

OFFICIAL

Planning Delegated Committee Meeting

Minutes

13 October 2021 at 6:30pm

Virtual Meeting



ORDER OF BUSINESS:

1. Welcome To Country 3

2. Apologies For Absence 4

3. Declaration Of Conflict Of Interests..... 4

4. Confirmation Of Minutes 4

5. Officer Briefing..... 5

6. Planning Delegated Committee Reports 5

 6.1. PLP/2021/432 - 6 Lyons Street North..... 5

7. General Business - Matters Arising From The Agenda..... 12

8. Close..... 12

1. WELCOME TO COUNTRY



The City of Ballarat acknowledges the Traditional Custodians of the land we live and work on, the Wadawurrung and Dja Dja Wurrung People, and recognises their continuing connection to the land and waterways. We pay our respects to their Elders past, present and emerging and extend this to all Aboriginal and Torres Strait Islander People.

2. APOLOGIES FOR ABSENCE

2.1 Present

Mayor Cr Daniel Moloney
Cr Ben Taylor
Cr Samantha McIntosh
Cr Belinda Coates
Cr Mark Harris
Cr Des Hudson
Cr Amy Johnson
Cr Peter Eddy
Cr Tracey Hargreaves

Mr Evan King- Chief Executive Officer
Ms Bridget Wetherall - Director Infrastructure and Environment
Mr Matthew Wilson - Director Community Wellbeing
Mr John Hausler - Director Corporate Services
Ms Natalie Robertson - Director Development and Growth
Mr Cameron Montgomery - Executive Manager Governance and Risk

2.2 Apologies

Nil

3. DECLARATION OF CONFLICT OF INTERESTS

Nil

4. CONFIRMATION OF MINUTES

RESOLUTION:

That the Minutes of the Planning Delegated Committee Meeting on 8 September 2021 as circulated be confirmed.

**Moved: Cr Samantha McIntosh
Seconded: Cr Mark Harris**

**CARRIED
(PDC22/21)**

5. OFFICER BRIEFING

6. PLANNING DELEGATED COMMITTEE REPORTS

6.1. PLP/2021/432 - 6 LYONS STREET NORTH

Division: Development and Growth
Director: Natalie Robertson
Author/Position: Mish Watt – Coordinator Statutory Planning

Joseph Van Dyk, Adam Davidson, Darryl Cloonan, Stuart Kelly, Peter Upton, Dr Anne Beggs-Sunter and Mary Debrett made public representations.

PURPOSE

1. The report is an assessment and recommended position on Planning Permit Application PLP/2021/432.

RESOLUTION

That the Planning Delegated Committee:

Having caused notice of the application to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to issue a Notice of Decision to Grant a Permit for Buildings and works associated with a seven storey apartment building, three townhouse dwellings, use and development of a food and drink premises (cafe) with a cafe and restaurant liquor licence, partial demolition of a building, demolition of front fence, a reduction in car parking spaces and removal of vehicle crossings at 6 Lyons Street North, Ballarat Central under the provisions of the Ballarat Planning Scheme, subject to the following conditions:

1. Amended plans

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 form part of the permit. The plans must be drawn to scale with dimensions and emailed to info@ballarat.vic.gov.au with the planning reference number. The plans must be generally in accordance with the plans submitted with the application but modified to show:

- (a) A clear demolition plan which shows the extent of the building to be demolished and retained and which shows the demolition of the front fence;
- (b) Elevation drawings of the Music School building which show the extent of demolition proposed;
- (c) A notation that vehicle crossings will be reinstated to match existing profiles in Lyons Street North;
- (d) Elevations of the Music School building which show:
 - a. The retention/ restoration of the roofing, including tiles, roof vents and eave detailing;
 - b. The retention and restoration of parapet elements;

- c. The removal of the new opening proposed in the façade of the building;
- d. The retention of the window located on the southern elevation of the building;
- e. The deletion of the door, pergola and stairs on the southern elevation;
- (e) The deletion of the third level of Townhouses 1 – 3;
- (f) A notation on plan which identifies that there will be provision for six Affordable Housing Units.

Concurrent with the endorsement of plans under this condition, the following plans will also be endorsed and will then form part of this Planning Permit:

- Waste Management Plan, One Mile Grid, 11 June 2021;
- Environmental Report for Planning, Shared Space Architecture, 22 June 2021.

2. Endorsed plans

The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

3. Landscape plan

Prior to the commencement of the development, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved the plan will form part of the permit. The landscape plan must be generally in accordance with the Phillip Withers Landscape Plan dated 18/6/2021 but modified to show:

- (a) details of surface finishes of pathways and driveways;
- (b) a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, size at planting, sizes at maturity, and quantities of each plant;
- (c) a plan which demonstrates that the equivalent canopy cover contained in Standard D10, Clause 58.03-5, is met;
- (d) lighting in the communal open space area.

