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# Planning Report to Independent Panel

## *Amendment C25 to Port Phillip Planning Scheme*

The Esplanade Hotel  
St Kilda

Prepared for Becton  
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## 1. INTRODUCTION

I have been requested to provide an assessment of the merits of the proposed Planning Scheme Amendment C25 to Port Phillip Planning Scheme. This Amendment seeks to introduce planning policies and controls to guide the future development of The Esplanade Hotel site in St Kilda.

In the course of preparing this report, I have inspected the subject site and surrounds, and reviewed both the current and proposed planning policy and planning control framework.

## 2. THE SITE AND SURROUNDS

### 2.1. The Subject Site

The subject site is The Esplanade Hotel, situated on the east side of Upper Esplanade, St Kilda. The site is effectively an island, bounded by and with frontages to Upper Esplanade, Victoria Street and Pollington Street. It has an overall site area of 4,200 square metres.

The subject site is improved by the following buildings:

- The existing hotel in the north west corner of the site.
- A long narrow building fronting Pollington Street (the west wing) that attaches to the rear of the hotel.
- The east wing, which extends parallel to the west wing and occupies the central portion of the site.
- A bottle shop and store that abuts the hotel and occupies the south west corner of the Upper Esplanade frontage.
- A beer garden is located to the rear of the bottle shop and to the south of the east wing.

- The Baymor flats are located on part of the south east corner of the site and have a common garden area to the north.

These existing buildings and features appear to be in poor condition.

### 2.2. The Surrounds

The area immediately to the north, west and east of the subject site is predominantly residential, forming part of the St Kilda hill precinct.

To the east are detached and attached housing forms, generally of a low scale (ie. 1 or 2 storeys in height).

To the north and south are tall apartment buildings – Arrandale and Bayview, 15 and 10 storeys in height respectively.

To the west is Jacka Boulevard, situated at a lower level than the Upper Esplanade. Further west is the foreshore and Port Phillip Bay.

## 3. PORT PHILLIP PLANNING SCHEME & AMENDMENT C5

Port Phillip's Planning Scheme was one of the first planning schemes to be introduced in the Victorian Planning Provisions format. As such, a number of former controls (ie height controls) were carried over for an interim period in the knowledge that further work needed to be undertaken in relation to both the heritage overlay and the Design and Development Overlays. There was an acknowledgment that the much of the strategic basis for the translated controls was out of date or unclear.

Consequently, the City of Port Phillip prepared Amendment C5 in 1999 which sought to update the Municipal Strategic Statement, and introduce new Local

Neighbourhood Policies, a new Heritage Overlay and new Design and Development Overlays. This included height and setback controls for the St Kilda hill precinct (including the subject site).

This Amendment to the Port Phillip Planning Scheme was considered by an Independent Panel in December 1999. The Panel's view was that the specific Design and Development Overlay objectives nominated for the St Kilda hill precinct, including The Esplanade Hotel, were insufficiently well developed to provide the linkage between each site and the multiple policies in the Municipal Strategic Statement that will be necessary to guide development at a site level. The Panel stated (in part):

*"It also considers that until an overall vision is developed that relates and underpins the objectives through urban design testing, then they will remain difficult to defend under challenge.*

*Any vision for the future of this precinct that gains broad acceptance will need to resolve its overall three dimensional form in a way that responds not only to the concerns of community and developers, but which also demonstrates how these co-join with the strategic issues (such as tourism, 'land-marking', diversity in built fabric and use, urban consolidation) and the detailed physical particularities of the place."*

The Panel's view was also that *"the height of the buildings and overall form of development in this precinct can only be convincingly determined with due consideration being given to the Arrandale site and the nearby high rise apartments on the south western corner of the intersection of Victoria Street and the Esplanade"*.

