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# MINUTES OF THE PLANNING COMMITTEE MEETING

Held on Tuesday 13 June 2017

Released to the public on Thursday 15 June 2017

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**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE OF  
THE DAREBIN CITY COUNCIL HELD AT DAREBIN CIVIC CENTRE,  
350 HIGH STREET PRESTON ON TUESDAY 13 JUNE 2017**

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**THE MEETING OPENED AT 6.02PM**

**WELCOME**

The Chairperson, Cr. Le Cerf, in opening the meeting acknowledged the Wurundjeri people, the traditional owners of the land.

**1. PRESENT**

***Councillors***

Cr. Kim Le Cerf (Mayor) (Chairperson)

Cr. Steph Amir

Cr. Gaetano Greco (Deputy Mayor)

Cr. Tim Laurence

Cr. Trent McCarthy

Cr. Lina Messina

Cr. Susanne Newton

Cr. Susan Rennie

Cr. Julie Williams

***Council Officers***

Philip Shanahan - Acting Chief Executive Officer

Steve Hamilton – Director City Futures and Assets

Jacinta Stevens – Director Civic Governance and Compliance

Darren Rudd – Manager Planning and Building

Paul Miziewicz – Acting Coordinator Statutory Planning

Katia Croce - Coordinator Council Business

**2. APOLOGIES**

Nil

**3. DISCLOSURES OF CONFLICTS OF INTEREST**

Nil

#### 4. CONFIRMATION OF THE MINUTES OF PLANNING COMMITTEE

<b>Committee Decision</b>
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**MOVED:** Cr. T McCarthy  
**SECONDED:** Cr. J Williams

**That** the Minutes of the Planning Committee Meeting held on 22 May 2017 be confirmed as a correct record of business transacted.

**CARRIED**

## 5. CONSIDERATION OF REPORTS

### 5.1 APPLICATION FOR PLANNING PERMIT D/630/2016 25 Kenilworth Street Reservoir

**Author:** Principal Planner

**Reviewed By:** Director City Futures and Assets

Applicant	Owner	Consultant
RMP Home Builders	Allan Albert Haas	Peter English

#### SUMMARY

- Construction of six (6) double storey dwellings and a single storey dwelling, with all dwellings having two (2) bedrooms each. Dwellings 1 to 6 are double storey and Dwelling 7 is single storey.
- Dwellings 1, 2, 5 and 6 are to have a similar level of accommodation, with the ground floor having a bedroom and single garage. Their first floor levels are each to have a bedroom, kitchen/meals/living area and west facing balconies of between 10 and 11 square metres.
- Dwellings 3 and 4 have a similar level of accommodation, with the ground floors having two (2) bedrooms and a single garage. Their first floor levels are each to have a kitchen/meals/living area and west facing balconies of 13 square metres.
- Dwelling 7 provides two (2) bedrooms and kitchen/meals/living area.
- Vehicle access is via a common driveway adjacent the west boundary. A separate pedestrian walkway is provided to the dwellings entries to the east.
- The dwellings will have a contemporary design, with brick walls to the ground level, render and lightweight cladding to the first floor and skillion and hipped metal roofs.
- The proposal will have a maximum height of approximately 8.2 metres.
- The site is zoned General Residential Zone (Schedule 2).
- There is no restrictive covenant on the title for the subject land.
- Six (6) objections were received against this application.
- The proposal fails to meet a number of objectives and standards of Clause 55 of the Darebin Planning Scheme. The proposal does not adequately respond to the issues raised in the VCAT Order P1392/2016 dated 22 March 2017.
- It is recommended that the application be refused.

#### CONSULTATION:

- Public notice was given via a sign posted on site and letters sent to surrounding owners and occupiers.
- This application was referred internally to ESD Officer, Capital Works Unit and the Transport Management and Planning Unit.
- This application was not required to be referred to external authorities.

<b>Recommendation</b>
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**That** Planning Permit Application D/630/2016 be refused and Notice of Refusal be issued on the following grounds:

- (1) The proposal fails to satisfy the objectives of Clause 22.04 (Neighbourhood Character) of the Darebin Planning Scheme and the design objective of the Darebin Neighbourhood Character Study and Precinct Guidelines 2007 in terms of the design, visual bulk and lack of landscaping opportunities.
- (2) The proposal does not satisfactorily comply with the standards and objectives of Clause 55 of the Darebin Planning Scheme, in particular:
  - a) Clause 55.02-1: Neighbourhood character - the proposal is inappropriate in terms of the design, visual bulk and lack of landscaping opportunities
  - b) Clause 55.02-2: Residential policy - the proposal is contrary to the preferred character of the area.
  - c) Clause 55.03-3: Site coverage - insufficient opportunities within side and rear setbacks to provide appropriate areas of landscaping.
  - d) Clause 55.03-8: Landscaping – the site coverage fails to respect the existing neighbourhood character.
  - e) Clause 55.04-1: Side and rear setbacks - inadequate side setbacks resulting in visual bulk to the neighbouring residential properties.
  - f) Clause 55.04.-8: Noise impacts: the siting of master bedrooms in proximity to the common walkway gives rise to potential acoustic amenity and privacy issues.
  - g) Clause 55.06-1: Design detail - the design of the development lacks cohesion and will result in visual bulk to the street and neighbouring properties.
- (3) The proposal is an overdevelopment of the site.
- (4) The proposal does not adequately respond to the issues raised in the VCAT Order P1392/2016 dated 22 March 2017.

