



PLANNING COMMITTEE

MINUTES

26 FEBRUARY 2020

These Minutes contain only summary comments from members of the public. To hear full submissions and view a complete recording of the meeting, go to:

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**MINUTES OF THE PLANNING COMMITTEE OF THE PORT PHILLIP
CITY COUNCIL HELD 26 FEBRUARY 2020 IN ST KILDA TOWN HALL**

The meeting opened at 6.30pm.

PRESENT

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

IN ATTENDANCE

Lili Rosic, General Manager, City Strategy and Sustainable Development, George Borg Manager City Development, Nick McLennan, Planning Coordinator Canal Ward, Jock Farrow, Principal Planner, Patricia Stewart, Fishermans Bend Urban Renewal Senior Planner, Simon Gutteridge, Planning Team Leader Fishermans Bend, Murray Chick, Coordinator Governance, Rebecca Purvis, Governance Officer.

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

1. APOLOGIES

An apology was received from Councillor Pearl.

MOVED Crs Gross/Voss

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

A vote was taken and the MOTION was CARRIED unanimously.

2. CONFIRMATION OF MINUTES

MOVED Crs Gross/Voss

That the minutes of the Planning Committee of the Port Phillip City Council held on 11 December 2019 be confirmed.

A vote was taken and the MOTION was CARRIED unanimously.

3. DECLARATIONS OF CONFLICTS OF INTEREST

Nil



4. PUBLIC QUESTION TIME

Craig Eyes

What financial support is available for the powerhouse rugby club sports pavilion project? Is there a charge for a planning permit for a not for profit sports organisation? Will Council make us pay for the planning permit application?

Cr Brand advised that the first part of question would be taken notice for response as it is not a planning matter. Lili Rosic, General Manager City Strategy and Sustainable Development, advised that unless it can be proven that the application relates to land used exclusively for charitable purposes a planning fee is required under the Planning and Environment Act. The planning fee is dependent upon the cost of the development.

5. COUNCILLOR QUESTION TIME

Cr Voss asked for some commentary on Councils statistics in relation to VCAT appeals including how many appeals have been upheld the last 12 months and what is our success rate percentage.

George Borg, Manager City Development, stated that Council is measured on success rate through the Local Government Planning Reporting Framework. Based on this framework for the last financial year, Council was at 72%. However if other factors are included such as mediation, withdrawn applications, attendance at successful compulsory conferences it takes Council to approximately 87.5%.

6. PRESENTATION OF REPORTS

Discussion took place in the following order:

- 1 21 & 23 William Street, Balaclava
- 2 Statutory Planning Delegated Decisions Report - December 2019 and January 2020
- 3 245-247 and 249-251 Normanby Road, South Melbourne
- 4 2-28 Montague Street, 80 Munro Street, Johnson Street, South Melbourne



6.1 21 & 23 William Street, Balaclava

Purpose

- 1.1 To determine Council's position on the upcoming Victorian Civil and Administrative Tribunal (VCAT) hearing for Planning Permit Application P413/2019 for construction of an eight storey building; use of land for the purposes of industry (microbrewery) and office; reduction in car parking requirements at 21 and 23 William Street, Balaclava.

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

David Burstyner

Spoke to a presentation he provided and spoke against the proposed development.

Dalit Kaplan

Spoke against the proposed development.

Bill Sillvester

Spoke against the proposed development.

Adam Merrington

Spoke against the proposed development.

Gillian Upton

Spoke against the proposed development.

Bruce Keen – Applicant

Spoke in support of the proposed development

Steve Tillinger – Architect

Spoke in support of the proposed development.

MOVED Crs Baxter/Bond

- 3.1 That the Planning Committee adopt Recommendation "Part A" and "Part B", that:
 - A. Council advises VCAT and all parties to the appeal and all objectors, that it supports the application with conditions and if VCAT determines to grant a permit for the application, any permit should incorporate the conditions below.
 - B. Authorise the Manager City Development to instruct Council's Statutory Planners and/or Council's Solicitors on the VCAT application for review.



