to provide the required access to the site, must be undertaken by the applicant/owner to the satisfaction of the relevant authority and the responsible authority. All costs associated with any such modifications must be borne by the applicant/owner.

**Car Parking Allocation**

- 26 Without the further written consent of the Responsible Authority car parking for the approved development must be allocated on any Plan of Subdivision as follows:
- (a) two car spaces for each dwelling
  - (b) two visitor spaces held in common property;
  - (c) storage spaces (where applicable) must be allocated to the apartments at the ratio approved.

**On-site Bicycle Parking**

- 27 Before the development is occupied, bicycle racks must be provided on the land to the satisfaction of the responsible authority.

**No equipment and services**

- 28 No equipment, services and exhausts other than those shown on the endorsed plan must be erected above the roof level of the building unless otherwise agreed to in writing by the responsible authority.

**Lighting baffled**

- 29 All lighting of external areas must be suitably baffled so as not to cause nuisance or annoyance to nearby properties or roads.

**Privacy screens must be installed**

- 30 Prior to the occupation of the building(s) allowed by this permit, privacy screens as required in accordance with the endorsed plans must be installed and maintained thereafter to the satisfaction of the responsible authority.



**SEPP-N1 Noise of Air Conditioning and refrigeration plant**

- 31 All air conditioning and refrigeration plant must be screened and baffled and/or insulated to minimise noise and vibration to ensure compliance with noise limits determined in accordance with **Division 1 and 3 of Part 5.3 - Noise, of the Environment Protection Regulations 2021** to the satisfaction of the responsible authority.

**Environmental Audit Overlay**

- 32 Before the commencement of construction or carrying out of buildings and works pursuant to this permit, or any works associated with a sensitive use, either:
- (a) A Certificate of Environmental Audit for the land must be issued in accordance with Section 53Y of the Environment Protection Act 1970 and provided to the responsible authority;
  - (b) A Statement of Environmental Audit for the land must be issued in accordance with Section 53Z of the Environment Protection Act 1970 that the environmental conditions of the land are suitable for the use and/or development that are the subject of this permit and this statement must be provided to the responsible authority.

**Compliance with Statement of Environmental Audit**

- 33 Where a Statement of Environmental Audit is issued for the land, the buildings and works and the use(s) of the land that are the subject of this permit must comply with all directions and conditions contained within the statement.

Where a Statement of Environmental Audit is issued for the land, before the commencement of the use, and before the issue of a Statement of Compliance under the Subdivision Act 1988, and before the issue of an occupancy permit under the Building Act 1993, a letter prepared by an Environmental Auditor appointed under Section 53S of the Environment Protection Act 1970 must be submitted to the responsible authority to verify that the directions and conditions contained within the statement have been satisfied.

Where a Statement of Environmental Audit is issued for the land, and any condition of that statement requires any maintenance or monitoring of an on-going nature, the owner(s) must enter into an agreement with the responsible authority pursuant to Section 173 of the Planning & Environment Act 1987, which must be executed before the commencement of the permitted use and before the certification of the Plan of Subdivision under the Subdivision Act 1988. All such expenses related to the Section 173 Agreement including drafting, negotiating, lodging, registering and execution of the Agreement, including those incurred by the responsible authority, must be met by the owner(s).



### **Visitor Car Parking**

- 34 The number and location of visitor car parking spaces as shown on the endorsed plans may only be altered with the written consent of the responsible authority. Prior to the occupation of the building, all visitor car parking spaces must be line marked and designated as visitor car parking to the satisfaction of the responsible authority and must be designated as common property on any plan of subdivision.

### **Loading/Unloading**

- 35 The loading and unloading of goods from vehicles in association with the ~~retail and food and drink premises~~ **Supermarket** on the subject land must only be carried out within the designated loading bay, as detailed on the endorsed plans, and must be conducted in a manner which does not cause any interference with the circulation and parking of vehicles on the land to the satisfaction of the responsible authority.

Vehicles using the loading bay must not exceed an 8.8 metre long medium rigid vehicle.

### **Noise report for attenuation for apartments**

- 36 A report prepared by a suitably qualified acoustic specialist outlining appropriate measures to ensure noise levels in bedrooms do not exceed 30 dBA and 45 dBA in living areas when the port facilities are in operation.

### **PTV / Yarra Trams Conditions - Toilets**

- 37 Cleaning and maintenance of the PTV/Yarra Tram toilets is to be managed by the developer as agreed in a cleaning and maintenance programme which is to be prepared prior to the commencement of use of the site, to the satisfaction of PTV/Yarra Trams.
- 38 Prior to the commencement of works, two temporary toilets are to be provided for exclusive user of PTV/Yarra Trams. The temporary toilets are to be provided by the developer at no cost to PTV/ Yarra Trams or the Responsible Authority. The temporary toilets are to be cleaned and maintained to the satisfaction of PTV/ Yarra Trams and the Responsible Authority

### **Supermarket entrances must remain open and no advertising signage to windows**

- 39 All supermarket entrances must remain open when the super market is in operation and all entrance doors must remain visually transparent ie no advertising or signage must be used to obscure the entrance doors **or windows of the building.**

### **Time for starting and completion**

- 40 This permit will expire if one of the following circumstances applies:



- (a) The development is not started within two (2) years of the date of this permit.
- (b) The development is not completed within two (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 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 has commenced lawfully under the permit.

