



**6.1** 472 - 474 ST KILDA ROAD MELBOURNE 1033/2018/A  
**LOCATION/ADDRESS:** 472 - 474 ST KILDA ROAD MELBOURNE VIC 3004  
**EXECUTIVE MEMBER:** BRIAN TEE, GENERAL MANAGER, CITY GROWTH AND DEVELOPMENT  
**PREPARED BY:** ROSANNE MASSEY, PRINCIPAL PLANNER FISHERMANS BEND

## 1. PURPOSE

1.1 To consider and determine a Section 72 Amendment Application (1033/2018/A) to amend an existing planning permit which includes deleting a level and increasing floor to floor levels (no change to height), layout changes, an increase in 12 dwellings and reduction in 20 serviced apartments, deletion of the food and drink premises, bar, restaurant, retail and office components, and revisions to the car parking provisions.

## 2. EXECUTIVE SUMMARY

<b>WARD:</b>	Gateway
<b>TRIGGER FOR DETERMINATION BY COMMITTEE:</b>	More than 16 objections
<b>APPLICATION NO:</b>	1033/2018/A
<b>APPLICANT:</b>	Sunnyland Investment Group Pty Ltd C/- Contour Consultants
<b>EXISTING USE:</b>	Office & Private Car Park
<b>ABUTTING USES:</b>	Residential and Office
<b>ZONING:</b>	Commercial 1 Zone, abutting a Transport Zone 2
<b>OVERLAYS:</b>	Design and Development Overlay Schedule 13 & 26-5A Special Building Overlay Schedule 2
<b>STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL</b>	Expired

2.1 Planning Permit 1033/2018 issued on 15 September 2022 authorises to “Construct a multi-storey mixed use building, comprising a retail, food and drinks premises, bar, serviced apartments and dwellings, a reduction in the number of car parking spaces required and a licence for the sale and consumption of liquor” at 472-474 St Kilda Road Melbourne. The permit is current with an extended permit expiry and endorsed plans.

2.2 The approved development included:

- A 19 storey/65m AHD mixed use building comprising dwellings (232), retail, food and drink premises, bar, and serviced apartments (200).
- A liquor licence associated with the retail, bar, and restaurant.
- 255 car parking spaces and 110 bicycle spaces located within two basement levels, excluding 13 bicycle spaces located at the ground level.



- Vehicle access via Leopold Street, and access via Queens Lane to the loading bay (all new crossovers).
  - The development included a two-storey podium with levels above fanning outwards in four quadrants. The façade included clear and silver glazing with a maximum reflectivity of 20%, aluminium and concrete.
  - Demolition of the existing building to make way for the approved development (no permit required).
- 2.3 This is a Section 72 application to amend the approved permit preamble, permit conditions and plans. The proposal seeks to amend the permit preamble to delete the references to the commercial components (retail, food and drink premises, and bar) no longer pursued and to replace the reference to 'serviced apartments' with 'residential hotel' to align the intended land use with the planning scheme definition. Conditions are proposed to be amended and deleted in line with the updates to dwelling and hotel numbers, car parking provisions, deletion of the commercial components, and updated reports.
- 2.4 Specifically, the amended application proposes the following changes:
- Deleting the Level 1 of the podium and redistributing the height throughout the remaining floors, there would be no change to the approved height of 65m AHD.
  - The alignment of the four quadrants would be altered slightly, there would be no change to the minimum setbacks or separation between the quadrants approved.
  - The proposal includes internal layout changes, an increase in 12 dwellings (from 244 to 232) and reduction in 20 serviced apartments (from 200 to 180). The serviced apartments are proposed to be renamed within the permit preamble to a 'residential hotel' to align the use with the planning scheme definition, this is a natural change.
  - Deletion of the food and drink premises (restaurant), bar, retail and office components proposed. The ground floor would include the lobbies in the approved location, with the remaining space used for resident/hotel amenities, back of house and hotel office.
  - The car parking provisions are proposed to be altered generally by reducing the rate for 1 bedroom apartments and to provide 3 new car share spaces.
  - The design of the loading bay is proposed to be amended, however the positioning of the access point would remain as approved.
  - Minor changes to landscaping.
  - Amended red line plan to delete the retail, restaurant and bar, and include the hotel rooms and ground level hotel lobby, amenity and pantry, and MEA resident lounge with outdoor courtyard.
- 2.5 The Victorian planning system recognises that a permit holder's intentions may change over time. Rather than requiring a new permit application to be made every time a change is proposed, Section 72 of the Planning and Environment Act 1987 allows applicants to apply to the responsible authority for an amendment to a permit and associated plans. The assessment of this application is confined to the proposed changes to what has already been approved.