RECOMMENDATION “PART A”

- 3.2 That the Responsible Authority, having caused the application to be advertised and having received and noted the objections, notifies VCAT, all parties to the appeal and all objectors that had it made a decision on this application, that it would have supported the proposal, for construction of an eight storey building; use of land for the purposes of industry (microbrewery) and office; reduction in car parking requirements at 21 & 23 William Street, Balaclava subject to the following conditions:

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 drawn to scale with dimensions and an electronic copy must be provided. The plans must be generally in accordance with the plans submitted with the advertised plans received by Council on 3 October 2019 but modified to show:

- a) The building setback a minimum of 5 metres from Stuart Street, above the street wall.
- b) The deletion of one level of the proposed tower resulting in a reduction to a maximum 7 storeys.
- c) The fencing and walls of the building core (all on the roof) finished in the same, high-quality perforated metal/mesh material.
- d) The minimum clearance to the underside of any projections (including the canopies) over the footway surfaces being a minimum of 2.7 metres.
- e) Removal of works outside the title boundaries, excluding the canopies to Stuart Street and William Street.
- f) Deletion of any doors that open out beyond the west property boundary (unless consent is obtained from the relevant land manager/s).
- g) Relocation of the solar panels from the northern side of the roof terrace to the western side of the roof terrace (unless consent is otherwise obtained from VicTrack).
- h) The western edge of the Level 2 terrace to be non-trafficable (unless consent is otherwise obtained from VicTrack).
- i) Screening around the services zone/ roof plant.
- j) A detailed layout plan of the microbrewery.
- k) Specification that the external finishes are of a type that does not reflect more than 15% of visible light, when measured at an angle of 90 degrees to the surface.
- l) The use of clear glazing to the windows on the west elevation at the ground and first floor of the building (or equivalent material that allows for passive surveillance of Balaclava Walk).
- m) Any changes required in accordance with the amended Sustainable Management Plan required by condition 5.



- n) Any changes required in accordance with the Wind Assessment requirement by condition 9.
- o) The location of the urban art required by condition 10.
- p) A landscaping plan in accordance with condition 14.
- q) Any changes required to comply with Melbourne Water's conditions (condition 37) and all changes shown on TP100 Rev C (being the change to the design and layout of the ramp and entry in the north west corner of the site).
- r) Any changes required to comply with the EPA's conditions (condition 38).

2. No Alterations (Development)

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.

3. Layout Not to be Altered (Use)

The layout and description of the use(s) as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority unless the Port Phillip Planning Scheme exempts the new use from requiring a permit.

4. Microbrewery Management Plan

Concurrently with the submission of plans for endorsement under condition 1 of this permit a Microbrewery Management Plan must be submitted to, be to the satisfaction of and approved by the Responsible Authority. It must address the following:

- a) The hours of operation.
- b) The number of staff.
- c) Measures to manage noise, odour and other emissions from the site, to accord with the relevant EPA SEPP requirements.
- d) Times and location of deliveries.

When approved, the Plan will be endorsed and will then form part of this permit and must be implemented to the satisfaction of the Responsible Authority.

5. Sustainable Management Plan

Concurrently with the submission of plans for endorsement under condition 1 of this permit, an amended Sustainable Management Plan (SMP) that outlines proposed sustainable design measures must be submitted to, be to the satisfaction of and approved by the Responsible Authority. The amended SMP must be generally in accordance with the SMP prepared by GIW Environmental Solutions dated 26 September 2019 but amended to address the following:

- a) Include the Climate Adaption Plan report referred to.
- b) Bicycle parking details consistent with the plans.



- c) Clarification where WELS rating requirements are below the current green star requirements.
- d) Updated to reflect the latest NCC 2019 Section J requirements for the Comparison to a Reference Building Pathway.

Where alternative ESD measures are proposed to those specified in this condition, the Responsible Authority may vary the requirements of this condition at its discretion, subject to the development achieving equivalent (or greater) ESD outcomes in association with the development.

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

6. Incorporation of Sustainable Design initiatives

Prior to the occupation of any building approved under this permit, the provisions, recommendations and requirements of the endorsed Sustainability Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

7. Implementation of Sustainable Design Measures

Prior to the occupation of any dwelling/building approved under this permit, a report (or reports) from the author of the Sustainability Management Plan (SMP), approved under this permit, or similarly qualified person or company, must be submitted to the satisfaction of the Responsible Authority and must confirm all measures specified in the approved SMP and WSUD report have been implemented in accordance with the approved plans.

