

OFFICIAL

Planning Delegated Committee Meeting

Minutes

13 July 2022 at 6:30pm

**Council Chamber, Town Hall, Sturt Street,
Ballarat**



ORDER OF BUSINESS:

1. Acknowledgement Of Country	3
2. Apologies For Absence	3
3. Declaration Of Conflict Of Interests	4
4. Confirmation Of Minutes	4
5. Officer Briefing	4
6. Planning Delegated Committee Reports	5
6.1. PLP/2003/880/B - 26-34 Lydiard Street North, Ballarat Central	5
6.2. PLP/2021/626 - 63 Mahers Road	11
6.3. Lake Wendouree Submission.....	12
7. General Business - Matters Arising From The Agenda	13
8. Close	13

1. ACKNOWLEDGEMENT OF 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 Samantha McIntosh
Cr Mark Harris
Cr Des Hudson
Cr Amy Johnson
Cr Peter Eddy
Cr Tracey Hargreaves

Mr Evan King- Chief Executive Officer
Mr Matthew Wilson - Director Community Wellbeing
Mr John Hausler - Director Corporate Services
Ms Natalie Robertson - Director Development and Growth
Ms Joanna Cuscaden -- Executive Manager Development Facilitation
Mr Cameron Montgomery - Executive Manager Governance and Risk
Ms Sarah Anstis - Statutory Compliance Officer

2.2 Apologies

Cr Belinda Coates
Cr Ben Taylor

RESOLUTION:

That the apologies be accepted.

Moved: Cr Samantha McIntosh
Seconded: Cr Mark Harris

CARRIED
(PDC15/22)

3. DECLARATION OF CONFLICT OF INTERESTS

Cr Hudson declared a perceived conflict of interest on item 6.1 PLP/2003/880/B - 26-34 Lydiard Street North, Ballarat Central, where Victoria Police are an objector and Cr Hudson is employed at Victoria Police. Cr Hudson advised that he is not involved in liquor licensing.

Cr Moloney, Mayor declared a general conflict of interest on item 6.2. PLP/2021/626 – 63 Mahers Road. Mr Mayor advised that he would leave the meeting and Deputy Mayor, Cr Johnson will Chair.

4. CONFIRMATION OF MINUTES

RESOLUTION:

That the Minutes of the Planning Meeting on 8 June 2022 as circulated be confirmed.

**Moved: Cr Amy Johnson
Seconded: Cr Mark Harris**

**CARRIED
(PDC16/22)**

5. OFFICER BRIEFING

Nil

6. PLANNING DELEGATED COMMITTEE REPORTS

6.1. PLP/2003/880/B - 26-34 LYDIARD STREET NORTH, BALLARAT CENTRAL

Division: Development and Growth
Director: Natalie Robertson
Author/Position: Katy Baker – Coordinator Statutory Planning

Public representations were received by Rubin Winogard and Janice Browning and Lawrence Gallagher.

PURPOSE

1. The purpose of this report is to advise the Planning Delegated Committee of Planning Permit Application PLP/2003/880/B and request that Committee determine a position.

RESOLUTION:

42. That the Planning Delegated Committee having considered all the matters required under Section 60 of the Planning and Environment Act 1987, that the Responsible Authority grant a Notice of Decision to Grant an Amended Planning Permit in respect of the land known and described as 26-34 Lydiard Street North, BALLARAT CENTRAL 3350, for the deletion of Condition 9(a) and variation of Condition 9(b) of Planning Permit PLP/2003/880/A:

43. Amended permit conditions as follows (amendments highlighted in red):

1. Amended Plans Required

Within 60 days of the permit being amended, 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 three copies must be provided. The plans must be generally in accordance with plans prepared Pop Design Studios dated 9 July 2019 but modified to show:

- a) The acoustic curtain as installed at the premises including details with respect to the specifications of the acoustic curtain track and installation system.**

Unless otherwise approved in writing by the Responsible Authority, all buildings and works are to be constructed and or undertaken in accordance with the endorsed plans to the satisfaction of the Responsible Authority prior to the commencement of the use.

2. Approved Plans

The serving and consumption of liquor is restricted to the licensed area shown on the approved plans and must not be altered without the further written consent of the Responsible Authority.

3. **Heritage Victoria Approval**

Prior to the use commencing written approval from Heritage Victoria in relation to the proposed acoustic curtain along the balcony must be provided to the Responsible Authority.

4. **Sale and Consumption of Liquor – Hours**

Without the prior written consent of the Responsible Authority, the sale and consumption of liquor shall only occur within the licensed area between the following hours:

Internal

Monday- Saturday 9:00am-3:00am

Sunday 10am-3:00am

Good Friday and Anzac Day 12noon-3:00am

External balcony

Monday-Wednesday 9:00am-1:00am

Thursday-Sunday 10:00am-3:00am

Good Friday and ANZAC 12 noon-1:00am

5. **Limit on Number of Patrons**

Without the prior written consent of the Responsible Authority, not more than 510 patrons may be present on the premises at any one time and not more than:

- 93 patrons on the balcony before 11:00pm;
- 75 patrons on the balcony before 1am; and
- 50 patrons on the balcony between 1am and 3am on Thursday to Sunday.