- 2.6 An application to amend a permit under Section 72, including any plans, drawings or other documents approved under a permit, follows the same process as an application for a permit. It has the same requirements for giving notice and referral.
- 2.7 Following notice of the application, Council received 36 objections. The concerns relate to a broad range of issues including the deletion of the retail/food and drink components, the use of Queens Lane for loading and waste vehicle access, loading, building setbacks, overdevelopment, wind impacts, privacy, construction management, transformation of the proposal, dwelling mix, and car parking.
- 2.8 A Consultation Meeting was held on 25<sup>th</sup> of July 2023. The meeting was attended by all three Ward Councillors, the applicant, objectors, and planning officers. The meeting did not result in any formal changes to the proposal.
- 2.9 Internal referrals were conducted with general support received. External referral to the Department of Transport and Planning and notice to the Shrine Trustees did not result in any objections or requested conditions.
- 2.10 The proposed amendments would not constitute a transformation of the proposal and are commensurate of the scale of the development. Importantly the proposed amendment would not trigger any new planning permit requirements and would maintain the level of strategic support and compliance with applicable zone, overlays, and particular provisions when compared with the approved development.
- 2.11 The proposed amended development would provide an appropriate level of activation, an acceptable mix of dwelling types, appropriate car parking rates, would maintain the approved level of internal amenity, and would not result in any additional external amenity impacts. Importantly the built form “envelope” approved would not be altered, and the detailed design response would be retained.
- 2.12 Whilst the design changes to the loading bay would be acceptable the hours for the use, and other specific requirements, should be retained within the permit conditions, and a revised Loading and Waste Collection Management Plan should be submitted.
- 2.13 It is considered that the changes proposed in the amendment application are acceptable, subject to modifications to the conditions of the existing permit. It is recommended that Council issues a Notice of Decision to Amend a Planning Permit.

### 3. RECOMMENDATION

- 3.1 That the Responsible Authority, having caused the application to be advertised and having received and noted the objections, issue a Notice of Decision to Grant an Amended Permit.
- 3.2 That a Notice of Decision to Grant an Amended Permit be issued to Construct a multi-storey mixed use building, Residential hotel and dwellings, a reduction in the number of car parking spaces required and a licence for the sale and consumption of liquor at 472-474 St Kilda Road Melbourne with the following changes at 472-474 St Kilda Road Melbourne with the following changes:
- 3.3 The permit preamble and conditions will show changes including deletions as ~~strikeout~~ and new requirements in **bold (excluding headings which remain in bold)**.
- 3.4 That the decision be issued as follows:

#### Amended permit preamble:



Construct a multi-storey mixed use building, comprising a ~~retail, food and drinks premises, bar, serviced apartments~~ **Residential hotel** and dwellings, a reduction in the number of car parking spaces required and a licence for the sale and consumption of liquor.

**Amended conditions:**

**Amended Plans Required**

1. Before the use and/or 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 and reports will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and an electronic copy must be provided. The plans must be generally in accordance with the ~~without prejudice~~ architectural plans prepared by Cox Architecture ~~submitted by the applicant dated 10 October 2019~~ received by Council on 05 May 2023 but modified to show:
  - a) ~~Deletion of the supermarket and basement level 3 and consequential changes generally in accordance with the plans prepared by Cox dated 17 October 2019 (drawing numbers TP-20-98, TP-20-99, TP-21-00, TP-21-01, TP-40-01, TP-40-02 all revision 3 dated 17 October 2019).~~
  - b) ~~Redesign of the top floor of the building generally in accordance with sketch plans prepared by Cox Architecture labelled ASK200 and ASK200.1 dated 17 October 2019.~~
  - c) ~~Redesign of the St Kilda Road façade generally in accordance with the sketch plan prepared by Cox labelled ASK201 dated 17 October 2019.~~
  - d) ~~Incorporation of a curved indent along the western elevation of the podium at both levels of a minimum of 12m in length and to a maximum depth of 3m generally in accordance with the sketch plan prepared by Cox Architecture labelled ASK 202 dated 17 October 2019.~~
  - e) ~~A setback of the full length of the west elevation of the podium at both levels by 0.5m and pavement of the intervening area to incorporate into the footpath as generally shown on the sketch plan prepared by Cox Architecture labelled ASK202 dated 17 October 2019.~~
  - f) ~~Details of privacy measures to limit views from the western glazing to the gym at the first floor (marked 'amenity' on plan TP-21-001 dated 17 October 2019) in a westerly direction below 1.7m.~~
  - g) ~~Indication of details of signage directing cyclist to the location of bicycle parking.~~
  - h) ~~Indication of separate allocation of bicycle parking for private residents and the public.~~
  - i) ~~All external glazing and the plant enclosure to be no more than 20% reflectivity.~~
  - j) ~~Pedestrian sight triangles to the west side of the proposed vehicle egress onto Leopold Street.~~
  - k) ~~Allocation of all car parking spaces on the south side of the basement level for public use only.~~
  - l) ~~Allocation of all tandem spaces for use by the three (or more) bedroom apartments.~~
  - m) ~~Details of impermeable awnings to the St Kilda Road and Leopold Frontages.~~