Further the project is to be benchmarked /certified against the Green Building Council of Australia's Green Star 'Design and As-built' rating tool to a 5 star standard. The report is to include:

- an itemised summary of the credits that were achieved for the project and a point tally evidencing that the points required for the nominated star rating were met or exceeded
- an itemised list of the initiatives involved in each credit and the evidence provided as required by the relevant Green Star Submission Guidelines.
- a statement by the report's author that the credits nominated were achieved to the scope and standard set in the Green Star Submission Guidelines

8. Construction Management Water Sensitive Urban Design

The developer must ensure that throughout the construction of the building(s) and construction and carrying out of works allowed by this permit;

- 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.

9. Wind Assessment

Concurrently with the submission of plans for endorsement under condition 1 of this permit, a suitably qualified person must undertake a comprehensive wind tunnel test of the entire development and a Wind Climate Assessment Report to the satisfaction of the Responsible Authority must be provided for the written endorsement of the Responsible Authority. Any modifications required to the development in order to ensure acceptable wind conditions must be submitted to and approved by the Responsible Authority as part of the plans for endorsement. The design details of any wind mitigation works must receive the endorsement of the owner's wind climate experts, preferencing the use of architectural features and planting to resolve any issues identified, to the satisfaction of the Responsible Authority

10. Urban Art Plan

Concurrently with the submission of plans for endorsement under condition 1 of this permit, an urban art plan in accordance with Council's Urban Art Strategy must be submitted to, be to the satisfaction of and approved by the Responsible Authority. The value of the urban art must be at least 0.5% of the total building cost of the development to the satisfaction of the Responsible Authority. Urban art in accordance with the approved plan must be installed prior to the occupation of the building to the satisfaction of the Responsible Authority.

11. Rooftop Management Plan

Concurrently with the submission of plans for endorsement under conditions 1 and 11 of this permit, a detailed Rooftop Management Plan is to be prepared and approved to the satisfaction of the Responsible Authority. It must describe how the rooftop garden/ recreation space will be managed, used and maintained, and by who. When approved, the Rooftop Management Plan will be endorsed and will form part of this permit and must be implemented to the satisfaction of the Responsible Authority.

12. Ongoing Involvement of the Architect

The applicant must retain WMK 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.

13. Public Realm Plan for Balaclava Walk and Interface with Stuart Street

Prior to the completion of the development, a Public Realm Plan detailing works on Balaclava Walk and the interface with Stuart Street is to be prepared and approved to the satisfaction of the Responsible Authority and VicTrack. When approved, the Public Realm Plan will be endorsed and will form part of this permit. The Public Realm works are to be designed in conjunction with VicTrack



and Council and are to be generally in accordance with the City of Port Phillips' Design and Technical Standards and associated guidelines and any VicTrack requirements and should include, but not be limited to:

- a) Any seating area on Balaclava Walk, including landscaping treatments, lighting and furniture;
- b) The provision of pedestrian access from Stuart Street to Balaclava Walk, either through the subject site and/ or through the removal of high fencing between Stuart Street and Balaclava Walk (where public access is proposed through the site, it must be clear whether this will be available 24 hours a day or whether it will be blocked off when the microbrewery is closed);
- c) Any fencing required to demarcate the thoroughfare from any seating/ landscaped area (i.e. and having regard to the changes in site levels);
- d) Urban design elements including, but not limited to, paving, lighting, bicycle parking, seating and public art; and
- e) Landscaping information including 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.

All works shown in the approved Public Realm Plan must be completed within one month of the date of completion of the development, unless with the agreement of the relevant land manager/s.

Should the relevant land manager/s not consent to works on their land, written evidence of this must be provided to the Responsible Authority in lieu of a public realm plan, and any subsequent changes required to the endorsed plans (for instance, to remove pedestrian access to Balaclava Walk) must be undertaken by the proponent through an amendment to the plans (and permit if relevant), prior to the occupation of the development.

14. Landscape Plan

Concurrently with the submission of plans for endorsement under condition 1 of this permit, a detailed Landscape Plan must be submitted to, approved by and be to the satisfaction of the Responsible Authority. 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 and/or removed;
- 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 the site, in the locations generally shown in the advertised plans, including around the perimeter of the building, the terrace/s and roof top garden; and
- g) Water sensitive urban design.

15. Completion of Landscaping

The landscaping 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.

16. Landscaping Maintenance

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.

17. Walls on or facing the boundary

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

18. No equipment or services

Any plant, equipment or domestic services visible from the primary street frontage (other than a lane) or public park must be located and visually screened to the satisfaction of the Responsible Authority.