If a lesser number of patrons is determined acceptable by a Registered Building Surveyor and/or the Victorian Commission for Gambling and Liquor Regulation, the lesser number will apply.

6. **Amenity**

The use 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;
- d) presence of vermin or otherwise;

In the event of any nuisance being caused to the neighbourhood by activities related to the use and development the Responsible Authority may direct, in writing, such actions or works, as deemed appropriate, to eliminate or mitigate such nuisance be undertaken.

7. Patron Management Plan

- a) The use shall be managed in accordance with the requirements of the Security and Patron Management Plan prepared by Global Public Safety 16 March 2019 (Amended 29 January 2020) (Patron Management Plan) which has been endorsed to form part of the permit and must not be altered without the further written consent of the Responsible Authority. Any measures recommended by the Patron Management Plan must be implemented prior to the commencement of the use to the satisfaction of the Responsible Authority.
- b) The Patron Management Plan must be reviewed in collaboration with the Victoria Police and the City of Ballarat on a bi-annual basis. The permitted use must be conducted in accordance with the provisions of the Patron Management Plan to the satisfaction of the Responsible Authority.

8. Acoustic Measures

- a) Within 60 days of the permit being amended, an amended acoustic report must be submitted to and approved by the Responsible Authority (the Amended Acoustic Report). When approved the Amendment Acoustic Report will be endorsed and will form part of the Permit. The Amended Acoustic Report must be in accordance with the Acoustic Report prepared by Renzo Tonin & Associates dated 22 March 2019 and the outcomes of the Conclave Report dated 3 February 2020 prepared by Darren Tardio and Enfield Acoustics and Tom Evans of Resonate Consultants.
- b) Within 90 days of the permit being amended, all measures recommended by the Amended Acoustic Report must be implemented to the satisfaction of the Responsible Authority.
- c) If the acoustic curtain is to be modified in any way, further acoustic testing must be carried out to ascertain whether the use complies with the prescribed noise levels. All acoustic testing is to be carried out during a “busy period”. For the purpose of this condition “busy period” means when the premises (including the outdoor areas) are at 80% capacity (or greater). All to the satisfaction of the Responsible Authority. The results of testing are to be provided to the Responsible Authority and made available to the George Hotel and Licensing Inspector on request.

9. The Balcony

- a) *Deleted*
- b) The acoustic curtain must remain properly closed between the hours of 9.30pm and closure of the premises each day. This excludes the curtain on the northern end of the balcony, abutting the laneway.
- c) No live music entertainment may be provided on the balcony.
- d) Amplified background music may be provided on the balcony, only where connected to a noise limiting device as described in Condition 11.

- e) **Access doors to the balcony must remain closed except for when patrons are entering or exiting the balcony.**

10. Noise and Amenity from Premises

The level of noise emitted from the premises shall not exceed, to the satisfaction of the Responsible Authority:

- a) **the permissible noise level from mechanical equipment as specified in the State Environment Protection Policy N-1 (Control of Noise Industrial, Commercial and Trade Premises within the Melbourne Metropolitan area);**
- b) **the permissible noise levels for entertainment noise as specified in the State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2;**
- c) **the licensee shall ensure that the musical amplification system at the premises is limited and calibrated by a suitably qualified acoustic consultant to ensure compliance with SEPP N-2;**
- d) **music noise levels must not exceed SEPP N-2 within the hotel bedrooms of The George Hotel;**
- e) **patron noise levels must not exceed 30dB(A) Leq,30min within the hotel rooms of The George Hotel between 11:00pm and 7:00am the following morning.**

11. No Entertainment or Music

No entertainment or music (live or amplified) may be provided on the balcony to the satisfaction of the Responsible Authority.

12. Installation of Noise Limiting Device

- a) **All amplification within the venue, including any background music approved on the balcony, shall be controlled by permanently installed noise limiting devices which include:**
 - i. **A calibrated microphone sensor(s) in a tamper-proof enclosure which provides feedback to the limiting system;**
 - ii. **The ability to monitor, log and record noise levels in 15-minute intervals;**
 - iii. **The ability to monitor, log and record in Octave Bands between 63Hz and 4kHz; and**
 - iv. **A password protection system only made available to the venue's management.**
- b) **No hire-in or temporary amplification equipment or loudspeakers shall be permitted for use on the land unless operated through the noise limiting system and calibrated by a suitably qualified acoustic consultant.**
- c) **The noise limiting system shall be calibrated by a suitably qualified acoustic consultant to ensure compliance with SEPP N-2 after installation of the acoustic curtain. A calibration report shall be**

provided showing the locations of the limiting devices and sensors and the limit settings.