**Motion****MOVED: Cr. S Rennie****SECONDED: Cr. G Greco**

**That** Planning Permit Application D/630/2016 be refused and Notice of Refusal be issued on the following grounds:

- (1) The proposal fails to satisfy the objectives of Clause 22.04 (Neighbourhood Character) of the Darebin Planning Scheme and the design objective of the Darebin Neighbourhood Character Study and Precinct Guidelines 2007 in terms of the design, visual bulk and lack of landscaping opportunities.
- (2) The proposal does not satisfactorily comply with the standards and objectives of Clause 55 of the Darebin Planning Scheme, in particular:
  - a) Clause 55.02-1: Neighbourhood character - the proposal is inappropriate in terms of the design, visual bulk and lack of landscaping opportunities
  - b) Clause 55.02-2: Residential policy - the proposal is contrary to the preferred character of the area.
  - c) Clause 55.03-3: Site coverage - insufficient opportunities within side and rear setbacks to provide appropriate areas of landscaping.
  - d) Clause 55.03-8: Landscaping – the site coverage fails to respect the existing neighbourhood character.
  - e) Clause 55.04-1: Side and rear setbacks - inadequate side setbacks resulting in visual bulk to the neighbouring residential properties.
  - f) Clause 55.04.-8: Noise impacts: the siting of master bedrooms in proximity to the common walkway gives rise to potential acoustic amenity and privacy issues.
  - g) Clause 55.06-1: Design detail - the design of the development lacks cohesion and will result in visual bulk to the street and neighbouring properties.
- (3) The proposal is an overdevelopment of the site.
- (4) The proposal does not adequately respond to the issues raised in the VCAT Order P1392/2016 dated 22 March 2017.

*Cr. Greco proposed to the mover Cr. Rennie that (2)h) be added as follows. This was accepted by Cr. Rennie.*

*Clause 52.06: Car Parking – No visitor parking has been provided in the plans.*

THE AMENDED MOTION THEN READ AS FOLLOWS:

**Amended Motion****MOVED: Cr. S Rennie****SECONDED: Cr. G Greco**

**That** Planning Permit Application D/630/2016 be refused and Notice of Refusal be issued on the following grounds:

- (1) The proposal fails to satisfy the objectives of Clause 22.04 (Neighbourhood Character) of the Darebin Planning Scheme and the design objective of the Darebin Neighbourhood Character Study and Precinct Guidelines 2007 in terms of the design,

visual bulk and lack of landscaping opportunities.

- (2) The proposal does not satisfactorily comply with the standards and objectives of Clause 55 of the Darebin Planning Scheme, in particular:
- a) Clause 55.02-1: Neighbourhood character - the proposal is inappropriate in terms of the design, visual bulk and lack of landscaping opportunities
  - b) Clause 55.02-2: Residential policy - the proposal is contrary to the preferred character of the area.
  - c) Clause 55.03-3: Site coverage - insufficient opportunities within side and rear setbacks to provide appropriate areas of landscaping.
  - d) Clause 55.03-8: Landscaping – the site coverage fails to respect the existing neighbourhood character.
  - e) Clause 55.04-1: Side and rear setbacks - inadequate side setbacks resulting in visual bulk to the neighbouring residential properties.
  - f) Clause 55.04.-8: Noise impacts: the siting of master bedrooms in proximity to the common walkway gives rise to potential acoustic amenity and privacy issues.
  - g) Clause 55.06-1: Design detail - the design of the development lacks cohesion and will result in visual bulk to the street and neighbouring properties.
  - h) Clause 52.06: Car Parking – No visitor parking has been provided in the plans.**
- (3) The proposal is an overdevelopment of the site.
- (4) The proposal does not adequately respond to the issues raised in the VCAT Order P1392/2016 dated 22 March 2017.

THE AMENDED MOTION WAS PUT AND CARRIED AND BECAME THE COMMITTEE DECISION AS FOLLOWS:

<b>Committee Decision</b>
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**MOVED:** Cr. S Rennie  
**SECONDED:** Cr. G Greco

**That** Planning Permit Application D/630/2016 be refused and Notice of Refusal be issued on the following grounds:

- (1) The proposal fails to satisfy the objectives of Clause 22.04 (Neighbourhood Character) of the Darebin Planning Scheme and the design objective of the Darebin Neighbourhood Character Study and Precinct Guidelines 2007 in terms of the design, visual bulk and lack of landscaping opportunities.
- (2) The proposal does not satisfactorily comply with the standards and objectives of Clause 55 of the Darebin Planning Scheme, in particular:
  - a) Clause 55.02-1: Neighbourhood character - the proposal is inappropriate in terms of the design, visual bulk and lack of landscaping opportunities
  - b) Clause 55.02-2: Residential policy - the proposal is contrary to the preferred character of the area.
  - c) Clause 55.03-3: Site coverage - insufficient opportunities within side and rear setbacks to provide appropriate areas of landscaping.
  - d) Clause 55.03-8: Landscaping – the site coverage fails to respect the existing



neighbourhood character.