19. Car Parking Allocation

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) Not less than 62 spaces for the offices;
 - b) Not less than 10 spaces for the microbrewery;
- All to the satisfaction of the Responsible Authority.

20. Car and Bicycle Parking Layout

Before the use or occupation of the development starts, the area(s) set aside for the parking of vehicles and bicycles and access lanes as shown on the endorsed plans must, to the satisfaction of the Responsible Authority, be:

- a) Constructed;
- b) Properly formed to such levels that may be used in accordance with the plans;
- c) Surfaced with an all weather surface or seal coat (as appropriate);



- d) Drained and maintained;
- e) Line marked to indicate each car space, visitor space, bicycle space, loading bay and/or access lane; and
- f) Clearly marked to show the direction of traffic along access land and driveways.

21. Parking and Loading Areas Must Be Available

Two of the electronic car parking bays must be set aside for loading outside of 9am and 5pm. 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.

22. Lighting

All lighting including of the areas set aside for car parking, access lanes and driveways, must be suitably baffled so as not to cause nuisance or annoyance to nearby residential properties to the satisfaction of the Responsible Authority.

23. Direction Sign

Before the occupation of the development allowed by this permit a sign containing details and of a size to the satisfaction of the Responsible Authority must be displayed directing drivers to the area(s) set aside for car parking and loading. The sign must be located and maintained to the satisfaction of the Responsible Authority.

24. Green Transport Plan

The green transport plan endorsed under this permit must be implemented to the satisfaction of the Responsible Authority, unless with the further written consent of the Responsible Authority.

25. Provision of car share spaces

Prior to the occupation of the development, the proponent must, subject to the agreement of the public land manager and car share provider, implement two car share spaces outside the site to the satisfaction of the Responsible Authority. Should it not be possible to implement the two car share spaces, the Green Transport Plan endorsed under condition 24 of this permit must be amended by the proponent to incorporate an equivalent alternative sustainable travel mechanism, to the satisfaction of the Responsible Authority.

26. Vehicle Crossings

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.

27. Applicant to Pay for Reinstatement



Before the occupation of the development allowed by this permit, 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.

28. Public Services

Before the occupation of the development allowed by this permit, 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.

29. Amenity (General)

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, or
- c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.

30. Mechanical Exhaust

Before the use starts any required mechanical exhaust system must be constructed in accordance with the Australian Standard number 1668 and/or to the satisfaction of the Responsible Authority.

31. Treatment of Fumes

Fumes from the premises must be treated within the mechanical exhaust system to ensure that any discharge does not create a nuisance (as defined under the Public Health and Wellbeing Act 2008). Options available include carbon filters, ultra violet ozone producing lamps, electrostatic precipitation, odour neutralising system or other suitable method. The method of treatment must be designed, installed, operated and maintained to the satisfaction of the Responsible Authority.

32. SEPP N1

The uses hereby approved must operate in accordance with noise limits determined in accordance with State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1, to the satisfaction of the Responsible Authority.

33. Storage of Goods



Without the further written consent of the Responsible Authority no goods are permitted to be stored or left exposed outside the building so as to be visible from any public area.

34. Preliminary Environmental Assessment

Before the development commences, excluding demolition and excluding remediation works necessary to facilitate the testing, the applicant must carry out a Preliminary Environmental Assessment (PEA) of the site to determine if it is suitable for the intended uses. The PEA must be undertaken by a suitably qualified professional. This PEA must be submitted to the Responsible Authority prior to the commencement of the development. The PEA should include:

- a) Details of the nature of the land uses previously occupying the site and the activities associated with these land uses, including the filling of the site. This should include details of how long the uses occupied the site.
- b) A review of any previous assessments of the site and surrounding sites including details of the anticipated sources of any contaminated materials.
- c) A recommendation as to whether any further investigative or remedial work is required to accommodate the intended uses.

Any recommendations of the PEA must be implemented to the satisfaction of the Responsible Authority, before the commencement of the development (unless otherwise specified in the PEA).

If the PEA recommends that a Certificate or Statement of Environmental Audit is required:

- i. An appointed auditor must be engaged pursuant to Section 53U of the Environment Protection Act 1970 to perform an environmental audit of the land.
- ii. An environmental audit report must be produced in accordance with Section 53X of the Environment Protection Act 1970 must be provided to the Responsible Authority and
- iii. A Certificate or Statement of Environmental Audit must be provided to the Responsible Authority.