The Panel suggested that the determining considerations should include:

- *Protection of the western footpath of the Esplanade, Alfred Reserve and the foreshore open space from*

*overshadowing between 10am and 4pm on the winter solstice.*

- *Conservation (at an appropriate level) of the Esplanade Hotel and perhaps Baymor Flats.*
- *A transition in scale at local street frontages (to prevent domination of the pedestrian environment, adjacent heritage buildings and streets, and micro-climatic impacts such as undue overshadowing or wind turbulence).*
- *An acceptable composition of tower buildings when viewed from the Bay, the foreshore walks and from road approaches from the south and north.*

The Panel recommended that:

1. An Urban Design Framework be prepared to generate an overall vision to guide the future development of the St Kilda Upper Esplanade precinct.
2. The Framework be used as the basis for deriving selected outcomes including preferred maximum heights and setbacks and their related objectives to be incorporated into the Planning Scheme as part of a separate amendment process.

## **4. PROPOSED AMENDMENT C25 TO PORT PHILLIP PLANNING SCHEME**

The Amendment proposed by the City of Port Phillip contains:

- Changes to the wording of the Municipal Strategic Statement (MSS). These changes seek to highlight the importance of the Esplanade Hotel as an important 'cultural icon' and venue which makes 'an important contribution to the vitality, character and

*identity of the area'. Changes also sought seek to 'support the on-going existing use and operation of the Esplanade Hotel as an incubator of independent local music and comedy talent', and to 'encourage the preparation of a management plan for the Esplanade Hotel that supports the on-going cultural significance of the Hotel'.*

- The rezoning of the subject site from Residential 1 to Mixed Use.
- The replacement of the significant heritage place grading over the bottle shop with a non-contributory grading.
- The removal of the subject site from DDO6-A9 and introduction of a new Design and Development Overlay Schedule 12 (DDO12) to Clause 43.02. The new schedule contains design objectives and guidelines regarding height, setbacks, overshadowing, conservation and building design. The schedule also includes a table specifying preferred and absolute building heights as well as the desired outcomes.
- The incorporation of a building envelope plan as part of the DDO Schedule 12 that accords with the preferred and absolute building heights contained in the table. The maximum heights specified vary from RL8.3 at the Upper Esplanade frontage to RL41.0 in the central portion of the site.

The alternative Amendment proposed by Becton contains:

- Minor changes to the wording of the MSS to remove the emphasis from supporting and encouraging the role of the hotel as a cultural and art related venue.
- Changes to the wording of the Design and Development Overlay Schedule 12, including:
  - Minor changes to the design objectives

- Significant changes to the guidelines/requirements relating to building height, setbacks, overshadowing and building design.
- Deletion of the table and building envelope plan of preferred and absolute building heights.
- Inclusion of a plan to form part of Clause 2.0 of the schedule, with no permit able to be granted for buildings that exceed the maximum height specified in the plan.
- Changes to the overshadowing control to allow for minimal impact rather than prevention

The consistent elements between the two versions of the proposed DDO Schedule 12 are:

1. Retaining the key elements of the Esplanade Hotel complex.
2. Limiting the height of new development on the subject site to approximately 10 levels.
3. Incorporating a significant setback of a tall building element from the Upper Esplanade frontage.

The main differences between the two versions of the proposed DDO Schedule 12 are:

1. The policy context, particularly the suggested inclusion of references to the cultural significance of The Esplanade Hotel in the Municipal Strategic Statement.
2. The building envelope for the new development in the centre of the site.
3. The setbacks of the tallest building element from Pollington and Victoria Streets.

## 5. PLANNING FRAMEWORK

The Port Phillip Planning Scheme User Guide states:

*“The State and Local Planning Policy Frameworks contain the long term directions and outcomes sought by this scheme. These are implemented through the Zone, Overlay and Particular provisions requirements. It is important to refer to both frameworks when considering the requirements of the scheme.”*

The User Guide states that the overlay requirements *“operate in addition to the zone requirements and generally concern environmental, landscape, heritage, built form, and land and site management issues”*.

The current State and Local Planning Policy Framework that is relevant to this proposal is summarised in the following sections.

### 5.1. State Planning Policy Framework

Clauses of the State Planning Policy Framework (SPPF) that are relevant to this Planning Scheme Amendment include:

**Clause 13, Principles of Land Use and Development Planning**, states:

*Society has various needs and expectations such as land for settlement, protection of the environment, economic well-being, various social needs, proper management of resources and infrastructure. Planning aims to meet these by addressing aspects by addressing aspects of economic, environmental and social well-being affected by land use and development.*

*Following are seven statements of general principles that elaborate upon the objectives of planning in Victoria and describe the factors that influence good decision making in land use and development planning. A planning*

*authority preparing amendments to a planning scheme or a responsible authority administering a scheme must consider these overarching and interlocking principles as well as relevant specified policies in Clauses 14 to 19.”*

The general principles include settlement, environment, management of resources, infrastructure, economic well-being, social needs and regional co-operation.