- d) Data records shall be stored on the limiter and provided to the Responsible Authority on request.
- e) Any changes to the amplification settings, equipment or location of microphone sensors shall only be carried out on the condition that the system is recalibrated by a suitably qualified acoustic consultant.

13. Time for Starting and Completion – Use only

The permit for the use of the land expires if:

- a) The use does not start within two years of the date of this permit; or
- b) The use is discontinued for a period of two years

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards.

NOTES

Building Act 1993

This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained. The works hereby approved must accord with the requirements of the *Building Act 1993*, Building Regulations 2018 and Building Code of Australia 2016.

Food Act 1984

An application for, and assessment of, food premises construction compliance under the Victorian *Food Act 1984* must be made with Council's Environmental Health Unit prior to its construction and use. Detailed floor and elevation plans will form the basis of that assessment and must be submitted for initial approval. A schedule of fixtures fittings and materials used for the fit out is also required.

Any proposed alteration to a food premises must be designed in accordance with requirements of the FSANZ Food Standards Code and Australian Standard 4674

Waste

An external area for the storage of garbage and recyclable matter and for cleaning of waste receptacles is to be provided. This area must be adequately sized to contain the volume of waste generated, capable of preventing pest and animal access and designed so that it can be easily and effectively cleaned.

Tobacco Act 1987

An application for, and assessment of, outdoor drinking and dining compliance under the Victorian *Tobacco Act 1987* must be made with Council's Environmental Health Unit prior to its construction and use. Detailed floor and elevation plans will form the basis of that assessment and must be submitted for initial approval. A schedule of fixtures fittings and materials used for the fit out is also required.

Any proposed alteration to food or liquor licensed premises for the purpose of facilitating the consumption of tobacco products must be designed in accordance with requirements of the Smoke Free Guide: Licensed Premises and Outdoor Dining or Drinking Areas.

Heritage Victoria

Prior to any works commencing onsite approval must be obtained from Heritage Victoria for the proposed alteration of the acoustic curtain and any associated works.

Moved: Cr Mark Harris

Seconded: Cr Peter Eddy

**CARRIED
(PDC17/22)**

6.2. PLP/2021/626 - 63 MAHERS ROAD

Division: Development and Growth
Director: Natalie Robertson
Author/Position: Katy Baker – Coordinator Statutory Planning

Mr Mayor left the meeting at 6:59pm prior to discussion occurring and Cr Johnson took the Chair.

Public representations were provided by John Glossop, Jo Frawley, Ivan Vogele, Rae Slater and Kirrily Liddle.

PURPOSE

1. The purpose of this report is to determine Planning Permit application PLP/2021/626.

RESOLUTION:

That the Planning Delegated Committee:

Defer Planning Permit Application PLP/2021/626.

Moved: Cr Des Hudson

Seconded: Cr Samantha McIntosh

**CARRIED
(PDC18/22)**

Mr Mayor returned to the meeting and Chair after discussion occurred at 8:32pm.

6.3. LAKE WENDOUREE SUBMISSION

Division: Development and Growth
Director: Natalie Robertson
Author/Position: Joanna Cuscaden – Executive Manager Development Facilitation

PURPOSE

1. Provide Council with an update on the proposed listing of Lake Wendouree on the Victorian Heritage Register.
2. Provide an outline of the background and heritage studies completed for Lake Wendouree, including a draft submission to the Victorian Heritage Council in response to the Executive Director, Heritage Victoria's recommendation to include Lake Wendouree and parts of Wendouree Parade on the Victorian Heritage Register.

RESOLUTION:

7. That the Planning Delegated Committee:
 - 7.1 Notes the Recommendation of the Executive Director, Heritage Victoria to the Heritage Council of Victoria to include Lake Wendouree and Wendouree Parade, Lake Wendouree on the Victorian Heritage Register (VHR).
 - 7.2 Authorises officers to lodge a submission (as shown in Attachment B) in response to the Executive Director, Heritage Victoria's recommendation, supporting the recommendation to include Lake Wendouree and Wendouree Parade, Lake Wendouree on the Victorian Heritage Register.
 - 7.3 Notes that the Statement of Significance and full citation currently incorporated into the Ballarat Planning Scheme for Lake Wendouree precinct dated 2006 (updated 2014) states that the Lake Wendouree precinct is considered to be of State Significance (Attachment C).
 - 7.4 Notes the temporary Standing Permit Exemptions endorsed by Heritage Victoria (Attachment D).

Moved: Cr Samantha McIntosh
Seconded: Cr Mark Harris

CARRIED
(PDC19/22)

