



# PLANNING COMMITTEE

## MINUTES

23 MARCH 2023



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**MINUTES OF THE PLANNING COMMITTEE OF THE PORT PHILLIP  
CITY COUNCIL HELD 23 MARCH 2023 IN ST KILDA TOWN HALL  
AND VIRTUALLY VIA WEBEX**

The meeting opened at 6:31pm

**IN ATTENDANCE**

Cr Bond (Chairperson), Cr Baxter, Cr Clark, Cr Crawford, Cr Cunsolo, Cr Martin, Cr Nyaguy, Cr Pearl, Cr Sirakoff.

Brian Tee, General Manager City Growth and Development, Donna D'Alessandro, Manager City Development, Richard Little Principal Planner, Phillip Beard Principal Planner, Xavier Smerdon Head of Governance, Emily Williams Council Business Advisor, Charmaine Mackrodt 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.*

**REQUEST TO ATTEND BY ELECTRONIC MEANS**

**MOVED CRS Pearl/Sirakoff**

That Council approves the request to attend the meeting electronically received from Cr Clark.

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

**1. APOLOGIES**

Nil.

**2. CONFIRMATION OF MINUTES**

**MOVED Crs Martin/Pearl**

That the minutes of the Planning Committee of the Port Phillip City Council held on 24 November 2022 be confirmed.

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

**3. DECLARATIONS OF CONFLICTS OF INTEREST**

Nil.



#### 4. PUBLIC QUESTION TIME AND SUBMISSIONS

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

##### Council Report Submissions:

##### Item 6.1 129 Wellington Street, Windsor

- Jo McDonald
- James Livingston (Applicant)

##### Item 6.2 50-52 Queens Road Melbourne PDPL00392/2022

- Dae-hyok Shin
- Lenka Bezekova
- Ewe Jin Cheah
- Liza Oates
- Sherene Bajwa
- Brett Polkinghorne
- Carole Ackland
- Lindsay Gravina
- David Wheeler
- Adrian Crump
- Peter Masee
- Peter Malley
- Karen Wong
- Jamie Govenlock (Applicant)

#### 5. COUNCILLOR QUESTION TIME

Nil.

#### 6. PRESENTATION OF REPORTS

Discussion took place in the following order:

- 1 129 Wellington Street, Windsor
- 2 50-52 Queens Road. Melbourne. PDPL00392/2022
- 3 Statutory Planning Delegated Decisions Report - 9 December 2022 to 28 February 2023 (inclusive)



## 6.1 129 Wellington Street, Windsor

### Purpose

- 1.1 To assess an application for the construction and display of 4 x promotional signs.

### MOVED Crs Sirakoff/Clark

- 3.1 That the Responsible Authority, having caused the application to be advertised and having received and noted the objections, issue a Notice of Decision to Grant a Permit.
- 3.2 That a Notice of Decision to Grant a Permit be issued for the construction and display of four (4) x promotion signs each at 129 Wellington Street, Windsor
- 3.3 That the decision be issued as follows:

#### 1. Amended Plans Required (Advertising Sign)

Before any of the permitted signs are erected and placed on the site, amended plans to the satisfaction of the Responsible Authority must be submitted to, and approved by, the Responsible Authority. The plans must be drawn to scale with dimensions and must be generally in accordance with the advertised plans, but modified to show:

- a) The horizontal space between each of the two groups of signs increased to a minimum 300mm, with no corresponding increase in sign dimensions, such that the signage reads as four separate signs.
- b) A notation on the plans that the signs are not to be illuminated in accordance with condition 4.

#### 2. Signs not Altered

The location of the signs (including the size, nature, panels, position and construction) shown on the endorsed plan must not be altered without the prior written consent of the Responsible Authority.

#### 3. No Flashing Light

The signs must not contain any flashing, intermittent or changing colour light.

#### 4. No Illumination

The signs must not be illuminated, internally or externally.