**Clause 19, Particular Uses and Development**, contains objectives for **Design and built form (Clause 19.03)**, being:

*To achieve high quality urban design and architecture that:*

- *Reflects the particular characteristics, aspirations and cultural identity of the community.*
- *Enhances the livability, diversity, amenity and safety of the public realm.*
- *Promotes attractiveness of towns and cities within broader strategic contexts.*

### 5.2. Local Planning Policy Framework

#### Municipal Strategic Statement

There are a range of policy matters contained in the MSS that are of relevance to the subject site, including:

Clause 21.05 – Port Phillip’s Vision

Clause 21.05-1 – Residential land use objectives, strategies and implementation

Clause 21.05-2 – Foreshore objectives, strategies and implementation

Clause 21.05-3 – Neighbourhood character objectives, strategies and implementation

Clause 21.05-4 – Urban design objectives, strategies and implementation

Clause 21.05-5 – Heritage conservation objectives, strategies and implementation

Clause 21.05-6 – Tourism objectives, strategies and implementation

Clause 21.05-7 – Parkland and open space objectives, strategies and implementation

Clause 21.05-12 – Mixed use areas objectives, strategies and implementation

The strategic directions contained in these policies that relate to the subject site can be summarised as:

- An acknowledgment of the desire for higher density, multi-storey development along the foreshore. This is identified as being particularly sensitive owing to the potential for overshadowing of the foreshore setting and other important public spaces. This is also identified as being potentially inconsistent with the existing character, adversely impacting upon the amenity of nearby properties, creating increased traffic congestion and noise as well as demands for public facilities and on street parking (Clauses 21.03-1 and 21.05-1).
- The pressure for high density, multi-storey development of The Esplanade is seen to be particularly sensitive due to:
  - The historic character of the foreshore
  - The potential to diminish residential amenity of the surrounding area

- The potential to negatively impact on views from the bay (Clauses 21.03-1, 21.03-6 and 21.05-1)
- There is a need to preserve the social and cultural diversity of the neighbourhood by offering a range of housing choices including low-income housing, and recognise a range of cultural activities associated venues which are widely accessible, especially for people of low incomes (Clause 21.03-6)
- Council is seeking to ensure that residential areas are desirable places to live. These residential areas should offer a high level of amenity in regard to open space, privacy, solar access, parking and transport options. Furthermore, new development should be designed to complement the built form and natural environment as well as meet different housing needs (Clauses 21.04-1 and 21.05-1)
- The unique heritage and urban character of established residential areas within the municipality is to be retained. Limited new development that occurs in these areas should be carefully and imaginatively designed to ensure that the distinctive character and high quality residential environment is conserved and enhanced. New development should therefore be of comparable bulk and height to the dominant built form (Clauses 21.05-3 and 21.04-6)
- Places of cultural significance are to be supported for the contribution they make to the vitality, character and identity of the area. In order to achieve this objective, Council encourages the preparation of a management plan for the Esplanade Hotel to ensure ongoing support for the Hotel (Clause 21.04-6)
- Encourage the design of new buildings to respond to the characteristics of existing buildings adjacent to and in the immediate vicinity of the site, including the prevailing scale, orientation, side and rear setbacks and to enhance the character of the surrounding area. The differentiation in building scale between

various areas should be retained in order to achieve a graduation in building scale between areas of medium and high rise development to the traditional low-rise scale (Clause 21.05-3)

- Council's Urban Design policy seeks to ensure new development provides a net improvement to the public realm, and to encourage a gradual stepping up of built form at the interface of existing low-rise and proposed higher-rise development.

