

OFFICIAL

# **Planning Delegated Committee Meeting**

## **Minutes**

**8 November 2023 at 6:30pm**

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



**ORDER OF BUSINESS:**

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## 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

Cr Des Hudson (Mayor)  
Cr Daniel Moloney  
Cr Ben Taylor  
Cr Samantha McIntosh  
Cr Mark Harris  
Cr Amy Johnson  
Cr Peter Eddy

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 Martin Darcy - Director Economy and Experience  
Mr Cameron Montgomery - Executive Manager Governance and Risk  
Ms Lyndsay Leingang - Administration Officer Statutory Compliance

### 2.2 Apologies

Cr Belinda Coates  
Cr Tracey Hargreaves

## RESOLUTION:

**That the apologies be accepted.**

**Moved: Cr Amy Johnson**

**Seconded: Cr Daniel Moloney**

**CARRIED  
(PDC22/23)**

## 3. DECLARATION OF CONFLICT OF INTERESTS

Nil

#### 4. CONFIRMATION OF MINUTES

##### RESOLUTION:

**That the Minutes of the Planning Delegated Committee Meeting on 13 September 2023 as circulated be confirmed.**

**Moved: Cr Amy Johnson  
Seconded: Cr Ben Taylor**

**CARRIED  
(PDC23/23)**

#### 5. OFFICER BRIEFING

Nil

## 6. PLANNING DELEGATED COMMITTEE REPORTS

### 6.1. BALLARAT DESIGN REVIEW PANEL - EXTENSION

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

#### PURPOSE

1. To provide the Planning Delegated Committee with an update on the established Ballarat Design Review Panel (BDRP) and a recommendation to extend the BDRP for a further 2 years.

#### RESOLUTION:

13. That the Planning Delegated Committee:
  - 13.1 Reappoints the existing panel members to the Ballarat Design Review Panel for a further 2 years to October 2025.
  - 13.2 Release an EOI requesting additional heritage and planning experts to be appointed to the panel.

**Moved: Cr Daniel Moloney**  
**Seconded: Cr Samantha McIntosh**

**CARRIED**  
**(PDC24/23)**

## 6.2. PLP/2022/943 222 MAIR STREET, BALLARAT CENTRAL

**Division:** Development and Growth  
**Director:** Natalie Robertson  
**Author/Position:** Claire Pepin – Coordinator Statutory Planning

Public Representation was made by Paul Gordon-Smith, Ian Saunderson, Stuart Kelly, Leah Clark, Luke Jarvis, Klynton Krause, and Gerald Jenzen.

### PURPOSE

1. For the Planning Delegated Committee to consider a planning application for the development of a commercial building, demolition of existing car park and associated structures and reduction in car parking requirements.

### MOTION:

**That the Planning Delegated Committee, having considered all the matters required under Section 60 of the Planning and Environment Act 1987, it is recommended that the Responsible Authority issue a Refusal to Grant a Planning Permit in accordance with the Ballarat Planning Scheme in respect of the land known and described as 222 Mair Street, Ballarat Central, for the Development of a commercial building, demolition of existing car park and associated structures and reduction in car parking requirements, as associated with PLP/2022/943 on the following grounds:**

1. **The proposal does not comply with State Policy Clause 15-03-1 - Heritage Conservation, Local Planning Policy Clause 21.06 and 21-06-2 and Clause 43.01 - Heritage Overlay in that it fails:**
  - a. **To conserve and enhance heritage places of natural or cultural significance.**
  - b. **To conserve and enhance those elements which contribute to the significance of heritage places.**
  - c. **To ensure that development does not adversely affect the significance of heritage places.**
  - d. **To conserve a specified heritage place by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place and**
  - e. **The subject site is considered to be prima facie contributory to the significance of the Lydiard Street Heritage Precinct (Ballarat Heritage Precincts, Statements of Significance 2006 (revised August 2014), Incorporated Document).**
2. **The proposal fails to comply with the provisions of Clause 52.06 - Car parking and a waiver of car parking is not supported.**



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

**LOST**  
**(PDC25/23)**

### **MOTION:**

30. That the Planning Delegated Committee, having considered all the matters required under Section 60 of the *Planning and Environment Act 1987*, it is recommended that the Responsible Authority issue a Notice of Decision to Grant a Planning Permit in accordance with the Ballarat Planning Scheme in respect of the land known and described as 222 Mair Street, Ballarat Central, for the *Development of a commercial building, demolition of existing car park and associated structures and reduction in car parking requirements*, as associated with PLP/2022/943.