- ~~n) Indication of additional densely foliating vegetation to the St Kilda Road and Leopold Street frontages.~~
- ~~o) An elevation drawing (minimum scale of 1:100 @ A3) detailing the material finish of the south facing elevation at ground and first floor level.~~
- ~~p) Details of the privacy screens to prevent unreasonable internal views into opposing apartments.~~
- ~~q) Indication of additional bicycle parking at ground level.~~
- ~~r) Indication of the minimum width for the living area of apartment type T4.~~
- ~~s) Indication of a breeze path for apartment type T4.~~
- ~~t) Minimum balcony dimensions to all apartments shown on plans.~~
- ~~u) Dimension specifications for apartment type T11.~~
- ~~v) An urban art contribution in accordance with condition 5.~~
- a) Any changes required by:**
  - i. Condition 6 – Waste Management Plan**
  - ii. Condition 7 – Loading Dock Management Plan**
  - iii. Condition 11 – Landscape Plan**
  - iv. Condition 14 – Sustainability Management Plan**
  - v. Condition 17 – Water Sensitive Urban Design**
  - vi. Condition 20 Wind Report**
- b) The location of bin chute inlet on level 1 (TP-21-01) corrected.**
- ~~w) Any changes required by condition 11 (Landscape Plan).~~
- ~~x) Any changes required by condition 14 (Sustainable Management Plan).~~
- ~~y) Any changes required by condition 17 (Water Sensitive urban Design).~~
- ~~z) A full schedule of materials, finishes and paint colours, including colour samples.~~
- ~~aa) All plant, equipment and domestic services (including air conditioning, heating units, hot water systems etc) which are to be located externally and specify how they will be acoustically treated on the roof top including details of any such screening.~~
- ~~bb) Details and location of any signage to be erected.~~
- ~~cc) Details and location of external lighting which must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.~~

### **No Alterations**

2. The layout of the site and the size, levels, design, external materials, finishes and colours, location of buildings and works shown on the endorsed plans must not be modified for any reason without the prior written consent of the Responsible Authority.

### **Privacy Screens Must be installed**



3. Privacy screens as required in accordance with the endorsed plans must be installed prior to occupation of the building and thereafter maintained to the satisfaction of the Responsible Authority.

#### **Tree Protection Management**

4. Before demolition begins a tree protection management plan (TPMP) setting out how the neighbouring and street tree's will be protected during construction and which generally follows the layout of Section 5 (i.e. General, Tree Protection Plan, Pre-construction, Construction stage and Post Construction) of AS4970 'Protection of trees on development sites' must be submitted to and approved by the responsible authority. When approved the TPMP will be endorsed and form part of the permit.

#### **Urban Art Plan**

5. Before the occupation of the development allowed by this permit, an urban art plan in accordance with Council's Urban Art Strategy must be submitted to, be to the satisfaction of and approved by the Responsible Authority. The value of the urban art must be at least 0.5% of the total building cost of the development to the satisfaction of the Responsible Authority. Urban art in accordance with the approved plan must be installed prior to the occupation of the building to the satisfaction of the Responsible Authority.

#### **Waste Management Plan**

6. Before the development starts (other than demolition or works to remediate contaminated land), a Waste Management Plan based on the City of Port Phillip's Waste Management Plan Guidelines for Developments **generally in accordance with the Waste Management Plan prepared by Leigh Design dated 16 March 2023** must be prepared by a Waste Management Engineer or Waste Management Planner to the satisfaction of the Responsible Authority and endorsed as part of this permit. The Plan must include reference to the following:

- Land use type.
- The estimated garbage and recycling volumes for the whole development.
- Bin quantity, size and colour.
- The garbage and recycling equipment to be used.
- Collection frequency.
- The location and space allocated to the garbage and recycling bin storage area and collection point.
- The waste services collection point for vehicles.
- Waste collection provider.
- How tenants will be regularly informed of the waste management arrangements.
- Scaled waste management drawings.
- Signage
- **Bin wash down areas identified**



~~The Waste Management Plan must be generally in accordance with the Waste Management Plan submitted with the application prepared by Leigh Design (dated 12 March 2019)~~

Once submitted and approved, the waste management plan must be carried out to the satisfaction of the Responsible Authority

#### **Loading and Waste Collection Management Plan**

7. Before the development starts (other than demolition or works to remediate contaminated land), a Loading and Waste Collection Management Plan must be prepared to the satisfaction of the Responsible Authority and endorsed as part of this permit. The Plan must include the following matters:
  - a) Deliveries and waste collection must only occur between the following hours: 9am – 7pm on Monday to Friday 9am – 4pm on Saturday
  - b) The loading dock door must be closed at all times (except when delivery vehicles and waste collection vehicles are entering or existing the loading dock).
  - c) The maintenance and cleaning regime of the loading bay.
  - d) Details of vehicles permitted to enter the loading bay.
  - e) Details of the number of vehicles permitted to enter the loading bay at one time.**

Once submitted and approved, the waste management plan must be carried out to the satisfaction of the Responsible authority.