Strategies to achieve this policy include:

- Protect panoramic views of Port Phillip Bay and the coastline as well as local views to the community
- Ensure development reflects the change in topography from the rise at St Kilda hill to the flatness of South Melbourne and Port Melbourne
- Retain and enhance key landmarks that terminate important vistas, accentuate corner sites and provide points of interest and orientation for the community.
- Protect important public realm areas from overshadowing in mid winter including the foreshore, Bay Street and Rouse Street in Port Melbourne and the Esplanade and Fitzroy Street in St Kilda.
- Council is fostering a design process that emphasises the value of Port Phillip's heritage places, the complexity of its local ecology and the elements which define local neighbourhood character (Clause 21.04-1)
- Council is seeking to enhance, maintain and protect the network of open spaces, including the foreshore, particularly from overshadowing by private development (Clauses 21.04-1, 21.05-2 and 21.05-7)
- Within the identified mixed use areas, Council is seeking to provide opportunities for increased

residential land uses, with high quality pedestrian environments and innovative architecture.

## Local Policies

The local planning policies affecting the subject site are:

- Clause 22.04 – Heritage
- Clause 22.06 – Urban Design Policy for Non-Residential Development and Multi-Unit Residential Development
- Clause 22.09 – Housing

The Urban Design Policy, Clause 22.06, contains a number of design guidelines on subjects including the public realm, landmarks, views and vistas, pedestrian spaces, light and shade, energy and resource efficiency, architectural quality, facade treatment, landscape architecture and amenity.

## 6. ASSESSMENT OF PROPOSED PLANNING SCHEME AMENDMENT C25

### 6.1. Overview

The evaluation of the merits of a proposed planning scheme amendment must have regard to the Strategic Assessment Guidelines, namely:

1. Is the Amendment required?
2. What is the strategic basis for the Amendment?
3. Have the requirements of the Act been considered?
4. Does the Amendment support or implement the SPPF and the LPPF?

5. What consequences will any proposed changes to the MSS or local planning policies have for other aspects of the policy framework?
6. Does the amendment make proper use of the VPP?
7. What is the outcome of the Amendment in terms of the planning scheme's strategic directions, useability and transparency?

It has clearly been established through the Amendment C5 process that further strategic work (including any subsequent change to the Planning Scheme) is required to guide the future development of the St Kilda Upper Esplanade precinct.

The proposed Amendment does implement the State Planning Policy Framework (SPPF) by seeking to provide guidelines and certainty to the development potential of the St Kilda hill precinct, and particularly the subject site. The content of Amendment C25 supports the design and built form guidelines of the SPPF by providing design objectives to achieve good quality architecture that will result in an appropriate design response that maintains and enhances the public realm and amenity of the surrounds.

The proposed changes to the Local Planning Policy Framework contain some alterations that merely seek to fine tune the existing emphasis of good design outcomes, recognising the characteristics of Port Phillip, and in particular St Kilda and the foreshore. However, there are other proposed changes that place unreasonable emphasis upon the cultural significance of The Esplanade Hotel. These are discussed in the following sections of my report.

There is a recognised need by both Council, the local community and Becton to provide certainty to the future development potential of the project site, The Esplanade Hotel. The form and content of this Amendment has been drafted and redrafted by both Council and Becton.

The use of a Design and Development Overlay (DDO) to guide the future development of the site is an appropriate use of the Victorian Planning Provisions. The outcome of the Amendment is certainty, however the content of the DDO (particularly the design objectives) and the suggested changes to the MSS need to be carefully considered in light of the Strategic Assessment Guidelines.

The form and content of the two versions of the Amendment have a number of similarities. However, there are also points of disagreement that need to be reviewed, including:

- The heavy focus placed upon The Esplanade Hotel in the Local Planning Policy Framework, particularly the Municipal Strategic Statement.
- The appropriateness of the design objectives proposed in the Design and Development Overlay.
- The use of an absolute maximum height model to guide the future development potential of The Esplanade Hotel.
- The building envelope proposed along the frontages of Pollington and Victoria Streets.

These matters are discussed in the following sections of my report, having regard to the relevant Strategic Assessment Guidelines.

## 6.2. The changes required to the LPPF

The Council is seeking to change the MSS to emphasise the cultural importance of The Esplanade Hotel and encourage the continued success of the venue as an “incubator” of cultural activities (i.e. music and comedy).