#### 5. Signs maintained

The signs must be maintained in good order and condition to the satisfaction of the Responsible Authority and any graffiti on the signs and adjacent wall must be removed to the satisfaction of the Responsible Authority.

### Department of Transport conditions

6. All signs must remain static.
7. The sign is secured in a safe manner to ensure there is no public safety risk.

(End Department Transport conditions)



**8. Expiry Date**

This permit expires 15 years from the date of issue.

**9. Time for Starting**

This Permit will expire if the advertising sign(s) are not displayed within two (2) years from the date of this Permit.

The Responsible Authority may extend the time referred to if a request is made in writing before the Permit expires or within the six (6) months after the expiry date.

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

*The Chair adjourned the meeting at 7.35pm.*

*The meeting resumed at 7.48pm.*

**6.2 50-52 Queens Road Melbourne PDPL00392/2022**

**Purpose**

- 1.1 The application for permit is subject to an Application for review with the Victorian Civil and Administrative Tribunal (VCAT) pursuant to the provisions of Section 79 of the Planning and Environment Act 1987 (Failure to Grant a Permit within the prescribed time). The purpose of this report is to determine Council's position to be put to VCAT at the hearing scheduled to be heard on 1 May 2023.
- 1.2 The proposal is for the construction of a fifteen (15) storey apartment building (comprising 379 dwellings - 89 x one bedroom, 234 x two bedroom and 56 x three bedroom) with three levels of basement car parking (425 car spaces and 204 resident bicycle spaces and 38 visitor bicycle spaces at ground floor level) accessed via Queens Lane, on land in the Residential Growth Zone and Design and Development Overlay and alteration of access to a road in a Road Zone, Category 1.

**MOVED Crs Cunsolo/Martin**

- 3.1 That the Responsible Authority, having caused the application to be advertised and having received and noted the objections, advise VCAT that, had it been the Responsible Authority for determination of the application, would have approved the construction of a fifteen storey apartment building (comprising 379 dwellings - 89 x one bedroom, 234 x two bedroom and 56 x three bedroom) with three levels of basement car parking (425 car spaces and 204 resident bicycle spaces and 38 visitor bicycle spaces at ground floor level) accessed via Queens Lane, on land in the Residential Growth Zone and Design and Development Overlay, reduction of car parking and alteration of access to a road in a Road Zone, Category 1 subject to the following conditions:
- 3.2 That the decision be issued as follows:
  - 1 Amended Plans Required**

Before the use or 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 prepared by BatesSmart titled "50 Queens Rd", Project No M12568, Plans No's as TP00, TP01.00, TP01.02, TP03.00 to TP03.4, TP03.04, TP03.09, TP03.12, TP.03.14, TP03.15, TP03.B01 to TP03.B03, TP09.00 to TP09.04 and TP10.00 to TP10.03 (Rev C) dated 7.03.23 and Council date stamped 7 March 2023 referred to as "VCAT Submission Issue" but modified to show:

- a) The removal of levels 12 and 13 with a consequential reduction in the height of the building by 6.8 metres.
- b) Two of the car parking spaces within the basement levels to be allocated for visitors.
- c) The relocation of the three layby car parking spaces in Queens Lane from their current position in front of the entrance to the north eastern section of the site in front of the substation, gym and co working office, with the paving area in front of the entrance enlarged to match the rest of the footpath. The car parking spaces along Queen Lane must be wholly contained within the title boundaries of the site.
- d) Provide privacy screening to the balcony on one side of the Queens Lane vertical articulation break with detailing, materials and colours integrated into the overall façade design.
- e) Updated roof plan to include details of the required 43kWp photovoltaic system.
- f) Indicate on plans the commitment that the apartments will achieve a 7.5-star average NatHERS rating and maximum cooling load as per above.
- g) For all non-residential spaces, include a commitment to achieving a 10% improvement on Section J Energy Efficiency building fabric requirements of the National Construction Code (NCC).
- h) Apartment layouts modified so that a minimum 60% of the dwellings meet the minimum requirements of Standard D18 (Accessibility) of Clause 58.
- i) Any changes required by conditions 4 (Sustainable Management Plan), 12 (Urban Art) 13 (Waste Management Plan) and 14 (Public Realm Plan), 15 (External Lighting Plan), and 16 (Landscape Plan).
- j) The northern loading bay, at basement level 1, increased in size through the deletion of the adjoining car parking space and relocation of storage unit to the north of the bay. The southern loading bay increased in size through the relocation of the four storage units to the west of the bay.

