



**Minutes of the Special Meeting of
Bayside City Council**

held in the Council Chambers, Civic Centre,
Boxshall Street Brighton
on Wednesday 13 September 2017

The Meeting commenced at 7:00pm

PRESENT:

Cr Alex del Porto (Mayor)
Cr Laurence Evans
Cr James Long BM JP
Cr Michael Heffernan
Cr Clarke Martin
Cr Rob Grinter
Cr Sonia Castelli

OFFICERS IN ATTENDANCE:

Mick Cummins	Acting Chief Executive Officer
Hamish Reid	Director City Planning and Community Services
Steven White	Director Environment, Recreation and Infrastructure
Arthur Vatzakis	Acting Manager Development Services
Terry Callant	Governance Manager

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The Chairperson declared the meeting open at 7:00pm and advised members of the public gallery that the Council meeting is being recorded and streamed live on the internet to enhance the accessibility of Council meetings to the broader Bayside Community.

The Chairperson invited Cr Castelli to read the prayer.

Prayer

Cr Castelli read the prayer at the commencement of the meeting.

O God
Bless this City, Bayside,
Give us courage, strength and wisdom,
So that our deliberations,
May be for the good of all,
Amen

Acknowledgement of Original Inhabitants

The Chairperson invited Cr Grinter to read the acknowledgement of the original inhabitants of this land.

- ◆ We acknowledge that the original inhabitants of this land that we call Bayside were the Boon Wurrung people of the Kulin nation.
- ◆ They loved this land, they cared for it and considered themselves to be part of it.
- ◆ We acknowledge that we have a responsibility to nurture the land, and sustain it for future generations.

1. Apologies

There were no apologies submitted to the meeting.

2. Disclosure of any Conflict of Interest of any Councillor

There were no conflicts of interest submitted to the meeting.

3. Reports by the Organisation

REQUESTS TO BE HEARD:

In accordance with Council's Governance Local Law No.1 Clause 69, the following individuals were granted three minutes each to speak to an item indicated below.

3.1. 131-133 Esplanade, Brighton – Dendy Street Beach Pavilion

1. Mr George Reynolds (O)
2. Ms Kathryn Millett (O)
3. Mr Richard Rozen OAM – Bayside Residents for Urban Protection (O)
4. Mr Len Warfe – Port Phillip Conservation Council (O) (*represented by Ms Cassie Johnstone*)
5. Ms Kristin Stegley OAM (O)
6. Ms Patricia Carden (O)
7. Mr David Fenton (O)
8. Mrs Sally Fenton (O)
9. Mr Geoffrey Edwards (O)
10. Mrs Elizabeth McQuire (O)
11. Dr David McQuire (O)
12. National Trust of Australia (Victoria) (O) – *represented by the Chairman Ms Kristin Stegley OAM*
13. Mr Kevin Spencer
14. Mr Andrew Monotti (S)
15. Mr Tim Bolton (S)
16. Miss Alexandra Fletcher (S)
17. Mr Troy Ross (S)
18. Mrs Liz Bolton (S)
19. Miss Lucy Lyons (S)
20. Mr Max Twycross (S)
21. Mr Vaughan Connor (A)
22. Mr Graham Burrows (A)

It is recorded that the Mayor advised Councillors and members of the gallery and press that an urgent Special Meeting of Council had been called to enable Council to respond to a VCAT Order requiring a response 20 September 2017 on the Dendy Beach community facility.

The meeting had been called with less than 7 days public notice given the urgent circumstances as provided in the Local Government Act 1989.

To provide further context to meeting, the planning permit application being considered tonight is for a proposed new Dendy Street Beach Pavilion. This application was previously considered by the Council on the 20th December 2016.

At the time of the Council hearing the application in December 2016, 46 objections had been received. After hearing from the community, Council determined to support the application and a Notice of Decision to Grant a Planning Permit was issued.



Since then, Council has received a total of 204 objections and 2 letters of support.

An application for review of Council's decision was subsequently lodged with VCAT. The application also requested VCAT to decide if a planning permit was required for the use and development of the land for a café.

VCAT informed all parties a planning permit was required to use the land for a café, function room and lifesaving club. The application was therefore amended to include these uses.