35. Compliance with Statement of Environmental Audit

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 1971 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).

36. Melbourne Water Conditions

- a. Prior to the endorsement of plans, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Plans must be submitted with surface and floor levels to Australian Height Datum (AHD) and must be modified to show:
 - i. The bridge structure set no lower than 500mm above the existing ground level.
 - ii. An annotation indicating that the bridge is to be a suspended structure with no foundations extending to the ground, to allow for the passage of overland flows through this area.
- b. The building must be constructed with finished floor levels set no lower than 7.35 metres to Australian Height Datum (AHD), which is 300mm above the applicable flood level of 7.05m to AHD.
- c. The entry / exit driveway of the basement carpark must incorporate a flood proof apex constructed to no lower than 7.35 metres to Australian Height Datum (AHD), which is 300mm above the applicable flood level of 7.05m to AHD.
- d. The existing setback along the western property boundary between the buildings and the railway embankment must be maintained at existing surface levels to allow for the passage of overland flows.
- e. The alfresco must be set at the existing surface levels to allow for the passage of overland flows.
- f. The bridge must be constructed no lower than 500mm above the existing ground level, designed as a suspended structure with no foundations extending to the ground, to allow for the passage of overland flows.

37. Environment Protection Authority conditions

- a. There must be no emissions of noise and/ or vibrations from the premises which are detrimental to either of the following:
 - i. the environment in the area around the premises; and
 - ii. the wellbeing of persons and/ or their property in the area around the premises.
- b. A secondary containment system must be provided for liquids which if spill are likely to cause pollution or pose an environmental hazard.

38. VicTrack conditions



- a. No drainage, effluent, waste or soil may enter or be directed to the railway land and no waste soil or other materials be stored or deposited on railway land.
- b. Walls of the development within 1m of the rail corridor boundary must be treated with a graffiti proof finish and any graffiti that appears on the wall must be cleaned / removed as soon as practicable at no cost to VicTrack or the Rail Operator.
- c. Unless otherwise agreed in writing VicTrack, prior to the commencement of works, the permit holder must prepare a report, to the satisfaction of the Responsible Authority in consultation with VicTrack, by a suitably qualified consultant, which demonstrates that all building materials (including glass / window treatments) visible from the rail corridor are non-reflective such that it will not adversely impact on rail operations and driver safety. The development must avoid using red, green or yellow colour schemes that may interfere with driver operations.
- d. Prior to the commencement of the development, detailed construction / engineering plans computations for any construction abutting railway infrastructure or railway land must be submitted and approved by Vic Track and the Rail Operator (RO). The plans must detail all excavation design and controls of the site adjacent to the railway corridor having any impact on railway land. The design plans must ensure compliance with:
 - i. building clearances to aerial power lines as per the applicable Victorian Electrical Safety (Installations) regulations;
 - ii. design loadings for the building from the nearest rail track is in compliance with AS5100.2-2017 Design Loads and Part 4 AS1170.4 Earthquake action Australia; and
 - iii. working adjacent to overhead power to the satisfaction of the RO.
- e. The permit holder must ensure that and lights affixed to the development are baffled and/or directed away from the rail corridor to ensure no disruption to the operation of trains and visibility of train drivers.
- f. Unless otherwise agreed in writing with VicTrack, windows, doors and balconies must not be placed on the title boundary with railway land and no windows or doors are permitted to open beyond the railway land title boundary.
- g. The permit holder must not carry out, or allow to be carried out, any excavation, filling or construction on the common boundary between the subject land and the railway land unless it has obtained the prior written approval of VicTrack and the Rail Operator.
- h. Prior to the commencement of works, including demolition and bulk excavation, the permit holder must enter into a construction control and indemnity agreement as required by PTV, VicTrack and the Rail Operator to ensure that the disruption to train operation within the railway corridor is kept to a minimum during construction and in compliance with the Rail Operators Safety and Environmental requirements contained within the Rail Operators construction control and indemnity agreement.



- i. All works, including hoardings, must be undertaken within the subject land and must not encroach onto the railway land.

The permit holder must not install, or cause to be installed, any permanent or temporary ground anchors within the railway land.

39. EPA conditions

- a. There must be no emissions of noise and/or vibrations from the premises which are detrimental to either of the following:
 - i. The environment in the area around the premises; and
 - ii. The wellbeing of persons and/or their property in the area around the premises
- b. A secondary containment system must be provided for liquids which if spilt are likely to cause pollution or pose an environmental hazard.