### **PROPOSED CONDITIONS**

#### **1. Amended Plans**

Before the development starts, plans must be approved and endorsed by the responsible authority. The plans must:

- a) be prepared to the satisfaction of the responsible authority.
- b) be drawn to scale with dimensions.
- c) submitted in electronic form.
- d) be generally in accordance with the plans prepared by *Wardle* forming part of the application and identified as *Development Plans*, Project Number 2207, Revision 5, dated 20 June 2023, but amended to show the following details:
  - i. Reduced floor-to-floor heights to the minimum extent necessary to comply with Building Regulations;
  - ii. Detailed dimensions of all proposed canopy awnings and clearances to ensure that they do not impact on vehicles travelling on Mair or Armstrong Street North;
  - iii. Any design revisions to the development in accordance with the endorsed Waste Management Plan.
  - iv. Any design revisions to the development in accordance with the endorsed Environmental Sustainability Report.
  - v. Any design revisions to the development in accordance with the endorsed Façade Strategy
  - vi. Any design revisions to the development in accordance with the endorsed Drainage and Engineering Plans.
  - vii. Any design revisions to the development in accordance with the endorsed Landscape Plan.
  - viii. Any pipes, fixtures, fittings vents, plant and equipment servicing the building (excluding storm water down pipes, guttering and rain heads) concealed in service ducts or otherwise hidden from view.

#### **2. Buildings and Works**

The development hereby approved as shown on the endorsed plans and/or described in endorsed documents shall not be altered or modified without the prior written consent of the Responsible Authority unless the alteration(s) and/or modification(s) comply with an exemption contained in the Ballarat Planning Scheme. All buildings and works must be located clear of any easements or water and sewer mains unless written approval is provided by the relevant authority.

### **3. Landscape Plan**

Prior to the commencement of any works, including demolition or bulk excavation, a landscape plan must be submitted to and approved by the Responsible Authority. Once approved, the landscape plan will be endorsed to form part of the permit. The landscape plan must detail:

- a. details of surface finishes of terrace areas
- b. a planting schedule of all proposed vegetation, including botanical names, common names, pot sizes, size at planting, sizes at maturity and quantities of each plant (including soil type and profile for any deep soil planting)
- c. Response to water sensitive urban design principles and type of irrigation systems to be used.

All landscaping works must be carried out in accordance with the approved landscape plan and Council's Landscape Design Manual (August 2012).

Except with the prior written consent of the Responsible Authority, the approved landscaping must be implemented prior to the occupation of the development. The landscaped area(s) must be maintained to the satisfaction of the Responsible Authority at all times.

### **4. Completion and Maintenance of Landscaping Works**

Prior to the use of the buildings commencing all 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 be maintained to the satisfaction of the Responsible Authority. Any dead, diseased or damaged vegetation or landscaped areas are to be repaired or replaced to the satisfaction of the Responsible Authority.

### **5. Construction Management Plan**

Prior to the commencement of any works on the site, including demolition or bulk excavation, a detailed Construction Management Plan must be submitted to and approved in writing by the Responsible Authority. The Plan must consider, as a minimum:

- a. Hours of demolition and construction to accord with Local Laws.
- b. Management of surrounding streets to ensure all are kept free of parked or standing vehicles or any other obstruction, including building materials, equipment, etc. to maintain free vehicle passage to abutting benefitting properties at all times, unless with the written consent of the Responsible Authority.
- c. 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 waste storage construction bins and vehicle washing.
- d. Management of parking of construction machinery and workers vehicles to prevent adverse impacts to nearby properties and surrounding streets.
- e. Management of heavy vehicles, site deliveries and unloading and lifting points and expected frequencies and traffic management in the vicinity of the site to ensure routes to and from the land minimise disruption to nearby properties and surrounding streets.
- f. The measures to minimise disruption to pedestrian movements along adjacent footpaths; and
- g. A liaison officer for contact by the public and the Responsible Authority in the event of relevant queries or problems experienced.