#### **~~Serviced Apartments-Residential Hotel~~**

8. This permit allows use of ~~a maximum 200 apartments~~ **180 residential hotel rooms**. ~~as serviced apartments only, meaning the provision of temporary accommodation mainly for travellers and tourists. Nothing in this permit must be construed as permitting long term residential occupation of the 200 apartments nominated as “serviced apartments”~~ **180 residential hotel rooms**.

#### **Alteration/Reinstatement of Council or Public Authority Assets**

9. Before the occupation of the development allowed by this permit, the Applicant/ Owner shall do the following things to the satisfaction of the Responsible Authority:
  - a) Pay the costs of all alterations/reinstatement of Council and Public Authority assets necessary and required by such Authorities for development.
  - b) Obtain the prior written approval of the Council or other relevant Authority for such alterations/reinstatement.
  - c) Comply with conditions (if any) required by the Council or other relevant Authorities in respect of reinstatement.

#### **Public Services**

10. Before the occupation of the development allowed by this permit, any modification to existing infrastructure and services within the road reservation (including, but not restricted to, electricity supply, telecommunications services, gas supply, water supply, sewerage services and stormwater drainage) necessary to provide the required access to the site, must be undertaken by the applicant/owner to the satisfaction of the relevant



authority and the Responsible Authority. All costs associated with any such modifications must be borne by the applicant/owner.

### Landscape Plan

11. Before the development starts (other than demolition or works to remediate contaminated land), a detailed Landscape Plan ~~the Landscape Plan prepared by Paul Bangay dated 1 February 2023, must be submitted to, approved by and must be~~ **Approved** ~~the satisfaction of~~ **by** the Responsible Authority. When the Landscape Plan is approved, it will become an endorsed plan forming part of this Permit. ~~The Landscape Plan must be generally in accordance with the landscape plans prepared by Paul Bangay dated 9 October 2019 but be modified to show:~~
- ~~(a) A survey plan, including botanical names, of all existing vegetation/trees to be retained;~~
  - ~~(b) Buildings and vegetation (including botanical names) on neighbouring properties within 3m of the boundary;~~
  - ~~(c) Significant trees greater than 1.5m in circumference, 1m above ground;~~
  - ~~(d) All street trees and/or other trees on Council land;~~
  - ~~(e) A planting schedule of all proposed vegetation at ground roof and all floor levels where applicable including botanical names; common names; pot sizes; sizes at maturity; quantities of each plant; and details of surface finishes of pathways and driveways;~~
  - ~~(f) Landscaping and planting within all open space areas of the site;~~
  - ~~(g) Water sensitive urban design;~~
  - ~~(h) Any landscaping incorporated onto the roof terraces must have a maximum height of no greater than 3m.~~
  - ~~(i) Any landscaping on the perimeter of the roof terrace to be generally in accordance with the section labelled 'High Balcony with Internal Fixed Objects Typical Detail' on the plan prepared by Paul Bangay drawing number 2 of 3 dated 25 October 2018.~~
  - ~~(j) Landscaping, including details of planter depth, within the 12m by 3m setback on Queens Lane as shown on sketch plan ASK202 prepared by Cox Architecture dated 17 October 2019.~~
  - ~~(k) Any details required by Condition 1 of the permit.~~

~~All species selected must be to the satisfaction of the Responsible Authority.~~

### Completion of Landscaping

12. The landscaping as shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority before the occupation of the development and/or the commencement of the use or at such later date as is approved by the Responsible Authority in writing.

### Landscaping Maintenance

13. Before the development starts (**other than demolition or works to remediate contaminated land**) a Green Façade Planting and Maintenance Strategy to the satisfaction of the Responsible Authority must be submitted to and approved by the





Responsible Authority. When approved, the Green Façade Planting and Maintenance Strategy will be endorsed and will then form part of this permit. This must detail:

- a) Elevation drawings at a scale of 1:20 illustrating typical planter details;
- b) Section drawings to demonstrate details of structures or devices used to establish the plantings, irrigation and maintenance, including fixing details for any structures; and
- c) Information about how the green façade elements will be maintained, including details of frequency of inspection, frequency of replacement of dead and dying, cleaning and maintenance of planter structures.

#### **Sustainable Management Plan**

14. Before the development starts (other than demolition or works to remediate contaminated land) a Sustainable Management Plan that outlines proposed sustainable design initiatives **generally in accordance with the Sustainability Management Plan prepared by ADP dated 20 February 2023** must be submitted to, be to the satisfaction of and approved by the Responsible Authority.

When approved, the Plan will be endorsed and will then form part of the permit and the project must incorporate the sustainable design initiatives listed.

#### **Implementation of Sustainable Design Initiatives**

15. Before the occupation of the development approved under this permit, a report from the author of the Sustainable Design Assessment/Sustainable Management Plan approved pursuant to this permit, or similarly qualified person or company, must be submitted to the satisfaction of the Responsible Authority. The report must confirm that all measures and recommendations specified in the ~~Ecologically Sustainable Design report~~ **endorsed Sustainability Management Plan** have been implemented and/or incorporated in accordance with the approved report to the satisfaction of the Responsible Authority.