40. Time for Starting and Completion

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

- a) The development is not started within three (3) years of the date of this permit.
- b) The development is not completed within five (5) years of the date of this permit.
- c) The use is not commenced within five (5) years of the date of this permit.

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

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

Permit notes

- **Building Approval Required**

This permit does not authorise the commencement of any demolition or construction on the land. Before any demolition or construction may commence, the applicant must apply for and obtain appropriate building approval from a Building Surveyor.

- **Building Works to Accord with Planning Permit**

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 is consistent with this planning permit.

- **Drainage Point and Method of Discharge**

The legal point of stormwater discharge for the proposal must be to the satisfaction of the responsible authority. Engineering construction plans for the satisfactory drainage and discharge of stormwater from the site must be



submitted to and approved by the Responsible Authority prior to the commencement of any buildings or works.

- **Other Approvals May be Required**

This Planning Permit represents the Planning approval for the use and/or development of the land. This Planning Permit does not represent the approval of other departments of the City of Port Phillip or other statutory authorities. Such approvals may be required and may be assessed on different criteria from that adopted for the approval of this Planning Permit.

- **Environmental Health**

The premises must comply with the Food Act 1984 and the Food Standards Code and must be registered with Council's Health Services Unit before the use starts.

- **Due Care**

The developer must show due care in the development of the proposed extensions so as to ensure that no damage is incurred to any adjoining building and property.

- **Asset Protection**

Before the development starts (including demolition) an Asset Protection Permit must be obtained from Council's City Permits Unit.

- **Construction Management**

All construction activities associated with the development must comply with the requirements of Council's Local Law No. 1 (Community Amenity) 2013.

- **Days and Hours of Construction Works**

Developers

Except in the case of an emergency a builder must not carry out building works outside of construction hours:-

- Monday to Friday: 7.00am to 6.00pm; or
- Saturdays: 9.00am to 3.00pm.

An Out of Hours permit cannot be obtained for an appointed public holiday under the Public Holidays Act, 1993.

- **Vehicle Crossing Permit Required**

A vehicle crossing permit must be obtained from Council's City Permits Unit prior to the carrying out of any vehicle crossing works.

- **Permit Required for Signs**

This permit relates only to the use and development 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 and not exempt pursuant to the Port Phillip Planning Scheme, must be the subject of a separate planning permit application.

- **Laneways to be Kept Clear**



During the construction of the buildings and works allowed by this permit, the laneway(s) adjacent to the subject land must be kept free of parked or standing vehicles or any other obstruction, including building materials, equipment etc. so as to maintain free vehicular passage to abutting benefiting properties at all times, unless the necessary permits have been obtained from Council's City Permits unit pursuant to Local Law No. 1 (Community Amenity) 2013. For further information, contact Council's City Permits unit on Ph: (03) 9209 6216.

- **Licence for Projection over Crown Land**

Building projections over Crown Land may require licensing or a tenure/authorisation, pursuant to the Land Act from the Department of Sustainability and Environment.

- **Further Consent for Projections**

The permitted development has not been assessed against the Building Regulations 2006 Part 5, Division 2 – Projections. It is the responsibility of the Relevant Building Surveyor to make such an assessment prior to issuing a Building Permit. Matters that do not meet the requirements of the Regulations require the Report and Consent of Council prior to a building permit being issued.

RECOMMENDATION “PART B”

3.3 Authorise the Manager City Development to instruct Council's Statutory Planners and/ or Council's Solicitors on the VCAT application for review.

A vote was taken and the MOTION was CARRIED.

6.2 Statutory Planning Delegated Decisions Report - December 2019 and January 2020

Purpose

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

MOVED Crs Baxter/Crawford

That the Committee:

2.1 Receives and notes the December 2019 report (Attachment 1) and January 2020 report (Attachment 2) regarding the summary of all Planning Decisions 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 and as amended, for the Port Phillip Planning Scheme.



- 2.2 Receives and notes the decisions made by the Manager City Development under delegation from the Chief Executive Officer during the period 5 December 2019 and 4 February 2020, as resolved by Council at its Ordinary Meeting of 4 December 2019.

A vote was taken and the MOTION was CARRIED unanimously.

Cr Bond called for a DIVISION.