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



## 6. Environmentally Sustainable Design (ESD) Statement

Prior to the commencement of the development, including demolition or bulk excavation, an amended Environmentally Sustainable Design (ESD) Statement must be prepared and submitted to the satisfaction of the Responsible Authority in consultation with the City of Ballarat. The ESD Statement must be generally in accordance with the Sustainability Management Report prepared by Wrap Consulting dated 14/07/2023 but updated to reflect the changes required under Condition 1 of this Permit and include:

- Implementation Plans relating to construction (including use of locally sourced materials) and building waste (including evidence of claimed construction waste diversion of at least 80%);
- Rain water tanks
- Details of the Intelligent-daylighting tenant lighting;
- Details of natural Ventilation including openable windows.
- Addition of shading devices on windows
- Details of Solar Photovoltaic capacity and use of solar energy for building services.
- Details of WELS Water Rating of all building fixtures.
- Stormwater utilisation for watering of landscaping areas and building amenities.
- Inclusion of electric charging points for bikes.
- Variable refrigerant flow with heat recovery.
- Arrangement of bicycle storage to achieve increased storage capacity (at least 10 spaces provided);
- Detail of drainage points of roof, façade and terrace to Rain Water Tank's, connections to toilets and garden irrigation, location of RWT's and Legal Point of Discharge (LPOD)
- Building User Guide and Manual to be provided at occupancy to building users; and
- Landscape plans with management practices and use of stormwater for watering.

Once approved, the ESD Statement will be endorsed to form part of the permit.

## 7. Implementation of Environmentally Sustainable Design (ESD)

Prior to the occupation of any building approved under this permit, a report from the author of the endorsed ESD report, or similarly qualified persons or companies, outlining how the performance outcomes specified in the endorsed ESD report have been implemented must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm and provide sufficient evidence that all measures specified in the approved ESD report have been implemented in accordance with the relevant approved plans. This may include a GBCA Green Star Design and As Built Design Review Rating to confirm compliance with the stated Green Star targets where required.

## 8. Façade Strategy

Before the development starts, including demolition, bulk excavation and site preparation works, a Façade Strategy must be submitted to and approved in writing by the Responsible Authority. The Façade Strategy must detail a full schedule of materials, finishes and details, including, but not limited to, the colour, type of materials and appearance. The Façade Strategy must also:

- a. Deliver high quality materials and finishes to the Council's satisfaction.
- b. Undertake an exploration of finer detail of the development, including the manner in which shrouds are attached to the building;

- c. Be updated to reflect the changes required by Condition 1 of this Permit, as necessary.

Once approved, the Façade Strategy will be endorsed to form part of the permit.

#### 9. Projections

All projections over the street alignment, including the awning, must conform to the Building Regulations 2018 to the satisfaction of the Responsible Authority.

#### 10. Section 173 Agreement

Prior to the first occupation of the development hereby approved, the owner of the land must enter into an agreement with the Responsible Authority under section 173 of the Planning and Environment Act 1987. The agreement must provide the following:

- a. The bricking in of the eastern boundary windows should the adjoining site to the east at No. 220 Mair Street ever be redeveloped in a manner which requires this. This includes to enable the construction of new building forms upon the boundary and/or to preserve the general amenity and privacy of future occupants of any new building form.
- b. The landowner acknowledges that they do not benefit in perpetuity from the natural light provided by the boundary windows and that this light could be lost should the adjoining site to the east at 220 Mair Street be redevelopment in a manner which requires the windows to be removed.

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.

#### 11. Archaeology Assessment

Prior to the commencement of the development hereby approved, a historic archaeology assessment must be undertaken. This assessment is required to be prepared and submitted to the Responsible Authority and Heritage Victoria and should:

- a. Consider the built history of the place.
- b. Consider the level of sub-surface disturbance that may have taken place across the site in the 20th and 21st centuries; and
- c. Evaluate the site's potential to contain archaeological remains.