## **2 No Alterations**

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 No Change to External Finishes**

All external materials, finishes, and colours as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

**4 Sustainable Management Plan**

Concurrent with the endorsement of plans, a Sustainable Management Plan (SMP) must be submitted to and approved by the Responsible Authority. Upon approval the SMP will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the SMP to the satisfaction of the Responsible Authority. Amendments to the SMP must be incorporated into plan changes required under Condition 1. The report must be generally in accordance with the SMP prepared by ADP Consulting dated 29 August 2022 but updated to address the following:

- a) SMP to include meeting NatHERS maximum cooling load requirements as per Clause 58.03-1 Energy efficiency objectives.
- b) Energy reduction measures relevant to the pool facilities needs to be included in the SMP.
- c) Appendix C Green Star Potable Water Calculator need to have pool consumption included in the calculations. This is giving the development a higher score than what is proposed.
- d) Water reduction measures relevant to the pool facilities needs to be included in the SMP.
- e) Urban Heat Island Effect calculations to be provided together with material specifications reflecting the calculations on plans. Alternatively, provide a green factor tool assessment achieving an equivalent score with material specifications reflecting the calculations on plans.
- f) Proposed stormwater management strategy needs to be clearly reflected on plans:
  - a. 40,000L tank collecting of 3,415m<sup>2</sup> of non-trafficable roof area connected to all toilets in the development.
  - b. 40,000L tank collecting of 3,602m<sup>2</sup> of trafficable areas connected to all irrigation systems.
- g) Provide a maintenance manual for each type of water sensitive urban design device proposed. These must set out future operational and maintenance arrangements for all WSUD (stormwater management) devices appropriate to the scale and complexity of the project. The manual should include inspection frequency, cleanout procedures and as-installed design details/diagrams including a sketch of how the system operates. This manual needs to be incorporated into any Building Maintenance Guide/ Building Users' Guide.
- h) Revised Construction Site Management



**5 Incorporation of Sustainable Design Initiatives**

The project must incorporate the sustainable design initiatives listed in the endorsed Sustainable Management Plan to the satisfaction of the Responsible Authority.

**6 Implementation of Sustainable Design Initiatives**

Prior to occupation of the development approved under this permit, an ESD Implementation Report (or reports) from a suitably qualified person or company, must be submitted to and endorsed by the Responsible Authority. The Report must confirm that all ESD initiatives in the endorsed SDA/SMP and WSUD report have been implemented in accordance with the approved plans to the satisfaction of the Responsible Authority. The ESD and WSUD initiatives must be maintained throughout the operational life of the development to the Satisfaction of the Responsible Authority.

**7 Implementation of Water Sensitive Urban Design Initiatives**

The initiatives in the endorsed Water Sensitive Urban Design (WSUD) Response must be fully implemented. These initiatives must be maintained throughout the operational life of the development to the satisfaction of the Responsible Authority.

**8 Stormwater Treatment Maintenance Plan**

Prior to the endorsement of plans under condition 1 of this permit, a Stormwater Treatment Maintenance Plan detailing the on-going maintenance of the stormwater treatment devices must be submitted to and approved by the Responsible Authority, addressing the following points;

- a) A full list of maintenance tasks for each device,
- b) The required frequency of each maintenance task (e.g. monthly, annually etc.),
- c) Person responsible for each maintenance task.