4. Drainage

Prior to works commencing on site, drainage, stormwater detention and stormwater treatment plans and computations must be submitted to and approved by the Responsible Authority. The drainage, stormwater detention and stormwater treatment plans and computations must accord with the Infrastructure Design Manual, Council's Site Stormwater Management Systems Policy and Council's WSUD guidelines. All drainage works must be constructed in accordance with the approved plans and shall be completed to a standard satisfactory to the Responsible Authority prior to the occupation of the development.

At the completion of the works one set of 'as constructed' civil plans shall be submitted to the Responsible Authority.

Any proposed discharge of stormwater requiring a direct and/or modifying and existing connection to a designated waterway (as defined by the Water Act 1989) will require approval by the relevant Catchment Management Authority.

Any raingardens and rainwater tanks forming part of the approved drainage plans/system must be installed and maintained in good operational condition on an ongoing basis to the satisfaction of the Responsible Authority.

5. Completion and maintenance of landscaping

Prior to the occupation of the dwellings, landscape works forming part of the approved Landscape Plans must be completed to the satisfaction of the Responsible Authority. The landscaping shown on the approved landscape plan must then be maintained to the satisfaction of the Responsible Authority.

6. Construction management plan

Prior to the commencement of the development, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Construction Management Plan will form part of this Planning Permit. The plan must detail:

- (a) Hours of demolition and construction which are consistent with EPA and Council's Local Laws' requirements;
- (b) Methods to contain dust, dirt and mud within the site and the method and frequency of clean up procedures, including the management of on-site storage waste construction bins and vehicle washing;
- (c) Management of parking of construction machinery and workers vehicles to prevent adverse impact on nearby properties ;
- (d) Management of staging of heavy vehicles, site deliveries and unloading and lifting points with expected frequency, and traffic management in the vicinity, ensure routes to and from the site minimise disruption to residential properties;
- (e) Methods to minimise disruption to pedestrian access along footpaths;
- (f) Measures to minimise noise and other amenity impacts from mechanical equipment, including idling trucks, and demolition/construction activities, especially outside of daytime hours;
- (g) The provision of adequate environmental awareness training for all on-site contractors and sub-contractors;
- (h) A liaison officer and their contact details for contact by the public and the Responsible Authority in the event of relevant queries or problems experienced; and
- (i) A communication strategy to specify how the developer will liaise with the surrounding community, including contact details of the developer and site manager, agreed methods of communication, who will be notified, time frames for notification of key milestones in the developments and a method to deal with any concerns raised.

All works on the land must be undertaken in accordance with the endorsed Construction Management Plan to the satisfaction of the Responsible Authority.

7. Land contamination

Prior to commencement of any works on site and prior to the issue of a Building Permit, a soil report prepared in accordance with AS4482.1-2005 shall be submitted to the satisfaction of the Responsible Authority which includes data on a reasonable number

of test bores on the site as determined in consultation with the Responsible Authority. Any fill and the nature of that fill shall be detailed in the report.

Should the report identify the existence of fill then the following information shall be submitted:

- (a) If clean fill, the full extent and depth of the fill is to be shown on a plan. This information may require some alteration of proposed lot boundaries or further works to the satisfaction of the Responsible Authority; OR
- (b) If not clean fill, either:
 - i) A certificate of environmental audit issued for the land in accordance with Part IXD of the Environment Protection Act 1970 must be provided prior to the use hereby approved commencing; OR
 - ii) an environmental auditor appointed under the Environmental Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of that land are suitable for the intended use prior to the use hereby approved commencing.

to the satisfaction of the Responsible Authority.

- (c) Where a Statement of Environmental Audit is issued for the land, the use hereby approved must comply with all the directions and conditions contained within the Statement.
- (d) Where a Statement of Environmental Audit is issued for the land, prior to the commencement of the use authorised by this permit, a letter prepared by an Environmental Auditor appointed under Section 53S of the Environment Protection Act 1970 or such other qualified person to the satisfaction of the Responsible Authority must be submitted to the Responsible Authority to verify that the directions and conditions contained within the statement have been satisfied.
- (e) Unless otherwise approved in writing by the Responsible Authority, where a Statement of Environmental Audit is issued for the land, and any condition of that Statement requires any maintenance or monitoring of an ongoing nature, prior to the commencement of the use authorised by this permit, the permit holder must enter into an Agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987. All costs associated with setting up the Agreement must be borne by the owner. The Agreement must be registered on Title and run with the land, and must provide to the satisfaction of the Responsible Authority:
 - (i) That the registered proprietor will undertake all required maintenance and/or monitoring in accordance with the statement.
 - (ii) Prior to the development commencing, application must be made to the Registrar of Titles to Register the Section 173 Agreement on the title to the land under Section 181 of the *Planning and Environment Act 1987*.

8. Sustainability measures

Prior to the occupation of any building approved under this permit, a report from the author of the Environmental Report for Planning, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the satisfaction of the Responsible Authority. The report must confirm that all measures specified in the

Environmental Report for Planning have been implemented in accordance with the approved Plan.

9. Car parking allocation

Prior to the commencement of the development, a car parking management plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. That plan should show the allocation of spaces within the basement car park and must (unless otherwise approved by the Responsible Authority) provide for:

- The allocation of one car parking space to each dwelling, excluding the six specialist housing units and one of the one bedroom apartments.