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

AGAINST: Nil

A vote was taken and the MOTION was CARRIED unanimously.

The Chair advised that the meeting will take a short break at 8.30 pm

The meeting resumed at 8.36pm

Councillor Gross returned to the meeting at 8.45pm

6.3 245-247 AND 249-251 NORMANBY ROAD, SOUTH MELBOURNE

Purpose

- 1.1 To provide a Council position on Ministerial Application 15/2015/MIN/A at the abovementioned address, to amend the existing permit under Section 72 of the *Planning and Environment Act 1987* to amend condition 14 (Environmental Audit) and condition 20 (Affordable Housing).

MOVED Crs Simic/Voss

RECOMMENDATION – PART A – CONDITION 14

That the Planning Committee advises the Department of Environment, Land, Water and Planning that Council:

- 3.1 Supports the amended application, subject to the rewording of Condition 14 and the addition of the new conditions and the renumbering of the conditions in the permit:

Condition 14 amended to read:

‘Before the development starts, excluding demolition, bulk excavation and site preparation works and works to remediate contaminated land, the permit holder must provide:

- *A Certificate of Environmental Audit in accordance with Section 53Y of the Environment Protection Act 1970; or*
- *A Statement of Environmental Audit under Section 53Z of the Environment Protection Act 1970. This Statement must state that the site is suitable for the intended uses.’*



New condition to read:

'Within three months of the demolition or removal of existing buildings or works on the land, the owner of the land must enter into an agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987. The agreement must provide the following:

- a) if the land remains vacant for 6 months after completion of the demolition;*
- b) demolition or construction activity ceases for a period of 6 months; or*
- c) construction activity ceases for an aggregate of 6 months after commencement of the construction.*

The owner must construct temporary works on the land to the satisfaction of the Responsible Authority.'

New condition to read:

Prior to the commencement of the construction of the temporary works, details of the works must be submitted to and be to the satisfaction of the Responsible Authority. Temporary works may include:

- d) The construction of temporary buildings for short-term retail or commercial use. Such structures shall include the provision of an active street frontage; or*
- e) Landscaping of the site for the purpose of public open space, subject to a site assessment from a suitably qualified environmental professional in accordance with General Practice Note 30 (Potentially Contaminated Land) that the land is suitable for public open space.*

The owner of the land must pay all of the Responsible Authority's reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title.'

RECOMMENDATION – PART B – CONDITION 20

- 3.2 That the Planning Committee advises the Department of Environment, Land, Water and Planning that Council does not support the proposed amendment to Condition 20

RECOMMENDATION – PART C – CONDITION 20

- 3.3 That the Planning Committee advises the Department of Environment, Land, Water and Planning that in the event the Minister determines to approve the amendment to condition 20, it includes the following additional (**bolded**) changes:

Condition 20 amended to read:

'Before the development starts, excluding demolition, bulk excavation, piling, ground works and site preparation works, the owner must:

- a) Enter into an agreement under Section 173 of the Planning and Environment Act 1987 to the satisfaction of the Responsible Authority;*
- b) Register the agreement on the title(s) for the land in accordance with Section 181 of the Planning and Environment Act 1987; and*
- c) Provide the Responsible Authority with the dealing number confirming the registration on the title.*



The agreement must be in a form to the satisfaction of 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 expenses (including legal expenses) incidental to the preparation, registration, and ending of the agreement. The agreement must contain covenants to be registered on the title of the property so as to run with the land, and must provide the following:

- i. *Not less than 6% of the total number of dwellings (rounded down to the nearest whole number), in the form of one-bedroom dwellings with an allocated bicycle parking space and no car parking to be used and managed as Affordable Housing (within the meaning described in section 3AA of the Planning and Environment Act 1987) **by a Housing Trust, Registered Housing Association or Housing Provider approved by Port Phillip City Council:***

- (1) **in perpetuity**; and
(2) *managed in accordance with relevant Affordable Housing legislation and regulations to guide the allocation, affordability and management of the dwellings as Affordable Housing.*

- (3) **the affordable housing dwellings provided for within this development and any subdivision thereof shall not be liable for any Owners Corporation fees.**

OR

- ii. *6% of the total number of dwellings (rounded down to the nearest whole number) to be offered for sale to a Housing Trust or Registered Housing Association or Housing Provider approved by Port Phillip City Council within a minimum period of three months and maximum of twelve months from the date the development commences, at a discount of 40% of the value of the dwellings as determined by an independent valuer at the time the dwellings are offered for sale and conditional on all dwellings (offered for sale) being:*