The Stormwater Treatment Maintenance Plan can be part of the Water Sensitive Urban Design (Stormwater Management) response, or can be contained in a stand-alone manual. When approved, the STMP will be endorsed and will form part of this permit.

**9 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.

**10 Acoustic Report**

All habitable rooms shall be designed to comply with Clause 58 (Standard D16) of the planning scheme. Prior to occupation of units, an acoustic report detailing testing within habitable rooms over a reasonable sample of units shall be provided to the satisfaction of the Responsible Authority confirming that the minimum internal noise levels have been met. Any further rectification to ensure compliance shall be at the cost of the applicant.

**11 Upper Level Acoustic Testing**

Prior to occupation of units, noise testing shall be carried out on upper level balconies overlooking adjacent building rooftop plant and tested in accordance with the Environmental Protection Regulations 2021 and EPA Publication 1826 (Noise Protocol). Any non-compliance measured shall be rectified at the cost of the applicant until compliance is demonstrated.

**12 Urban Art Plan**

Before the development starts, excluding bulk excavation, site preparation, soil removal, site remediation, retention works, footings, ground beams and ground slab and temporary structures, 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.

**13 Waste Management Plan**

Concurrent with the endorsement of plans 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:

- 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.
- 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.
- How tenants will be regularly informed of the waste management arrangements.



- Scaled waste management drawings.
- Signage.

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

#### **14 Public Realm Plan - Queens Lane frontage**

Concurrent with the endorsement of plans, or by such later date as approved in writing by the Responsible Authority, a Public Realm Plan of the Queens Lane frontage is to be prepared and approved to the satisfaction of the Responsible Authority. The plan submitted must provide a high standard of pedestrian amenity and parking requirements. It must coordinate all elements such as bicycle hoops, seating, planter boxes, artwork, pavement types, bollards, awnings and lighting. 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.

#### **15 External Lighting Plan – Queens Lane frontage**

Concurrent with the endorsement of plans, or by such later date as approved in writing by the Responsible Authority, a Lighting Plan of the Queens Lane frontage is to be prepared and approved to the satisfaction of the Responsible Authority. The lighting plan will provide details of light levels and light spill at the following:

- The cross-over to the carpark and carpark entrance (including the bike parking area)
- The proposed pick-up/drop-off area in front of the building entrance
- The garbage truck parking/waste collection area

The Lighting plan to be accommodated by a lighting report prepared by a suitably qualified person that demonstrates the proposed lighting layout complies with relevant Australian e.g., AS1158.3.1 – 2020 and AS4282.

#### **16 Landscape Plan**

Concurrent with the endorsement of plans, an updated Landscape Plan is required to show compliance with canopy cover and deep soil requirements, as per Clause 58.03-5 Landscaping Objectives. The plan must be submitted to, approved by and be to the satisfaction of the Responsible Authority. The Landscape Plan must be generally in accordance with the Landscape Plan (prepared by Accadia) submitted with the application but amended to incorporate:

- a) Minimum area of deep soil provided for each type b and type c tree (as per table D3), including minimum soil plan dimensions.
- b) Dimensions of all planters that will make up the remaining deep soil area including minimum required planter soil volume, minimum soil plan dimension and minimum planter soil depth.
- c) Where there has been a reduction in soil area requirement for clusters of trees.

When the Landscape Plan is approved, it will become an endorsed plan forming part of this Permit.



**17 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.

**18 Landscaping Maintenance**

The landscaping as shown in 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.

**19 Arborist Report**

An Arboricultural Impact Assessment report is required for review, prior to approval of the permit for works at this site. The report must be prepared by a suitably qualified Arborist (AQF level 5 or equivalent) and include:

- any onsite trees which meet the definition of a significant tree under Council's Local Law,
- trees on neighbouring properties with TPZs that fall within the subject site,
- the nature strip tree(s) adjacent the property.

The report must follow the guidelines from Council Arboriculture Victoria and comply with the Australian Standard 4970:2009 Protection of Trees on Development Sites.