The introduction of a number of strategies into the Residential Land Use Clause 21.05-1 of the MSS is inappropriate. The proposed strategies address use and development of the Esplanade Hotel, which is not a residential use and accordingly has no relevance or place in this section of the MSS. The changes sought in this clause of the MSS will conflict and compete with the other existing objectives such as maintaining residential amenity. As such, I do not consider that the proposed changes comply with the Strategic Assessment Guideline, as they potentially will impact upon the residential policies of the MSS.

A more fundamental concern that I have regarding these suggested references to The Esplanade Hotel is why Council wishes to highlight one particular venue in the municipality. Any place of cultural significance should accord with the relevant tests for cultural significance such as those applied on heritage principles of a culturally significant place, and accordingly referenced in the regard to the heritage of the municipality. Instead, the Esplanade Hotel has been singled out. Which leads to the question of why the Esplanade Hotel, why not the Palais Theatre and why not Luna Park?

Indeed, it is noteworthy that The Esplanade Hotel has a distinction conferred on it within the MSS far beyond its relative importance in the entire municipality of Port Phillip. Simply put, The Esplanade Hotel (despite the high level of local interest over the past few years) does not warrant or need this particular distinction within the MSS.

When considering where the appropriate reference for The Esplanade Hotel should be contained within the Planning Scheme, it is helpful to have regard to the Strategic Assessment Guidelines for Planning Scheme Amendments which states (page 3):

*It is not necessary to include references to specific proposals in the LPPF. The LPPF does not need to identify every project, but rather sets the policies and*

*strategic objectives against which individual projects will be addressed.*

Most of the policy statements pertain to the preferred use of The Esplanade Hotel. I question however, the ability of Council to implement or achieve those use aspirations through the planning scheme controls.

### **6.3. The proposed Design and Development Overlay**

I understand that there is general consensus that the inclusion of a Design and Development Overlay (DDO) Schedule on The Esplanade Hotel subject site is appropriate. I am of the view that it is not ideal to incorporate a DDO Schedule on one site and it would be preferable for a DDO to apply to a precinct such as St Kilda hill. However, I note that the future development of this site has gone through an extensive process lasting 2-3 years and that all parties (Council, the community and Becton) are looking for a degree of certainty. It is for this reason that I am prepared to support the imposition of a DDO on the subject site.

It is quite clear that all the interest groups want certainty on the future development opportunities for the subject site. Therefore, the control that has emerged is a building envelope and associated design objectives, nominating an Absolute Maximum Height (AMH). Whilst this AMH model provides certainty to all parties, it comes at a cost - it is inflexible because it is prescriptive and not performance based. It contains specific requirements, rather than recommendations that can be tested through a performance based analysis – that is achieving the best design response.

This building envelope is not the final planning approval required for the subject site. A planning permit for the detailed design and development still needs to be achieved. The final design for the development of the subject site will need to address a range of issues, from

the achievement of the planning policies, to the achievement of the design objectives of the DDO Schedule, to creating a feasible and viable development. Whilst the building envelope provides guidance, the design response of a planning application should have flexibility so that the best outcome can be achieved.

The proposed DDO Schedule contains 18 design objectives, overshadowing requirements, building design requirements, and matters to be considered in addition to the design objectives and other criteria previously mentioned. As all of these criteria will need to be satisfied, I consider that the building envelope and heights nominated should desirably be the recommended or preferred outcome, with the DDO Schedule allowing a planning permit to be sought for a design response that seeks to satisfy the other criteria and may seek to change the recommended or preferred built form.

For the purpose of this report I do not propose to analyse each and every one of the design objectives. However, when assessing the appropriateness or otherwise of the objectives themselves and the language used in those objectives, I consider that the following principles must be achieved:

1. Does the objective add further clarity to the achievement of the Local Planning Policy Framework.
2. Does the objective lead to the achievement of the broader strategy for the precinct?
3. Does the objective assist in understanding whether a proposal is likely to be supported or not?
4. Does the objective address an issue that needs to be given greater specificity or control?
5. Is the objective complementary with other objectives within the overlay?