The amended plans were advertised through the VCAT process, and, as a result, 74 statement of grounds were lodged with VCAT by concerned individuals. 10 of these statement of grounds noted they wish to be joined as a party to the appeal, while 64 have indicated they do not wish to attend the hearing or be joined as a party. The reasons listed in those grounds repeat those outlined in the report considered by Council on the 20th December 2016.

In accordance with the VCAT Order of 15 August 2017, VCAT invited Council to reconsider its position having regard to the amended proposal.

The plans attached to the Council Officers' report before Council tonight are these amended plans circulated at the request of VCAT.

This evening's Special Meeting of Council provides Council with the opportunity to resolve on a position to put forward to VCAT by 20 September.

274 letters were forwarded to all objectors informing them of this evening's meeting.



**3.1 131 - 133 ESPLANADE, BRIGHTON
DENDY STREET BEACH PAVILION
SUPPORT THE GRANT OF A PLANNING PERMIT
APPLICATION NO. 2016/266/1
VCAT REFERENCE NO. P89/2017 WARD: CENTRAL**

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/192113

It is recorded that Mr George Reynolds, Ms Kathryn Millett, Mr Richard Rozen OAM – Bayside Residents for Urban Protection, Mr Len Warfe – Port Phillip Conservation Council (represented by Ms Cassie Johnstone), Ms Kristin Stegley OAM, Ms Patricia Carden, Mr David Fenton, Mrs Sally Fenton, Mr Geoffrey Edwards, Mrs Elizabeth McQuire, Dr David McQuire, National Trust of Australia (Victoria) – represented by the Chairman Ms Kristin Stegley OAM, Mr Kevin Spencer, Ms Janice Bate, Mr Andrew Monotti, Mr Tim Bolton, Miss Alexandra Fletcher, Mr Troy Ross, Mrs Liz Bolton, Miss Lucy Lyons, Mr Max Twycross, Mr Vaughan Connor, and Mr Graham Burrows spoke for three minutes each on this item.

Moved: Cr Heffernan

Seconded: Cr Castelli

That Council:

Advises the Tribunal that it **Supports** the amended application dated 4 August 2017 in respect to VCAT Reference No. P89/2017 and Planning Application No. 2016/266/1 of the land known and described as **131-133 Esplanade, Brighton (Dendy Beach Pavilion)**, for the **use of the land as a minor sport and recreation facility (lifesaving club), place of assembly (multi-purpose function space) and food and drink premises (café), the removal of native vegetation, partial demolition and/or works to the heritage bluestone sea wall and demolition and works associated with the construction of the new forecourt, timber decking and rain garden, a waiver of loading bay requirements and alterations to an access to a Road Zone, Category 1** in accordance with the endorsed plans and subject to the following conditions from the standard conditions and that the previously issued decision is **varied** as follows:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the VCAT amended plans, prepared by Jackson Clement Burrows Architects dated 4 August 2017 (Council date stamped 7 August 2017) but modified to show:
 - a) The proposed steps adjacent to the existing bluestone wall must be constructed of a different material to ensure the steps are easily distinguishable from the existing bluestone wall.
 - b) Detailed engineering drawings which demonstrate the repairs to the existing bluestone sea wall including the materials and finishes to be used to be consistent with the existing bluestone wall. Such detail must be provided at a scale of 1:20 to the satisfaction of the Responsible Authority.
 - c) A detailed landscape plan generally in accordance with the landscape concept plans prepared by Site Office Council date stamped 7 August 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