Should the report find that any works encroach into 10% or more of the Tree Protection Zone, or into the Structural Root Zone of any tree the design is to be modified to reduce the incursion, unless a non-destructive root investigation (NDRI) can demonstrate that the tree will not be negatively impacted. The NDRI is to be conducted along the line of the proposed works and documented with a root map to show the location, depth and diameter of all roots found. The findings, photographs and recommendations should be presented in the impact assessment report.

Following council arborist approval of the Arboricultural Impact Assessment, a Tree Protection and Management Plan that details how the trees will be protected, in accordance with AS4970-2009, will be required for endorsement and form part of the permit.

**20 Tree Management Plan**

Following approval of the Significant Tree Permit and before the development starts, a management plan for relocation of the existing palm must be prepared by a person with a minimum 3 years' experience in palm relocation, must be submitted to, and approved by, the relevant Council Arborist.

The management plan must include detailed recommendations about how best the palm should be relocated, including detailed methodology, any off-site storage if required, and post-transplant re-establishment. The recommendations of the management plan must be carried out by a contractor with extensive experience in relocation of this species of palm and completed to the



satisfaction of the Responsible Authority prior to the completion of the development.

**21 Car Parking 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 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.
- f) Clearly marked to show the direction of traffic along access land and driveways.

All to the satisfaction of the Responsible Authority.

**22 Loading/unloading**

The loading and unloading of vehicles and the delivery of goods to and from the premises must at all times be conducted entirely within the site and in a manner that limits interference with other vehicular traffic to the satisfaction of the Responsible Authority.

**23 Piping, Ducting, Service Units**

All service pipes/service units (excluding down pipes, guttering and rainwater heads) must be concealed from view from the public realm and any screening devices suitably integrated into the design of the building to the satisfaction of the Responsible Authority.

**24 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.

**25 Glare**

Specular light reflectance must be less than 15 per cent for all external building glazing and cladding materials and finishes when measured at an angle of 90 degrees to the surface of the material (normal incidence), except with the written consent of the responsible authority.

**26 Wind**

The recommendations and requirements of the approved Wind Impact Assessment Report must be implemented to the satisfaction of Port Phillip City Council before the development is occupied.



**27 Vehicle Crossings – Removal**

Before the occupation of the development allowed by this permit, all disused or redundant vehicle crossings, must be removed and the area re-instated with footpath, nature strip and kerb and channel at the cost of the applicant/owner as well as any on street parking signage and line marking changes and to the satisfaction of the Responsible Authority.

**28 Lighting baffled**

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

**29 Crossover – Department of Transport Condition**

Prior to commencement of use all disused or redundant vehicle crossings must be removed, and the area reinstated to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.

**30 Satisfactory Continuation**

Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

**31 Noise and Disturbance**

The roof plant and equipment must not cause excessive noise or vibration effects to any neighbouring properties.

**32 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.

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.

**4. RECOMMENDATION B - AUTHORISE THE MANAGER CITY DEVELOPMENT FOR THE VCAT APPEAL**

- 4.1 Authorise the Manager City Development to instruct Council's Statutory Planners and/or Council's solicitors for the VCAT application for review.

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



**6.3 Statutory Planning Delegated Decisions Report - 9 December 2022 to 28 February 2023 (inclusive)**

**Purpose**

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

That Council:

- 2.1 Receives and notes the December 2022, January 2023, February 2023 reports (Attachment 1) regarding the summary of all Planning Decisions issued in accordance with the Schedule of Delegation made under Section 98 of the Local Government Action 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.
- 2.2 Receives and notes the decisions made by the Manager City Development under delegation from the Chief Executive Officer during the period 9 December 2022 to 23 February 2023, as resolved by Council at its Ordinary Meeting of 8 December 2022 (Attachment 2).

**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 8:20pm.

Confirmed: 27 April 2023

Chairperson \_\_\_\_\_