- e) Clause 55.04-1: Side and rear setbacks - inadequate side setbacks resulting in visual bulk to the neighbouring residential properties.
  - f) Clause 55.04.-8: Noise impacts: the siting of master bedrooms in proximity to the common walkway gives rise to potential acoustic amenity and privacy issues.
  - g) Clause 55.06-1: Design detail - the design of the development lacks cohesion and will result in visual bulk to the street and neighbouring properties.
  - h) Clause 52.06: Car Parking – No visitor parking has been provided in the plans.
- (3) The proposal is an overdevelopment of the site.
- (4) The proposal does not adequately respond to the issues raised in the VCAT Order P1392/2016 dated 22 March 2017.

**CARRIED**

**5.2 APPLICATION FOR PLANNING PERMIT D/707/2016  
610 Gilbert Road, Reservoir**

**Author:** Urban Planner

**Reviewed By:** Director City Futures and Assets

<b>Applicant</b>	<b>Owner</b>	<b>Consultant</b>
Ikonomidis Reid	David Decata	Pro Town Planning Solutions

**SUMMARY**

- It is proposed to construct four double storey dwellings, one behind the other. Dwelling’s 1 and 4 utilise a standard design, with living areas and private open space provided at the ground floor. Dwelling’s 2 and 3 utilise a ‘reverse living’ design, with bedrooms provided at the ground floor, while living areas and private open space (in the form of balconies) is provided at the first floor. The maximum building height within the development is 7.396 metres.
- The site is zoned General Residential Zone - Schedule 2 and is affected by the Development Contributions Plan Overlay.
- There is no restrictive covenant on the Certificate of Title for the subject land.
- Ten objections were received against this application.
- The proposal fails to meet a number of objectives and standards of Clause 55 of the Darebin Planning Scheme.
- It is recommended that the application be refused.

**CONSULTATION:**

- Public notice was given via a sign posted on site and letters sent to adjoining owners and occupiers.
- This application was referred internally to Councils Capital Works, Parks, and Traffic Management and Planning units.
- This application was not required to be referred to any external referral authorities.

*The following person verbally addressed the meeting and was ultimately thanked for his presentation by the Chairperson, Cr. Le Cerf:*

- *David DeCata, Applicant*

<b>Committee Decision</b>
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**MOVED:** Cr. T Laurence

**SECONDED:** Cr. T McCarthy

**That** Planning Permit Application D/707/2016 be refused and Notice of Refusal be issued on the following grounds:

- (1) The proposal fails to satisfy the objectives of Clause 22.02 (Neighbourhood Character) of the Darebin Planning Scheme and the design objective of the Darebin Neighbourhood Character Study and Precinct Guidelines 2007 in terms of visual bulk, lack of landscaping opportunities, siting, and height and building form.
- (2) The proposal does not satisfactorily comply with the standards and objectives of Clause 55 of the Darebin Planning Scheme, in particular:
  - a) Clause 55.02-1: Neighbourhood character – The proposal is inappropriate in terms of the visual bulk, lack of landscaping opportunities, siting, and height and building form.
  - b) Clause 55.03-8: Landscaping – The extensive ground floor built form, particularly that associated with the reverse living arrangement proposed for Dwellings 2 and 3, will result in inadequate side setback areas for the provision of landscaping to sufficiently screen the development.
  - c) Clause 55.04-1: Side and rear setbacks - Inadequate side setbacks at the first floor will result in unacceptable visual bulk impacts to the neighbouring residential properties, given the extent of double storey form extending through the site.
  - d) Clause 55.04-6: Overlooking – The north and south orientation of habitable rooms windows and the first floor private open space for Dwellings 2 and 3, requires extensive screening. This will result in poor outlook and unacceptable amenity and usability outcomes for the dwellings.
  - e) Clause 55.05-4: Private Open Space – The extent of screening required for the balconies to Dwellings 2 and 3 will result in unacceptable amenity outcomes for these areas of private open space. The proposed siting of a portion of Dwelling 1's secluded private open space within the front setback will result in the partial privatization of the area and is not supported.
- (3) The proposal features double storey built form for the extent of the site and is an overdevelopment.