- *transferred to one single Housing Trust or Registered Housing Association or Housing Provider in one single transaction (i.e. all 6% sold to the same entity and in a single transaction); and*
- *managed as affordable housing in perpetuity by a single Housing Trust or Registered Housing Association or Housing Provider; and*
- *set aside for occupation by low income residents to the satisfaction of Port Phillip City Council.*

All 6% of the dwellings offered for sale to the Housing Trust or Registered Housing Association or Housing Provider must be:

- *one-bedroom dwellings;*
- *tenure blind;*
- *dispersed throughout the development to the satisfaction of the Responsible Authority;*



- allocated one bicycle space per dwelling.
- **The affordable housing dwellings provided for within this development and any subdivision thereof shall not be liable for any Owners Corporation fees.**
- **In the event the permit holder is unable to achieve an arrangement in accordance with this condition, to Council's satisfaction, the City of Port Phillip would be responsible for locating a Housing Association or Housing Provider.**

OR

- iii. 2.5% of the total number of dwellings (rounded down to the nearest whole number) must be transferred to a single Housing Trust or Registered Housing Association or Housing Provider approved by Port Phillip City Council at no cost to the Housing Trust or Registered Housing Association or Provider **or a suitable alternative housing organisation**, on the issue of the certificate of occupancy. The dwellings transferred to the Housing Trust or Registered Housing Association or Housing Provider must be:

- one-bedroom dwellings;
- tenure blind;
- dispersed throughout the development to the satisfaction of the Responsible Authority;
- managed as affordable housing in perpetuity;
- set aside for occupation by low income residents to the satisfaction of Port Phillip City Council;
- allocated one bicycle space per dwelling

OR

- iv. If it can be demonstrated the affordable housing dwellings cannot be leased or the affordable housing dwellings are not purchased at a discounted price, or transferred for nil consideration for affordable housing **in the Fishermans Bend Urban Renewal Area** referred to in clause (i), (ii) or (iii) above then:

- (a) the owner must pay to a registered housing agency, a sum of money the equivalent of the economic benefit of the dwellings to be transferred at nil cost in clause (iii), rounded down to the nearest whole number (i.e whole dwelling);
The equivalent of the economic benefit for the purposes of the scenario is calculated as follows:
60% of Market value of Dwellings offered but taken x 60% = equivalent economic value.

OR



- v. *Provide an alternative means of delivering an equivalent quantum of Affordable Housing to the satisfaction of the Responsible Authority.*

RECOMMENDATION – PART D

- 3.4 Authorise the Chief Executive Officer (including the power to on delegate) to negotiate an appropriate affordable housing outcome for the proposal and to instruct Council’s Statutory Planners and/ or Council’s Solicitors on any future VCAT application for review.

A vote was taken and the MOTION was CARRIED.

Cr Simic called for a DIVISION.

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

AGAINST: Crs Bond and Gross

A vote was taken and the MOTION was CARRIED.

6.4 28 Montague Street, 80 Munro Street, Johnson Street, South Melbourne

Purpose

- 1.1 To provide a Council position for the Fishermans Bend Standing Advisory Committee on an application to the Minister for Planning to prepare, adopt and approve an Amendment to the Planning Scheme under Section 20(4) of the Planning and Environment Act for 2-28 Montague Street and 80 Munro Street, South Melbourne.

MOVED Crs Voss/Copsey

3.1 RECOMMENDATION – PART A

- 3.1.1 That the Planning Committee advises the Fishermans Bend Standing Advisory Committee c/ the Department of Environment, Land, Water and Planning that Council:

- 3.1.1-1 Does not support the application in its current form based on the matters set out in Sections 9 and 12 of this report.

3.2 RECOMMENDATION – PART B

- 3.2.1 That Council authorise the Manager City Development to instruct Council’s Statutory Planners and/or solicitors on any future VCAT application for reviews and/or any independent advisory committee appointed by the Minister for Planning the consider the application.

A vote was taken and the MOTION was CARRIED unanimously.



7. URGENT BUSINESS

Nil.

8. CONFIDENTIAL BUSINESS

Nil.

As there was no further business the meeting closed at 9.09pm.

Confirmed: 25 March 2020

Chairperson _____