#### **Water Sensitive Urban Design**

16. Before the development starts (other than demolition or works to remediate contaminated land) a Water Sensitive Urban Design Report that outlines proposed water sensitive urban design initiatives **generally in accordance with the Water Sensitive Urban Design Report prepared by ADP dated 20 February 2023** must be submitted to, be to the satisfaction of and approved by the Responsible Authority. ~~The report must demonstrate how the development meets the water quality performance objectives as set out in the Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO) or as amended.~~ When approved, the Report will be endorsed and will then form part of the permit and the project must incorporate the sustainable design initiatives listed.

#### **Maintenance Manual for Water Sensitive Urban Design Initiatives (Stormwater Management)**

17. Before the development starts (other than demolition or works to remediate contaminated land) a Maintenance Manual for Water Sensitive Urban Design Initiatives must be submitted to and approved by the Responsible Authority. The manual must set out future operational and maintenance arrangements for all WSUD (stormwater management) measures. The program must include, but is not limited to:
  - inspection frequency
  - cleanout procedures



- as installed design details/diagrams including a sketch of how the system operates

The WSUD Maintenance Manual may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Building User's Guide or a Building Maintenance Guide.

#### **Site Management Water Sensitive Urban Design (larger Multi-Unit Developments)**

18. The developer must ensure that:

- a) No water containing oil, foam, grease, scum or litter will be discharged to the stormwater drainage system from the site;
- b) All stored wastes are kept in designated areas or covered containers that prevent escape into the stormwater system;
- c) The amount of mud, dirt, sand, soil, clay or stones deposited by vehicles on the abutting roads is minimised when vehicles are leaving the site.
- d) No mud, dirt, sand, soil, clay or stones are washed into, or are allowed to enter the stormwater drainage system;
- e) The site is developed and managed to minimise the risks of stormwater pollution through the contamination of run-off by chemicals, sediments, animal wastes or gross pollutants in accordance with currently accepted best practice.

#### **Noise Attenuation for Apartments**

19. The building must be designed and constructed to achieve the following noise levels:

- a) Not greater than 35dB(A) for bedrooms, assessed as an LAeq,8h from 10pm to 3am.
- b) Not greater than 40dB(A) for living areas, assessed LAeq,16h from 3am to 10pm.

Noise levels should be assessed in unfurnished rooms with a finished floor and the windows closed. The noise influence area should be measured from the closest part of the building to the noise source

#### **Wind Assessment**

20. Before the development starts, an amended Wind Impact Assessment, generally in accordance with the report prepared by WINDTech Consultants dated ~~17 July 2018~~ **30 May 2022** must be provided for the written endorsement of the Responsible Authority. Any modifications required to the development in order to ensure acceptable wind conditions must be submitted to and approved by the Responsible Authority as part of the plans for endorsement. The design details of any wind mitigation works must receive the endorsement of the owner's wind climate experts, preferencing the use of architectural features and planting to resolve any issues identified, to the satisfaction of the Responsible Authority.

#### **Parking and Loading Areas Must Be Available**

21. Car and bicycle parking and loading areas and access lanes must be developed and kept available for those purposes at all times and must not be used for any other purpose such as storage to the satisfaction of the Responsible Authority.

#### **Car Parking Allocation**



22. Without the further written consent of the Responsible Authority, a minimum of ~~255~~ **238** car parking spaces are to be provided generally in accordance with the plans prepared by Cox Architecture (drawing number TP-20-98 and TP-20-99 all revision ~~3~~ **8** dated ~~17 October 2019~~ **17/02/2023**). Without the further written consent of the Responsible Authority, the allocation of the ~~255~~ **238** car parking spaces should be in accordance with the following rates:

- A minimum of ~~58~~ **50** spaces allocated to the proposed one-bedroom apartments.
- A minimum of ~~403~~ **72** spaces allocated to the proposed two-bedroom apartments.
- A minimum of ~~57~~ **86** spaces to the remaining three or more-bedroom apartments.
- ~~30~~ **27** spaces for the serviced apartments.
- **A minimum of 3 car share spaces.**
- ~~7 spaces to the commercial and office uses~~**K**

#### **On-Site Bicycle Parking**

23. Before the development is occupied, the approved bicycle racks must be provided on the land to the satisfaction of the Responsible Authority.

#### **Parking and Loading Areas must be available**

24. Car and bicycle parking and loading areas and access lanes must be developed and kept available for those purposes at all times and must not be used for any other purpose such as storage to the satisfaction of the Responsible Authority.

#### **Lighting**

25. External lighting of the areas set aside for car parking, access lanes and driveways must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.

#### **No equipment or services**

26. Any plant, equipment or domestic services visible from the primary street frontage (other than a lane) or public park must be located and visually screened to the satisfaction of the Responsible Authority.

#### **Piping and Ducting**

27. All piping and ducting (excluding down pipes, guttering and rainwater heads) must be concealed to the satisfaction of the Responsible Authority.