**CARRIED**

*Philip Shanahan, Acting Chief Executive Officer temporarily left the meeting at the conclusion of the above item at 6.24pm*

**5.3 APPLICATION FOR PLANNING PERMIT D/634/2014/A  
518-530 High Street, Northcote**

**Author:** Principal Planner

**Reviewed By:** Director City Futures and Assets

Applicant	Owner	Consultant
Hansen Partnership Pty Ltd	Seattle Investments Pty Ltd	Arup Pty Ltd

**SUMMARY**

- The application seeks to amend Planning Permit D/634/2014 issued on 15 May 2015 for an on-premises liquor licence, a car parking reduction and advertising signage associated with a restaurant and tavern. Specifically, the proposed amendment relates to Condition No.26 of the Planning Permit which prohibits the provision of live music at the venue. The application seeks to amend Condition No.26 to allow indoor and outdoor live music at the venue, in the locations identified on the accompanying plan.
- The application has been made pursuant to the provisions of section 72 of the *Planning and Environment Act 1987*.
- The site is zoned Commercial 1 Zone.
- There is a restrictive covenant on title which prohibits the use of the land for the direct or indirect use of brick making. A planning permit has already been issued for use of a licenced premise, to display advertising signage and to reduce car parking requirements, the proposal to amend the planning permit to introduce live music at the venue does not contravene the covenant.
- Seven objections were received against this application.
- The proposal is generally consistent with the purpose and requirements of Clause 52.43 (Live Music and Entertainment Noise) of the Darebin Planning Scheme.
- It is recommended that the application be supported.

**CONSULTATION:**

- Public notice was given via two signs posted on site and letters sent to surrounding owners and occupiers.
- This application was not required to be referred to other Council units.
- This application was referred externally to Marshall Day Acoustics for the purpose of a peer review of the application documents. In particular, the technical information submitted by the applicant in relation to the hours of live music, the generation and attenuation of noise matters have been assessed by Marshall Day.
- This application was not required to be referred to other Council units.

*The following person verbally addressed the meeting and was ultimately thanked for his presentation by the Chairperson, Cr. Le Cerf:*

- *Damien Iles, on behalf of Applicant*

<b>Committee Decision</b>
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**MOVED:** Cr. T McCarthy

**SECONDED:** Cr. S Amir

**That** Planning Permit Application D/634/2014/A be supported and a Notice of Decision to Amend a Permit be issued subject to the following conditions:

The permit is to be amended by the following variations highlighted in **bold**:

**TO WHAT CONDITIONS IS THE AMENDMENT SUBJECT?**

- (1) Before the use starts, 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 plans submitted with the application (identified as: SPM-200 Rev **G** dated **29 June 2015 received by Council on 24 October 2016**, SPM-200-A Rev A dated 19 March 2015, SPM-400 Rev C dated 18 August 2014, Welcome to Thornbury signage dated 2014, signage elevations received 25 August 2014, prepared by Switch Project Management) but modified to show:
- a) **Any modifications to the acoustic report in Condition No.16, in accordance with Conditions No.26 of this Permit.**
  - b) **Any modifications to the Venue Management and Noise and Amenity Action plans in accordance with Condition No. 18 and No. 26 of this Permit.**
  - c) All redundant crossings removed and replaced with footpath and kerb and channel, in accordance with Condition No. 33 of this Permit.
  - d) Location of the pole sign.
  - e) Pedestrian visibility splays provided around vehicle crossing at the property boundary line, in accordance with Clause 52.06-8 (50% clear of obstructions), or alternatively Figure 3.3 of AS2890.1:2004 Clause 3.2.4(b) (no obstructions up to 1.15 metres in height), to ensure adequate visibility between vehicles leaving the site and pedestrians on the frontage road footpath.
  - f) A sustainable transport display provided near each of the main pedestrian entrances to the site. Information displayed in this sustainable transport display area must include; public transport maps and timetables and maps of walking and cycling routes to and from the site.

When approved, the plans will be endorsed and form part of this Permit.

- (2) The layout of the use as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
- (3) This Permit will expire if the use is not started within three (3) years from the date of this Permit.

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

- (4) This Permit will expire if the advertising signs are not displayed within three (3) years from the date of this Permit.

As relevant, the Responsible Authority may extend the times referred to if a request is made in writing:

- Before this Permit expires;
- Within six (6) months after the expiry date; or

- Within twelve (12) months after the expiry date if the request relates to the completion of the display of the signs.
- (5) This advertising signs hereby approved will expire 15 years from the date of issue of the Permit.
- (6) The use may operate only between the hours of:
- Monday to Saturday - 11:00am to 1:00am
  - Sunday - 11:00am to 11:00pm
- (7) Use of the outdoor areas are limited to the following times:
- Sunday to Thursday - 11:00am to 10:00pm
  - Friday to Saturday - 11:00am to 11:00pm
- (8) The maximum number of patrons shall be no more than 700 at any one time.
- (9) Patron numbers must be counted and logged and records must be made available on request to an authorised police officer, or an authorised officer of Council or an authorised officer of Liquor Licensing Victoria.
- (10) The licensed area is limited to the areas within the red line.
- (11) A designated Manager must be in charge of the premises at all times when the premises is open for business.
- (12) All persons engaged in the serving of alcohol must undertake a responsible serving of alcohol course provided by or approved by Liquor Licensing Victoria, to the satisfaction of the Responsible Authority.
- (13) A clear sign must be attached to an internal wall in a prominent position adjacent to the entry/exit points to advise patrons to leave in a quiet and orderly fashion, to the satisfaction of the Responsible Authority.
- (14) Before the use commences, a site assessment of the site, prepared by a member of the Australian Contaminated Land Consultants Association (Victoria) Inc. or other suitably qualified environmental professional, must be submitted to the Responsible Authority to its satisfaction. The Responsible Authority may request the site assessment be reviewed by a suitably qualified environmental auditor nominated by the Responsible Authority and at the cost of the owner/developer.