If it is found the site is likely to contain historical archaeological remains, a Heritage Inventory site card is required to be prepared, submitted and approved by the Responsible Authority and Heritage Victoria prior to any further development occurring on the site.

#### 12. Drainage Plans and Construction

Before the development starts, including demolition, bulk excavation and site preparation works, drainage, stormwater detention, stormwater treatment plans and computations must be submitted to and be approved in writing by the Responsible Authority. The drainage, stormwater detention, 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 must be completed to a standard satisfactory to the Responsible Authority prior to the occupation of the development hereby approved commencing.

At the completion of the works 'as constructed' civil plans must be submitted to the Responsible Authority by a suitably experienced and qualified engineer.

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 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.

### 13. Engineering plans

Before the development starts, including demolition, bulk excavation and site preparation works, engineering plans and specifications must be submitted to and approved by the Responsible Authority. The engineering plans must accord with the Infrastructure Design Manual and Council's Standard Cross-sections. All engineering works must be constructed in accordance with the approved plans and completed to a standard satisfactory to the Responsible Authority prior to the commencement of the development/use hereby approved.

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

### 14. Footpaths

The existing footpath must be rehabilitated as necessary following the construction phase along the Armstrong Street and Mair Street frontages to the satisfaction of the Responsible Authority.

Prior to works commencing on the rehabilitation works of the footpath, plans must be submitted to and approved by the Responsible Authority. The plans must accord with the Infrastructure Design Manual. All works must be constructed in accordance with the approved plans and completed to a standard satisfactory to the Responsible Authority prior to the commencement of the first use of the development.

### 15. Construction Waste Disposal and Management Plan

Prior to the commencement of any works on site, a Waste Disposal and Management Plan shall be submitted to and be approved in writing by the Responsible Authority. The plan must detail:

1. Where all building rubble and materials including soil is to be removed to off site.

*Note: All materials must be taken to approved waste receiving sites or recycling centres. The site soil may be contaminated and should be disposed of to an authorised facility in accordance with EPA regulations.*

2. Provision for materials recycling and collection during site construction.

All necessary approvals shall be gained prior to materials being handled and disposed of in accordance with the Disposal Plan to the satisfaction of the Responsible Authority.

**Note:** Section 3.13 of the Ballarat City Council Community Local Law requires the submission of a Waste Management Plan prior to the commencement of any building demolition work creating more than 2m<sup>3</sup> of waste material. Failure to provide a Waste Management Plan is a breach of the Ballarat City Council Community Local Law (10 penalty Units).

**16. Waste Management Plan**

Prior to the commencement of the development hereby approved, a Waste Management Plan must be prepared to the satisfaction of the Responsible Authority and endorsed as part of this permit. The Plan must detail:

- a. The location and space allocated for storage of waste and recyclable materials, bins and containers.
- b. The type of waste and recyclable materials, bins and containers.
- c. The garbage and recycling equipment (e.g., vehicles and lifting equipment) to be used;
- d. The frequency and timing of waste collection.
- e. The path of access for both users and collection vehicles.
- f. Demonstrate how all collection vehicles can access waste storage areas, including areas for parking/stopping to enable collections; and
- g. Measures to manage and minimise noise, odour and litter.

Waste management must be undertaken in accordance with the approved Waste Management Plan to the satisfaction of the Responsible Authority. The endorsed Waste Management Plan will have ongoing force and effect unless otherwise approved in writing by the Responsible Authority.

**17. Green Travel Plan**

Prior to the first occupation of the development, a Green Travel Plan (GTP) must be prepared to the satisfaction of the Responsible Authority. The Plan must be prepared by a suitably qualified person and must encourage the use of non-private vehicle transport modes by the occupiers of the land. The plan must address, but is not necessarily limited to, the following:

- a. A designated 'manager' or 'champion' responsible for co-ordination and implementation.
- b. Possible staff incentives (e.g., provision of subsidised public transport travel cards);
- c. Provision of Public Transport maps, timetables and/or real time information of nearby services.
- d. Details of GTP funding and management responsibilities, including ongoing monitoring and review; and
- e. Include provisions to be updated not less than every 5 years.