#### **Vehicle Crossings**

28. Before the occupation of the development allowed by this permit, vehicle crossings must be constructed in accordance with Council's current Vehicle Crossing Guidelines and standard drawings to the satisfaction of the Responsible Authority. All redundant crossings must be removed and the footpath, nature-strip, kerb and road reinstated as necessary at the cost of the applicant/owner and to the satisfaction of the Responsible Authority.

#### **Vehicle Crossings – Removal**



29. Before the occupation of the development allowed by this permit, all disused or redundant vehicle crossings must be removed and the area re-instated with footpath, nature strip and kerb and channel at the cost of the applicant/owner and to the satisfaction of the Responsible Authority

**SEPP N-1 and N-2**

30. Noise levels must not exceed the permissible noise levels stipulated in State and Environment Protection Policy N-1 (Control of Noise from Industrial Commercial and Trade Premises within the Melbourne Metropolitan Area) and State Environment Protection Policy N-2 (Control of Music Noise from Public Premises) to the satisfaction of the Responsible Authority.

**Hours for the sale and consumption of Liquor**

31. The sale and consumption of liquor at the premises must only occur between the following times:

Internal areas

- Between 7am and 1am the following morning Monday to Saturday
- Between 10am and 11.30pm Sunday
- Between 12noon and 11.30pm Good Friday and Anzac Day

External areas

- Between 7am and 11pm Monday to Saturday
- Between 10am and 10.30pm Sunday
- Between 12noon and 10.30pm Good Friday and Anzac Day

**Number of patrons**

32. Without the further written consent of the Responsible Authority no more than 250 patrons ~~must occupy the premises~~ must occupy the area labelled as 'MEA Resident Lounge and courtyard'.

**No amplified music**

33. No amplified music, live bands or DJs are permitted at the premises. Any music played on the premises must not exceed the background noise level measured at the property boundary.

**Ongoing involvement of the Architect**

34. The applicant must retain Cox Architecture to complete the design and provide architectural oversight of the delivery of the detailed design as shown in endorsed plans and endorsed schedule of materials and finishes during construction except with the prior written approval of the Responsible Authority.

**Patron Management Plan**

35. Prior to commencement of the use, a Patron Management Plan must be prepared and submitted for approval to the Responsible Authority which must provide for the following to the satisfaction of the Responsible Authority;
- (a) An attendant or doorman responsible for monitoring the number of patrons on the premises after 11.00pm.



- (b) The keeping of a register recording the number of patrons on the premises each hour between 11.00pm and closing time.
- (c) The measures to be taken by management and staff to ensure patrons depart the premises and the surrounding area in an orderly manner.
- (d) The measures to be taken by management and staff to ensure that patrons queue to enter the premises in an orderly manner and maintain satisfactory clearance for other pedestrians on the footpath.
- (e) The measures to be taken by management and staff to ensure that patrons do not cause nuisance or annoyance to persons beyond the land.
- (f) Liaison with Victoria Police, the City of Port Phillip and local residents.
- (g) A telephone number provided residents to contact the premises and linked to the complaints register.
- (h) The maintenance of a complaints register, which must, on reasonable request, be made available for inspection by the Responsible Authority.

#### **Time for Starting and Completion**

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

- a) The development is not started within three (3) years of the date of this permit.
- b) The development is not completed within five (5) years of the date of the date of this permit.

The use is not commenced within two (2) years of the completion of the development

The Responsible Authority may extend the periods referred to if a request is made in writing:

- Before or within 6 months after the permit expiry date, where the use or development allowed by the permit has not yet started; and
- Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

#### **Notes:**

- **Access doors (Fire Booster , Substation) to the services are required to be:**
  - **Self-closing and can be held fully open against the building wall for the time personnel are occupying the facility;**
  - **In the fully open position do not encroach more than 100mm into the Road Reserve;**
  - **Have a minimum clearance of 150mm from the footpath surface;**
  - **Open onto a footpath with a minimum width of 1500mm.**
  - **The doors must be kept locked when not in use with the keys made available to approved personnel only**
- **This site is within a SBO2. Flooding aspects must be considered within the proposed design including water falling directly on the parcel, including onto the building itself, and the excavated area surrounding it will need to be appropriately collected and discharged from the site.**

**RECOMMENDATION B – CONSENT GRANTED**



3.5 In accordance with Clause 52.06-6 of the Planning Scheme the Responsible Authority determines that the residential hotel car parking provision is to its satisfaction of the Responsible Authority.

**RECOMMENDATION C - AUTHORISE THE MANAGER CITY DEVELOPMENT FOR ANY VCAT APPEAL**

3.6 Authorise the Manager City Development to instruct Council’s Statutory Planners and/or Council’s solicitors on any VCAT application for review should one be lodged.