The site assessment must include:

- An opinion on the level and nature of contamination (if any), how much is present and how it is distributed;
- Details of any clean up, construction, ongoing maintenance, monitoring or other measures in order to effectively manage contaminated soil (if any) that is present within the site (management measures); and
- Recommendation on whether the environmental condition of the land is suitable for the proposed use and whether an environmental audit of the land should be undertaken.

Should the consultant's opinion be that an environmental audit be undertaken, before the use commences, either:

- A certificate of environmental audit must be issued for the land in accordance with Part IXD of the *Environment Protection Act 1970*, or
- An environmental auditor appointed under the *Environment Protection Act 1970* must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.

In the event that the management measures are required or a statement is issued in accordance with Part IXD of the *Environment Protection Act*, before the use commences all management measures of the site assessment or conditions of the Statement of Environmental Audit must be complied with to the satisfaction of the Responsible Authority. Written confirmation of compliance with the management measures of the site assessment or the conditions of the Statement of Environmental Audit must be provided by a suitably qualified environmental professional.

If the management measures of the site assessment or the conditions of the Statement of Environmental Audit require ongoing maintenance or monitoring, before the use commences the owner of the land must enter into an Agreement with the Responsible Authority under section 173 of the *Planning and Environment Act 1987* to the satisfaction of the Responsible Authority. This agreement must be to the effect that except with the written consent of the Responsible Authority all management measures of the site assessment or conditions of the Statement of Environmental Audit issued in respect of the land will be complied with. Written confirmation of compliance with the management measures of the site assessment or the conditions of the Statement of Environmental Audit must be provided by a suitably qualified environmental professional.

A memorandum of the Agreement must be entered on the Title to the land and the owner must pay the costs of the preparation and execution of the Agreement and entry of the memorandum on Title.

- (15) **Before the commencement of the live music component of the use, an amended acoustic report**, prepared by a suitably qualified acoustic consultant, must be submitted to the satisfaction of the Responsible Authority. The report must ensure that the noise levels generated by plant and equipment in the premises do not exceed the levels specified in the State Environment Protection Policy (Control of Noise from Commercial, Industrial or Trade Premises within the Melbourne Metropolitan Area) No. N-1. The report must identify all potential noise sources and sound attenuation work required. The recommendations of the report must be implemented by the applicant at no cost to Council prior to commencement of the use.

The development must be constructed in accordance with the requirements/recommendations of the approved Acoustic Assessment to the satisfaction of the Responsible Authority.

- (16) **Prior to the commencement of the live music component of the use hereby permitted (excluding a three month period during which live music noise testing as referred to in Condition 26(f) may be conducted)**, an acoustic report, prepared by a suitably qualified acoustic consultant, must be submitted to the satisfaction of the Responsible Authority. The report must ensure that the noise levels generated by the premises do not exceed the levels specified in the State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2. The report must identify all potential noise sources and sound attenuation work required. The recommendations of the report must be implemented by the applicant at no cost to Council prior to commencement of the use. At the request of the Responsible Authority, this report will be subject to **peer review by a qualified acoustic engineer selected by the Responsible Authority and to the satisfaction of the Responsible Authority, at the full cost of the owner/operator.**
- (17) If it is found that the noise emitted from the premises does not comply with the standards listed under Conditions No. 27 and 28, a further report must be prepared by a suitably qualified acoustic consultant. A copy of this report must be submitted to the Responsible Authority. This report should make recommendations regarding further noise attenuation measures required to be implemented. The applicant/owner of the premises must implement any recommendations to ensure the premises complies with the standards, to the satisfaction of and at no cost to the Responsible Authority.
-

(18) **Prior to the commencement of the live music component of the use hereby permitted the applicant must submit an amended management plan describing:**

- a) Details of the proposed hours of operation of the premises.
- b) **Details of live music performance at the venue, in accordance with Condition No.26 of this Permit.**
- c) Details of any proposed special events.
- d) Security arrangements including the number of personnel and their hours of operation.
- e) Details of the maximum number of patrons to be permitted on the premises.
- f) Details of indoor and outdoor capacity of the venue.
- g) Pass-out arrangements.
- h) Pedestrian and vehicle access arrangements.
- i) Lighting within the boundaries of the site.
- j) Security lighting outside the premises.
- k) General rubbish storage and removal arrangements including hours of pick up.
- l) Bottle storage and removal arrangements including hours of pick up.
- m) Noise attenuation measures.
- n) The recommendations of the any acoustic report required under Conditions 15, 16 and 17 (if required).
- o) The training of staff in the management of patron behaviour.
- p) A **comprehensive** complaint handling process to be put in place to effectively manage complaints received from neighbouring and nearby businesses and residents. This must include details of a Complaints Register to be kept at the premises. The Register must include details of the complaint received, any action taken and the response provided to the complainant.
- q) Details of the management methods to minimise queuing outside the venue.
- r) Details of the management of patrons in outdoor areas to minimise impacts on the amenity of nearby properties.
- s) Details of the management of patrons who are smoking.