6. Is the objective consistent with the Local Planning Policy Framework?

In regard to the Council and Becton versions of the design objectives, etc contained in the DDO Schedule, I wish to make some general observations:

- The wording is in some instances emotive.
- The number of objectives and guidelines for a single site are excessive given the necessity for a detailed planning application process that complies with all existing controls of the planning scheme, including the SPPF Design and Built Form clause which supports good design outcomes.
- The content of some of the objectives and guidelines are such that they may ultimately preclude a good design outcome for the site.

It is considered that the whole format of the Design and Development Overlay is unnecessarily complex to the point that it will be extraordinarily difficult for an architect to obtain any real guidance as to the appropriate response to the site and for the Responsible Authority to satisfy itself that each and everyone of the objectives and the subsequent controls have been achieved or satisfied. It is acknowledged that some versions of Design and Development Overlays are complex, generally this is due to the fact that the DDO covers a more extensive area than just a single site. With respect to The Esplanade Hotel site, I consider that the key issues can be simply divided into four subsets being:

- The relationship of the new building to the existing Esplanade Hotel and The Esplanade itself.
- The overall building height and setbacks from adjoining properties and streets.
- Shadowing of public spaces.

- The requirement to achieve an appropriately modulated building design within the overall constraints of the height and setback guidelines.

In summary, the DDO can be effectively recast to provide a simpler series of objectives and controls that will add clarity to the process rather than the potential level of confusion created in the exhibited control.

#### **6.4. The proposed built form and setbacks**

There is general agreement between Council and Becton on the built form contained in the building envelope plan. The point of disagreement between Becton and Council are the setbacks of the 10 storey built form from Pollington and Victoria Streets.

Becton seeks a setback of 5 metres rather than 10 metres from Pollington Street; and a setback of 4 metres rather than 9.5 metres from Victoria Street. Council's concerns with these suggested changes are "the urban design and character issues associated with the potential additional building bulk and scale".

I consider that the setbacks proposed by Becton are not inappropriate given that what is proposed is merely the preferred maximum building envelope. I am of the opinion that this point of disagreement is an example of why there should be flexibility in the proposed DDO building envelope. The achievement of a good design outcome is predicated on the right architectural solution, which includes an articulated building form that respects and enhances the neighbourhood character. This is a detail that cannot be achieved through this Amendment process and has to be dealt with as part of a detailed planning application submission.

The design objectives of the proposed DDO Schedule require the development of the subject site to address the urban design issues of the St Kilda hill precinct; the built

form characteristics of the surrounding residential neighbourhood; the amenity of the public realm, including the enhancement of the tourism values of St Kilda and Port Phillip Bay. Given the necessity to address these objectives, the setbacks of the taller building element proposed by Becton will provide the greatest flexibility and certainty to the development potential of the site. A detailed design can then be prepared that will achieve the design objectives. During that detailed design assessment, Council can and should consider whether the built form proposed along Pollington and Victoria Streets is appropriate in light of the identified urban design issues and the neighbourhood character.

## **7. CONCLUSION**

Having regard to the Strategic Assessment Guidelines, I consider that:

The proposed Amendment C25 is clearly required to provide certainty on the development potential of the subject site.

The development potential has been the subject of a review of the opportunities and constraints for the site and surrounds, and this has been relied upon as the strategic basis for the Amendment.

The proposed changes to the MSS that highlight the Esplanade Hotel are not warranted or necessary, and may impact upon the clauses of the MSS such as residential land use and foreshore.

The use of the DDO is appropriate to provide guidance on the future development potential of the site. However, further alterations can be made to improve the form and content of the proposed DDO Schedule.

The outcome of the Amendment will provide certainty on the development potential of the subject site. However the form and content of the Amendment should be altered to allow for flexibility in the use and interpretation of the new DDO schedule.

A modified Amendment should be supported and included in the Port Phillip Planning Scheme to provide certainty on the future development opportunities for The Esplanade Hotel. The form of the Amendment should be modified to include:

- The building envelope should be modified to incorporate the Becton preferred setbacks from Pollington and Victoria Streets.
- The LPPF should not be modified to specifically refer to The Esplanade Hotel.
- A simpler form of objectives and guidelines in the DDO Schedule which will add clarity to the design outcome.

**urbis**

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