**4. RELEVANT BACKGROUND**

4.1 The following relevant applications have previously been considered for the subject site:

Application No.	Proposal	Decision	Date of Decision
1033/2018	<p><b>Original Proposal:</b> Construct a multi-storey mixed use building, comprising a supermarket, retail, food and drinks premises, bar, serviced apartments and dwellings a reduction in the number of car parking spaces required and a licence for the sale and consumption of liquor.</p> <p><b>Approved as:</b> Construct a multi-storey mixed use building, comprising a retail, food and drinks premises, bar, serviced apartments and dwellings, a reduction in the number of car parking spaces required and a licence for the sale and consumption of liquor.</p>	<p>A Delegate of the Responsible Authority provided VCAT and all parties of the Section 79 Application a position on the application, being refusal.</p> <p>The application went to a Compulsory Conference and without prejudice plans were submitted deleting the full line supermarket within basement level 1. The without prejudice plans included the following changes:</p> <ul style="list-style-type: none"> <li>• Deletion of full line supermarket within basement level 1.</li> <li>• Deletion of the third level of the basement.</li> <li>• 500mm setback, and 3m wide landscaped setback, from the Ground Floor to Queens Lane</li> </ul> <p>The VCAT order dated 25 November 2019 (and later corrected on 19 December 2019 to correct the list of parties) detailed that the position of the Responsible Authority was</p>	<p>Council meeting on 20 November 2019 adopted the mediated outcome from the Compulsory Conference.</p> <p>VCAT Order dated 25 November 2019.</p> <p>Permit issued on 26 November 2019.</p> <p>Plans endorsed on 11 January 2021.</p> <p>The permit expiry was extended on 15 September 2022. The permit expiry dates are as follows:</p> <ul style="list-style-type: none"> <li>• 26 November 2024 if the development has not commenced,</li> <li>• 26 November 2026 if the development is not completed, or</li> <li>• 26 November 2028 if the use has not commenced</li> </ul> <p>Secondary Consent Application</p>



		set aside and a permit was directed to be issued including a full suite of conditions. The full hearing was vacated.	PDPS/00025/2021) was approved on 6 October 2021. The secondary consent application approved the construction of an impermeable landscape wall in the northwest section of the site (20m long along Queens Lane with a 2m long return along Leopold Street), with the top of the wall to 6.00m AHD. <b>Note:</b> The impermeable wall would be retained with minor design changes.
PDPL/00472/2022	Construction and display of an internally illuminated and floodlit promotional sign and internally illuminated and floodlit sign displaying the sale of the land.	Approved	10 February 2023
263/2014	Construction of a pergola and office studio pavilion on the existing rooftop terrace, and a waiver of the car parking requirements	Approved under delegation	14 July 2014
1174/1998	Development and use of the site for the purposes of a 53m high office building.	Approved	1 July 1999
788/1997	Construction of a 13 Level office Building to the rear of the existing building	Refused by Council	20 November 1997

## 5. PROPOSAL

- 5.1 The proposal seeks to amend the permit preamble to delete the references to the commercial components (retail, food and drink premises, and bar) no longer pursued



and to replace the reference to 'serviced apartments' with 'residential hotel' to align the intended use with the planning scheme definition. Conditions are proposed to be amended and deleted in line with the updates to dwelling and hotel numbers, car parking provisions, deletion of the commercial components, and updated reports. Plans are proposed to be amended to show the below changes.

5.2 Specifically, the section 72 amendment application seeks the following amendments:



- Deletion of level 1 of the podium and redistribution of the height throughout the remaining floors.
- Slight alteration to the alignment of the four quadrants.
- Internal layout changes, an increase in 12 dwellings and reduction in 20 serviced apartments, and the land use term 'serviced apartments' replaced with 'residential hotel'.
- Deletion of the bar, restaurant, retail and office components and reallocation of the space at the ground floor to resident and hotel amenities.
- The car parking provisions are proposed to be altered generally by reducing the rate for 1 bedroom apartments and to provide 3 new car share spaces.
- The design of the loading bay is proposed to be amended.
- Minor changes are proposed to landscaping.
- The red line plan is proposed to be amended to delete the retail space, bar, and restaurant. The amended red line would include the hotel rooms and ground level hotel lobby, amenity and pantry, and MEA Resident Lounge with outdoor courtyard.