When approved the car parking management plan will be endorsed and will form part of this Planning Permit.

10. Section 173 Agreement - Parking Permits

Unless otherwise agreed in writing by the Responsible Authority, prior to the occupation of the development, the owner must enter into an agreement with the Responsible Authority pursuant to Section 173 of the *Planning & Environment Act 1987* to provide the following:

- Advice to future owners and tenants of the buildings that Council will not approve Parking Permits for anyone living in, working at, or visiting, the building.

Prior to the occupation of the development an application must be made to the Register of Titles to register the Section 173 agreement on the title to the land under section 181 of the Act.

All costs associated with the preparation, signing, lodgement, registration, amending and ending of the Agreement must be borne by the owner, including all notification costs and legal fees.

11. Section 173 Agreement – Affordable Housing

Unless otherwise agreed in writing by the Responsible Authority, prior to the Certificate of Occupancy being issued, the owner must enter into an agreement with the Responsible Authority pursuant to Section 173 of the *Planning & Environment Act 1987* to:

- a) Covenant, acknowledge and agree with Council to either:
 - i. Allocate no less than six (6) dwellings (or 10% of the total number of dwellings approved on the site) to Key Workers, being those employed in health, child and aged care, education, emergency services including police and fire services, defence forces, and related occupations and that are typically be employed within 25km of 6 Lyons Street; OR

- ii. Provide unencumbered ownership of up to six (6) dwellings (or 10% of the total number of dwellings approved on the site) to parties requiring Specialist Disability Accommodation; OR
 - iii. Provide unencumbered ownership of up to six (6) dwellings (or 10 % of the total number of dwellings approved on the site), to be transferred to a Registered Housing Agency; OR
 - iv. Provide for management of up to six (6) dwellings (or 10 % of the total number of dwellings approved on the site) to be assumed by a Registered Housing Agency or a provider of Specialist Disability Accommodation at the provider's absolute discretion.
- b) Construct the housing on the subject land in a continuous, proper and workmanlike manner, strictly in accordance with:
- i. The Plans and Specifications;
 - ii. All applicable laws; the terms of applicable permits and approvals; and
 - iii. Using all due care and skill.
- c) Complete delivery of its housing commitments under this agreement by:
- i. providing titles including all necessary title documents in registerable form pursuant to Clause a) (i-iii); or
 - ii. vesting management rights pursuant to Clause a) iv).

The owner must comply with one of Clause (a) (i-iv) within three months of the last to occur of:

- i. Registration of the plan of subdivision which creates the Affordable Housing lots; or
- ii. Completion of construction of the Affordable Housing, as signified by the issuing of an occupancy permit by a licensed building surveyor for each of the Lots comprising the Affordable Housing.

The Owner must enter into an agreement under s173 of the Act in accordance with one of Clause (a) (i-iv), and be recorded on the titles of the affordable housing units restricting its development and use as agreed and in accordance with the relevant performance standards.

12. Reinstatement of vehicle crossings

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 and kerb and channel at the cost of the applicant/owner and to the satisfaction of the Responsible Authority. Note: Contact must be made with Council's Traffic Engineers to advise when the works have been completed to ensure that any required line marking and signage is implemented.

13. Waste

The Waste Management Plan approved under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.

14. Hours of operation - cafe

The café, including the consumption of liquor under a Café and Restaurant Liquor Licence, may operate only between the hours of:

- d) 7am – 4pm Monday to Friday;
- e) 8am – 4pm Saturday and Sunday.

15. Loading and unloading

The loading and unloading of vehicles and the delivery of goods to and from the cafe must be undertaken between the hours 8am and 4pm.

16. Internal accessways and car parking

Prior to the occupation of the development, the areas set aside for the parking of vehicles and access lanes as shown on the approved plans must to the satisfaction of the Responsible Authority be:

- (a) Constructed with a concrete pavement or flexible granular pavement with asphalt surfacing;
- (b) Properly formed to such levels that they can be used in accordance with the plans;
- (c) Drained;
- (d) Line-marked to indicate each car space and all access lanes;
- (e) Clearly marked to show the direction of traffic along access lanes and driveways.

Car spaces and access lanes must be maintained and kept available for these purposes at all times.

17. Plant/equipment or features on roof

No plant, equipment or related services other than those shown on the approved plans are permitted above the roof level of the building(s) hereby approved without the further written consent of the Responsible Authority.

18. Lighting

External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.

19. Demolition

Demolition is only permitted to sections of the building(s) as identified in the approved demolition plan. The remainder of the building(s) must be retained in its (their) entirety. Only deteriorated and or unsound building elements (fabric) should be removed with as much of the original material retained as possible. No fabric of retained portion(s) of building(s) is to be removed until assessed by the Responsible Authority and written approval is given.

20. Amenity

The cafe must be managed so that the amenity of the area is not detrimentally affected, 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, waste water, waste products, grit or oil;