- i. Removal of indigenous vegetation to be replaced with a similar extent of indigenous coastal vegetation;
 - ii. Removal of native vegetation to be replaced with a similar extent of indigenous coastal vegetation;
 - iii. Removal of non-native vegetation to be replaced with native or indigenous coastal vegetation of species likely to provide habitat for native and indigenous fauna;
 - iv. Removal of exotic vegetation to be replaced with native or indigenous coastal vegetation of species likely to provide habitat for native and indigenous fauna.
 - v. A survey, including, botanical names of all existing trees and vegetation to be retained on the site.
 - vi. A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. Plantings must be 80% indigenous by species and count.
 - vii. Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
 - viii. Details of surface finishes of pathways and driveways.
 - d) A Tree Management Plan in accordance with Condition 4 of this permit.
 - e) The proposed Arboricultural Report prepared by Arbor by Design dated 4 April 2017 updated to include an assessment of Tree 34 as listed on LA121 Revision 04 of the proposed landscape plan drawings prepared by Site Office.
 - f) Any other changes to be in accordance with all conditions in this permit.
All changes to the plans must be to the satisfaction of the Responsible Authority.
2. 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 (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
 3. Noise emanating from the subject land must comply with State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2, to the satisfaction of the Responsible Authority. Any works required to ensure and maintain the noise levels (from the plant and equipment area and loading bay or specify other as relevant) must be completed prior to the commencement of the use or occupation of the site and maintained thereafter, all to the satisfaction of the Responsible Authority.
 4. The land uses may operate only between the following hours without the prior written consent of the Responsible Authority:
 - Lifesaving Club: 6am – 12am, seven days a week with a maximum 24 patrons;
 - Multi-purpose function space: 7am – 10pm, Sunday to Thursday and 7am - 12am Friday and Saturday with a maximum 134 patrons;
 - Lifesaving Club and Multi-purpose function space: 6am – 12am, seven days a week with a maximum number of 158 patrons; and



- Food and drink premises (café): 7am – 10pm, Sunday to Thursday and 7am – 12am Friday and Saturday with a maximum 60 patrons.
5. 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.
 6. All loading and unloading of goods to occur between 6am and 10am to the satisfaction of the Responsible Authority unless with the prior written approval of the Responsible Authority.
 7. No external sound amplification equipment or loudspeakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose.
 8. The use and development 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.

Tree Management and Protection Plan

9. Before the development starts, including any related demolition or removal of vegetation, a Tree Management Plan (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority.

The Tree Management Plan (report) must be specific to the site, be in accordance with AS4970-2009, prepared by a suitably qualified arborist and provide details of tree protection measures that will be utilised to ensure all trees to be retained remain viable post-construction. Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified.

The Tree Management Plan (report) must be designed in accordance with AS4970-2009, be drawn to scale, and provide details of:

- a) The Tree Protection Zone and Structural Root Zone for all trees to be retained on the site and all trees adjoining the subject land where any part of the Tree Protection Zone falls within the subject land.
- b) Methods to be utilised and instruction on how to deploy them.
- c) When the protection measures are to be deployed.
- d) When the protection measures can be modified.
- e) The process that will be followed if any damage occurs to a tree.
- f) The process that will be followed if construction works require alteration to protection measures outlined in the report.
- g) The stages of development at which inspections will occur.

The Tree Protection Plan must be drawn to scale and show:

- a) The location of all tree protection measures to be utilised.

If tree protection measures are proposed to be changed during the development, one plan for each stage of tree protection measures must be submitted.



10. All protection measures identified in the Tree Management Plan and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority.
11. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
12. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

VicRoads conditions

13. Prior to the commencement of use or occupation, both entry and exit access crossovers at property boundary must be sealed with the edges of the crossover angled at 60 degrees to the road reserve boundary, at least for the first 3 metres from the edge of the road must be constructed to the satisfaction of the Responsible Authority (RA) and at no cost to VicRoads or the RA.
14. The cross overs must have a corner splay or area at least 50 per cent clear of visual obstructions extending at least 2 metres along the frontage road from the edge of an exit lane and 2.5 metres along the exit lane from the frontage, to provide a clear view of pedestrians on the footpath of the frontage road. The area clear of visual obstructions may include an adjacent entry or exit lane where more than one lane is provided, or adjacent landscaped areas, provided the landscaping in those areas is less than 900mm in height.
15. Prior to the commencement of the use or occupation of the development, all disused or redundant vehicle crossings must be removed and the area reinstated to the satisfaction of the Responsible Authority (RA) and at no cost to VicRoads or the RA.
16. Prior to the commencement of the use or the occupation of the buildings or works hereby approved, the access crossover and associated works must be provided and available for use.
17. Vehicles must enter and exit the land in a forward direction at all times.
18. The level of the footpaths must not be lowered or altered in any way to facilitate access to the site.

Permit Expiry:

19. 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.

In accordance with Section 69 of the *Planning and Environment Act 1987*, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

Permit Notes:

- 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.