The management plan must be to the satisfaction of, and be approved by, the responsible authority. Once approved, the management plan will form a part of the endorsed documents under this permit. The operation of the use must be carried out in accordance with the endorsed management plan unless with the prior written consent of the Responsible Authority.

(19) Before the use commences a sustainable transport display must be provided near each of the main pedestrian entrances to the site and must include public transport route maps and timetables and maps of walking and cycling routes to and from the site. The display must be regularly monitored and kept up to date to the satisfaction of the Responsible Authority.

(20) Before the use starts areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be line-marked to indicate each car space and all access lanes, to the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose.



- (21) At all times during the operation of the use, there must be present on the premises a person, over the age of eighteen (18) years, who is responsible for ensuring that the activities on the premises, and the conduct of persons attending the premises, do not have a detrimental impact on the amenity of the locality, to the satisfaction of the Responsible Authority.
- (22) A sign or signs must be displayed at the exits to the building and at the High Street site boundary requesting that patrons leave the site promptly and in a manner that does not cause disturbance to the amenity of the neighbourhood.
- (23) At all times during the operation of the use, appropriately trained staff must be provided by the operator of the use to ensure that:
- a) Patrons leave the premises in a quiet and orderly manner so that disturbance is not caused to the amenity of the neighbourhood; and
  - b) Patrons do not loiter around the premises
- to the satisfaction of the Responsible Authority.
- (24) The amenity of the area must not be adversely affected by the use or development as a result of the:
- a) Transport of materials, goods or commodities to or from the land; and/or
  - b) Appearance of any building, works, stored goods or materials; and/or
  - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; and/or
- in any other way, to the satisfaction of the Responsible Authority.
- (25) Pedestrian and vehicle access to and from the site must be to High Street only. All patron and service vehicles and food trucks must enter and exit the site in a forwards direction.
- (26) Live music at the venue shall only be performed in accordance with the amended acoustic report as required by Condition No.16 of this Permit, as follows:**
- a) **Live music levels shall not exceed the music noise limits as specified by State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2 (SEPP N-2) at all times.**
  - b) **Live music shall occur at the venue during the following times only, including during any special events:**
    - Outdoor**
      - **Sunday to Thursday (and Public holidays) up to 8:00pm.**
      - **Friday and Saturday up to 10:00pm.**
    - Indoor**
      - **Friday and Saturday up to 11:00pm**
      - **Sunday to Thursday (and Public holidays) up to 10.00pm.**
  - c) **A noise limiting device shall be installed to all in-house sound systems to ensure that music levels do not exceed the music noise levels detailed in accordance with SEPP N-2.**
  - d) **Electric instruments shall be amplified through the house system only.**
  - e) **The playing of drums or percussive instruments must not be allowed in the outdoor area.**

- f) **Live music noise must be assessed by a qualified sound technician over a 15 minute period at the commencement of any live music performance to confirm that music levels comply with noise limits under SEPP N-2.**
- g) **A music noise commissioning report shall be provided to the Responsible Authority within three months of the live music component of the use commencing. The report shall be prepared by suitably qualified acoustic consultant and peer reviewed by a qualified acoustic engineer selected by the Responsible Authority and to the satisfaction of the Responsible Authority, at the full cost of the owner/operator of the venue.**

**If following the submission of the acoustic report, and the peer review of the report, it is found that the noise emitted from the venue does not comply with SEPP N-2, a further report must be prepared by a suitably qualified acoustic consultant. A copy of this report must be submitted to the Responsible Authority. This report must make recommendations regarding further noise attenuation measures required to be implemented. These measures are to be peer reviewed by the Responsible Authority at the full cost of the owner/operator of the venue. The applicant/owner of the premises must implement any recommendations to ensure the venue complies with SEPP N-2, to the satisfaction of and at no cost to the Responsible Authority.**

- (27) Noise from the premises must not exceed the relevant limits prescribed by the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1.
- (28) Noise from the premises must not exceed the relevant limits prescribed under State Environment Protection Policy (Control of Music Noise from Public Premises) N-2.
- (29) A bottle crusher (located within the building away from the residential interfaces to the north and east) must be used for the disposal of bottles and waste glass. Disposal of the crushed glass outside of the premises must not occur after 10:00pm or before 8:00am, except with further written consent of the Responsible Authority.
- (30) No goods, equipment, packaging material, or any other material/object must be stored, or left exposed, outside a building so as to be visible from any public road or thoroughfare, to the satisfaction of the Responsible Authority.
- (31) All outdoor lighting must be designed, baffled and/or located to ensure that no loss of amenity is caused to adjoining and nearby land to the satisfaction of the Responsible Authority.
- (32) The design of bicycle parking facilities on the site must comply with Clause 52.34-4 of the Planning Scheme or be to the satisfaction of Council.
- (33) Before the use starts the vehicular crossing must be constructed to align with approved driveway to the satisfaction of the Responsible Authority. All redundant crossings, crossing openings or parts thereof must be removed and replaced with footpath and kerb and channel to the satisfaction of the Responsible Authority.
- (34) The advertising signs may only be illuminated between the hours of 11:00am to 11:00pm Sunday and 11:00am to 1:00am Monday to Saturday.
- (35) The advertising sign must not contain any flashing, intermittent or changing colour light.
- (36) The advertising sign must not contain any moving parts or be animated in any manner.
- (37) The advertising sign must be constructed and maintained to the satisfaction of the Responsible Authority.
- (38) The advertising sign must be located wholly within the boundary of the land.