When approved, the GTP will form part of the permit. The City of Ballarat may request a copy of any monitoring data as required by Condition (d) above at any time for review.

**18. Removal of crossovers**

Prior to the first occupation of the development, all unnecessary vehicle crossings must be demolished, and car park spaces, footpath, kerb and channel reconstructed to the satisfaction of the Responsible Authority, in accordance with plans and specifications first approved by City of Ballarat – Assets and Engineering Departments.

**19. Bicycle Facilities**

Prior to the first occupation of the building, the bicycle storage area and change room facilities must be completed. No fewer than 10 bicycle spaces are required to be provided on the site.

The bicycle storage area must be designed and constructed in accordance with the requirements of Clause 52.34-6.

**20. Baffled Lighting**

Outdoor lighting, where provided, must be designed, baffled and located to the satisfaction of the responsible authority such that no direct light is emitted outside the boundaries of the subject land.

**21. General Exterior Treatment**

The exterior treatment of the building permitted by this permit including all exterior decoration, materials, finishes and colours must be to the satisfaction of the responsible authority. The exterior treatment of the building(s) must be maintained to the satisfaction of the responsible authority.

**22. Plant Equipment**

Any equipment required for the lifts, refrigeration, air-conditioning, heating and the like must be suitably insulated to EPA standards for the purpose of reducing noise emissions and must be located so as to not be highly visible from the street to the satisfaction of the responsible authority.

**23. Active Retail Frontages**

The ground floor retail frontages as shown on the endorsed plans must be provided with clear glazing and maintain permanent views into the tenancies to the satisfaction of the responsible authority.

**24. Powercor (REF 308737708)**

a. The applicant shall negotiate for an electricity supply to the development in accordance with the Distributor's requirements and standards.

Notes: Extension, augmentation or rearrangement of the Distributor's electrical assets may be required to make such supplies available, with the cost of such works generally borne by the applicant.

b. The applicant shall ensure that existing and proposed buildings and electrical installations on the subject land are compliant with the Victorian Service and Installation Rules (VSIR).

Notes: Where electrical works are required to achieve VSIR compliance, a registered electrical contractor must be engaged to undertake such works.

c. Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations.

d. Any construction work must comply with the Energy Safe Victoria's "No Go Zone" rules.

Notes: To apply for a permit to work go to our website: <https://customer.portal.powercor.com.au/mysupply/CIAWQuickCalculator> and apply on line through the No Go Zone Assessment.

**25. Permit Expiry - Development Only**

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

a. The development is not started within two years of the date of this permit;

b. The development is not completed within four years of the date of this permit.

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 (for a request to

extend the time to commence the development) or twelve months after the permit expires (for a request to extend the time to complete the development).

**Notes:**

**Central Highlands Water Authority (REF: 23/1890 Sect 52 2023-02-215)**

The sewer main at the rear of the property is over 8.0m deep, therefore a sewer main extension may be required at the owners cost to create an alternative connection point. Please contact Central Highlands Water Authority to discuss servicing options.

**Department of Transport**

Separate approval may be required from the Head, Transport for Victoria, for elements of the development that protrude beyond the property boundary of Mair Street.

**Heritage Note**

Under the terms of the Heritage Act 2017 there is blanket protection for all historical archaeological sites in Victoria, including sites that are not included in the Victorian Heritage Register or Heritage Inventory. Section 123 of the Act stipulates that it is an offence to knowingly or negligently disturb any historical archaeological site unless Consent has been obtained from the Executive Director, Heritage Victoria. Penalties apply.

If historical archaeological remains, including artefacts, are uncovered at any time during works, it is necessary for all activities to cease and for the City of Ballarat and Heritage Victoria to be notified immediately. In this case, a program of archaeological investigations and recording may be required in consultation with Heritage Victoria.

**Building Approvals**

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 2019*.

**Moved: Cr Mark Harris**

**Seconded: Cr Ben Taylor**

**CARRIED  
(PDC26/23)**

**7. GENERAL BUSINESS - MATTERS ARISING FROM THE AGENDA**

Nil

**8. CLOSE**

The mayor declared the meeting closed at 8:08pm.