#### **Loading and Waste Management Collection Plan**

41 **Before the development starts (other than demolition or works to remediate contaminated land) a Loading Management Collection Plan must be prepared to the satisfaction of the Responsible Authority and endorsed as part of this permit. The Plan must include the following matters:**

- a) **Details of vehicles permitted to enter the loading bay.**
- b) **Identify the process of how spotters will operate to ensure the safety (particularly vulnerable road users such as pedestrians, cyclist and motorcyclists) and obstruction to other on-site/on-street traffic is to be managed during commercial vehicle manoeuvres.**
- c) **The maintenance and cleaning regime of the loading bay and immediate area within the laneway.**
- d) **The loading dock door must be closed at all times (except when delivery vehicles and waste collection vehicles are entering and exiting the loading door).**
- e) **Waste and loading must only occur during the following times:**
  - **8.00am to 7.00pm Monday to Saturday.**

**Once submitted and approved, the Loading and Waste Management Collection Plan must be carried out to the satisfaction of the Responsible Authority.**

#### **Public Realm Upgrade**

42 **Before the development starts, or by such later date as approved in writing by the Responsible Authority, a Public Realm Plan is to be prepared and approved to the satisfaction of the Responsible Authority. When approved, the Public Realm Plan will be endorsed and will form part of this permit. The Public Realm Plan will be generally in accordance with the draft public realm submitted with the amendment C application entitled “Luxcon Proposal – Landscape Concept Plan” (updated with Council comments). The plan submitted must:**



- (a) Provide details of the redesigned northern car park with details of the car parking spaces, access aisles, entry and exit to the car park including dimensions of all car parking spaces and access aisles and proposed line marking. Tree planting within the northern car park must maintain clearances to the shared pathway and must maintain footpath priority at the new driveway crossing.
- (b) The southern plaza area to incorporate the following changes:
  - Reduce scope of new landscape works to be the west of eastern ground floor building edge alignment (red line on mark-up plan).
  - Reinstate paving to match existing to the east of this line as an interim measure until tram terminus redevelopment will enable new landscape treatment across Plaza
  - Move eastern planter bed to west side of red line
  - Unique mismatched stone paving is supported to seating area only (for example, left hand image slide 13).
  - Some texture may be appropriate if good level of accessibility is achieved. Loose gravel is not supported due to maintenance issues.
  - Unique concrete or slab timber seating is supported
  - Grouping relocated palm trees together is supported
- (c) Provide details of all new trees and all planting including details of all trees that are to be retained and removed. New planting species to be confirmed by Council. The five existing trees that are shown to be removed will require details for permit and tree amenity value charges to be confirmed.
- (d) Details of proposed lighting including a lighting design to demonstrate that all proposed lighting arrangement complies with relevant Australian Standards.
- (e) Details of all paving and footpath treatments including details of the treatment of level changes. Pedestrian access must comply with the Disability Discrimination Act 1982.

#### **Section 173 Agreement**

- 43 Before the development starts (other than demolition or works to remediate contaminated land), the owner must enter into an agreement under Section 173 of the Planning and Environment Act 1987 with the Responsible Authority. The agreement must be in a form to the satisfaction of the Responsible Authority, and the owner must be responsible for the expense of the preparation and registration of the agreement, including the Responsible Authority's reasonable costs and expense (including legal expenses) incidental to the preparation,



registration and enforcement of the agreement. The agreement must contain covenants to be registered on the Title of the property so as to run with the land pursuant to Section 181 of the Section 173 of the Planning and Environment Act 1987, and must provide for the following:

- a) Any costs associated with the Public Realm upgrade must be paid for by the owner.
- b) Tree species must be approved by Council's arborist and must not unreasonably interfere with the operation of the adjacent shared path and/or tram line.
- c) Trees must be maintained by the owner for a period of 12 months. Any diseased or damaged trees must be removed and replaced at the cost of the owner to the satisfaction of the Responsible Authority.

The agreement will be registered on Title in accordance with Section 181 of the Planning and Environment Act 1987. A dealing number must be provided to the Responsible Authority.

**5. RECOMMENDATION B - CONSENT GRANTED**

- 5.1 That the responsible authority determines that the application plans are to its satisfaction.

**6. RECOMMENDATION C - AUTHORISE THE MANAGER CITY DEVELOPMENT FOR ANY VCAT APPEAL**

- 6.1 Authorise the Manager City Development to instruct Council's Statutory Planners and/or Council's solicitors on any VCAT application for review should one be lodged.

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

**Cr Cunsolo called for a DIVISION.**

**FOR: Crs Bond, Pearl, Sirakoff, Cunsolo and Martin**

**AGAINST: Crs Baxter, Copsey and Crawford**

**The MOTION was CARRIED.**



### 6.3 Statutory Planning Delegated Decisions - June 2022

*Councillor Cunsolo declared a material conflict of interest in the matter and left the chamber at 9:03 pm*

*Councillor Pearl declared a direct conflict of interest in the matter and left the chamber at 9:03 pm*

#### **Purpose**

- 1.1 To present a summary of all Planning Permits issued in accordance with the Schedule of Delegation made under the Local Government Act 2020 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 Crawford/Bond**

That the Committee:

- 3.1 Receives and notes the June 2022 report regarding the summary of all Planning Decisions issued in accordance with the Schedule of Delegation made under the Local Government Act 2020 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 unanimously.**

*Councillors Pearl and Cunsolo returned to the meeting.*

## 7. URGENT BUSINESS

Nil.

## 8. CONFIDENTIAL MATTERS

Nil.

As there was no further business the meeting closed at 09:04pm.

Confirmed: 25 August 2022

Chairperson \_\_\_\_\_