**NOTATIONS**

**(These notes are provided for information only and do not constitute part of this permit or conditions of this permit)**

- The amendments specified in Condition 1 of this Permit and any additional modifications which are “necessary or consequential” are those that will be assessed by Council when plans are lodged to satisfy that condition. Any “necessary or consequential” amendments, in addition to those required by this condition, should be specifically brought to the attention of Council for assessment.
- If any other modifications are proposed, application must also be made for their approval under the relevant Sections of the *Planning and Environment Act 1987*. They can only be approved once the required and consequential changes have been approved and the plans endorsed. It is possible to approve such modifications without notice to other parties, but they must be of limited scope. Modifications of a more significant nature may require a new permit application.
- Any failure to comply with the conditions of this permit may result in action being taken to have an Enforcement Order made against some or all persons having an interest in the land and may result in legal action or the cancellation of this permit by the Victorian Civil and Administrative Tribunal.
- Nothing in the grant of this permit should be construed as granting any permission other than planning permission for the purpose described. It is the duty of the permit holder to acquaint themselves, and comply, with all other relevant legal obligations (including any obligation in relation to restrictive covenants and easements affecting the site) and to obtain other required permits, consents or approval.
- This Planning Permit represents the Planning approval for the use and/or development of the land. This Planning Permit does not represent the approval of other departments of Darebin City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria to that adopted for the approval of this Planning Permit.
- All customer bicycle parking must be provided within the boundaries of the site. Bicycle rails located on the footpath can only be provided by Council via a contribution and if deemed safe and appropriate.

**CARRIED**

*Philip Shanahan, Acting Chief Executive Officer returned to the meeting during discussion of the above item at 6.27pm*

## 6. OTHER BUSINESS

### 6.1 GENERAL PLANNING INFORMATION: SCHEDULED VCAT APPLICATIONS, SIGNIFICANT APPLICATIONS AND APPLICATIONS FOR THE NEXT PLANNING COMMITTEE MEETING

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The General Planning Information attached at **Appendix A** contains lists of:

- Scheduled VCAT appeals for the information of the Planning Committee. The table includes appeals heard as well as those scheduled for the coming months (but does not include mediations and practice day hearings).
- Where an appeal has been adjourned and a new hearing date not yet set, the details appear with the text „struck out“.
- Applications with a cost of construction of at least \$3,000,000 currently under consideration.
- Applications for the upcoming Planning Committee Meeting. The list of applications is based upon best available advice at the time of publishing the Planning Committee Agenda. For confirmation of agenda items reference should be made to the Planning Committee Agenda on Council’s website the Friday prior to the scheduled meeting.

<b>Committee Decision</b>
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**MOVED:** Cr. T McCarthy  
**SECONDED:** Cr. S Rennie

**That** the General Planning Information attached as **Appendix A** be noted.

**CARRIED**

## 7. URGENT BUSINESS

### ADMISSION OF URGENT BUSINESS

<b>Committee Decision</b>
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**MOVED:** Cr. L Messina  
**SECONDED:** Cr. G Greco

**That** Confidential Urgent Business item relating to ‘Review of Refusal Grounds Preston Market – Cramer and Mary Street, Preston’ be admitted to the agenda and heard ‘in camera’ at Item 8.1.

**CARRIED**

## 8. CONSIDERATION OF REPORTS CONSIDERED CONFIDENTIAL

### CLOSE OF MEETING

The Chief Executive Officer, pursuant to section 77(2)(c) of the *Local Government Act 1989* (the Act), has designated the following item to be confidential:

#### 8.1 Review of Refusal Grounds Preston Market – Cramer and Mary Street, Preston

This item is designated confidential pursuant to section 89(2)(f) of the Act as it relates to legal advice.

<b>Committee Decision</b>
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**MOVED:** Cr. S Amir  
**SECONDED:** Cr. L Messina

**That** in accordance with section 89(2) of the *Local Government Act 1989*, Council resolves to close the meeting to members of the public to consider the items designated confidential by the Chief Executive Officer.

**CARRIED**

The meeting was closed to the members of the public at 6.47pm.

## 8.1 REVIEW OF REFUSAL GROUNDS PRESTON MARKET – CRAMER AND MARY STREET, PRESTON

**Author:** Principal Planner

**Reviewed By:** Director City Futures and Assets

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Planning Committee resolved 'in camera' that the following be made public:

<b>Committee Decision</b>
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**MOVED:** Cr. T McCarthy

**SECONDED:** Cr. J Williams

**THAT** pursuant to Section 84A of the *Planning and Environment Act 1987*, Council seeks to amend its grounds to be relied upon at the hearing scheduled 14 August 2017 as follows:

Application for Review No. P569/2017 (Stage 1B)

- (1) The development does not meet the policy framework requirements of the Darebin Planning Scheme regarding:
  - (a) The State Planning Policy Framework provisions of Clauses 11 (Settlement), Clause 11.06 (Metropolitan Melbourne), Clause 15 (Built Environment and Heritage), Clause 16 (Housing), Clause 17 (Economic Development), Clause 18 (Transport), and Clause 19 (Infrastructure).
  - (b) Clause 21.03 (Housing) with respect to housing diversity and the provision of affordability and social housing.
  - (c) Clause 21.04 (Economic Development) by protecting and enhancing the cultural and tourism significance of the Preston Market.
  - (d) Clause 21.05 (Transport and Infrastructure) by balancing the integrated and sustainable transport needs for the ongoing operation of the site.
  - (e) Clause 22.06 (Multi-residential and Mixed-use Development) with dwelling diversity/mix and on-site/internal amenity.
- (2) The proposal fails to comply with the decision guidelines of Schedule 1 to the Priority Development Zone regarding:
  - (a) Responding to the purpose, objectives and design principles of the Preston Market Incorporated Plan (2007) including affordable housing, street wall treatment and car parking location/design;
  - (b) Responding to the vision themes and urban design objectives of the Preston Central Structure Plan (as amended);
  - (c) Efficient access and movement through and around the site;
  - (d) The relationship of the proposed built form to the streetscape and surrounding uses/development (including the subject site);
  - (e) Providing for poor pedestrian amenity around and within the subject site; and
  - (f) Providing poor housing amenity and diversity.
- (3) The proposed development compromises the proper and orderly planning of a key strategic redevelopment site through:

Absence of an overall master plan for future stages;

Demonstrating the considered integration of the development that it will not impinge on best future options available for the redevelopment of the balance of the site.

Failing to protect and enhance the fresh food market.

- (4) The proposed development fails to provide adequate car parking spaces as required by Clause 52.06 and unreasonably erodes the on-site car parking provision for the existing market.
- (5) The proposed development results in an unacceptable flood risk and Melbourne Water (determining referral authority) have objected to the application.
- (6) The proposal fails to achieve a net community benefit.

#### Application for Review No. P565/2017 (Stage 1C)

- (1) The development does not meet the policy framework requirements of the Darebin Planning Scheme regarding:
  - (a) The State Planning Policy Framework provisions of Clauses 11 (Settlement), Clause 11.06 (Metropolitan Melbourne), Clause 15 (Built Environment and Heritage), Clause 16 (Housing), Clause 17 (Economic Development), Clause 18 (Transport), and Clause 19 (Infrastructure).
  - (b) Clause 21.03 (Housing) with respect to housing diversity and the provision of affordability and social housing.
  - (c) Clause 21.04 (Economic Development) by protecting and enhancing the cultural and tourism significance of the Preston Market.
  - (d) Clause 21.05 (Transport and Infrastructure) by balancing the integrated and sustainable transport needs for the ongoing operation of the site.
  - (e) Clause 22.06 (Multi-residential and Mixed-use Development) with dwelling diversity/mix and on-site/internal amenity.
- (2) The proposal fails to comply with the decision guidelines of Schedule 1 to the Priority Development Zone regarding:
  - (a) Responding to the purpose, objectives and design principles of the Preston Market Incorporated Plan (2007) including affordable housing, overall building height in excess of 10 storeys, street wall treatment and car parking location/design;
  - (b) Responding to the vision themes and urban design objectives of the Preston Central Structure Plan (as amended);
  - (c) Efficient access and movement through and around the site;
  - (d) The relationship of the proposed built form to the streetscape and surrounding uses/development (including the subject site);
  - (e) Providing for poor pedestrian amenity around and within the subject site; and
  - (f) Providing poor housing amenity and diversity.
- (3) The proposed development compromises the proper and orderly planning of a key strategic redevelopment site through:
  - (a) Absence of an overall master plan for future stages;
  - (b) Demonstrating the considered integration of the development that it will not impinge on best future options available for the redevelopment of the balance of the site.
  - (c) Failing to protect and enhance the fresh food market.

- (4) The proposed development fails to provide adequate car parking spaces as required by Clause 52.06 and unreasonably erodes the on-site car parking provision for the existing market.
  - (5) The proposed development results in an unacceptable flood risk and Melbourne Water (determining referral authority) have objected to the application.
  - (6) The proposal fails to achieve a net community benefit.
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**CARRIED**

**Committee Decision**

**MOVED: Cr. S Rennie**  
**SECONDED: Cr. T McCarthy**

**That** the report remain confidential and the amended statement of grounds become public and the public be advised via appropriate means.

**CARRIED**

**RE-OPENING OF MEETING**

**Committee Decision**

**MOVED: Cr. T McCarthy**  
**SECONDED: Cr. L Messina**

**That** the meeting be re-opened to the members of the public.

**CARRIED**

The meeting was re-opened to the members of the public at 7.48pm.



**9. CLOSE OF MEETING**

The meeting closed at 7.49pm.