5.3 The below table compares the key elements of the proposal with the approved development:

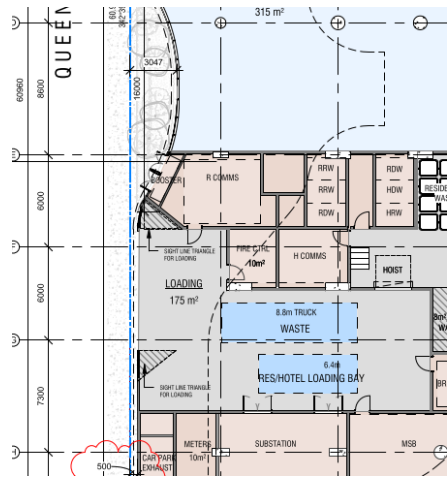
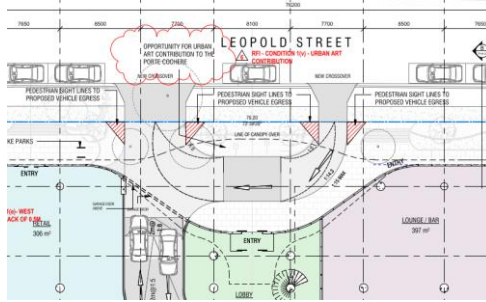
	Approved	Proposed
<b>Type of development</b>	<i>Construct a multi-storey mixed use building, comprising a retail, food and drinks premises, bar, serviced apartments and dwellings, a reduction in the number of car parking spaces required and a licence for the sale and consumption of liquor</i>	<i>Construct a multi-storey mixed use building, comprising a <del>retail, food and drinks premises, bar, serviced apartments</del> Residential hotel and dwellings, a reduction in the number of car parking spaces required and a licence for the sale and consumption of liquor</i>
<b>Demolition</b>	Yes	Yes
<b>Height</b>	<b>65mAHD</b> / 19 storeys (Ground + 18 levels as per plans)	<b>65mAHD</b> / 18 storeys (Ground + 17 levels as per plans) <u>No change to overall height</u>



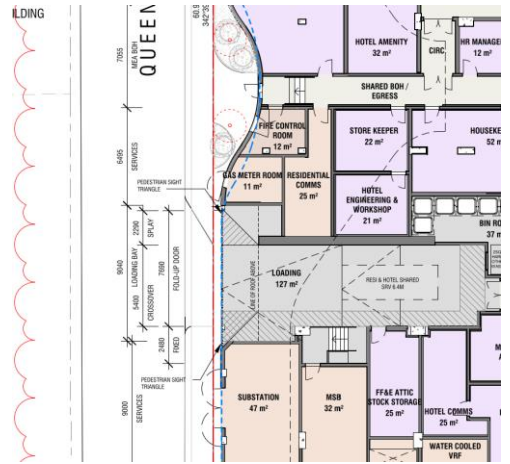
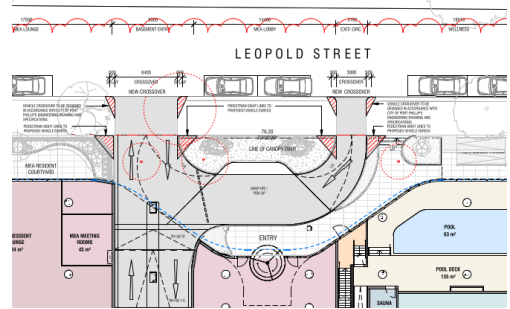
<p><b>Render</b></p>	 <p>Corner of Leopold and St Kilda Road towards South-West</p>		 <p>Corner of Leopold and St Kilda Road towards the South-West</p>	
<p><b>No. dwellings</b></p>	<p>Dwelling Type</p>	<p>Approved</p>	<p>Proposed</p>	<p>Difference</p>
	<p>1 bedroom</p>	<p>84 (36.2%)</p>	<p>126 (51.6%)</p>	<p>+42 / +15.4%</p>
	<p>2 bedroom</p>	<p>108 (46.5%)</p>	<p>72 (29.5%)</p>	<p>-36 / -17%</p>
	<p>3 bedroom</p>	<p>36 (15.5%)</p>	<p>42 (17.2%)</p>	<p>+6 / +1.7%</p>
	<p>Penthouse</p>	<p>4 (1.7%)</p>	<p>4 (1.6%)</p>	<p>None</p>
	<p>Total</p>	<p>232</p>	<p>244</p>	<p>+12</p>
<p><b>Residential Hotel</b></p>	<p>Residential Hotel Type</p>	<p>Approved</p>	<p>Proposed</p>	<p>Difference</p>
	<p>Sub-studio</p>	<p>0</p>	<p>20</p>	<p>+20</p>
	<p>Studio</p>	<p>80</p>	<p>100</p>	<p>+20</p>
	<p>1 Bedroom</p>	<p>120</p>	<p>60</p>	<p>-60</p>
	<p>Total</p>	<p>200</p>	<p>180</p>	<p>-20</p>
<p><b>Commercial Use and Floor Area</b></p>	<p>Ground floor commercial uses:</p> <ul style="list-style-type: none"> <li>• Lounge/Bar 397m<sup>2</sup></li> <li>• Retail 306m<sup>2</sup></li> <li>• Office 315m<sup>2</sup> &amp; 173m<sup>2</sup></li> <li>• Restaurant 369m<sup>2</sup></li> </ul> <p>Level 1 commercial uses:</p> <ul style="list-style-type: none"> <li>• Restaurant (386m<sup>2</sup>)</li> <li>• Office (780m<sup>2</sup>)</li> </ul>		<p>Nil – deleted from proposal</p>	
<p><b>Communal</b></p>	<p>Level 1 general residential amenity area</p>		<p>Residential amenities at ground level include:</p>	

<p><b>Areas</b></p>	<p>of 608m2 with undefined uses, and 88m2 area for a pool.</p>	<ul style="list-style-type: none"> <li>• Pool &amp; Gym facilities (198m2)</li> <li>• Golf simulator and cinema (55m2)</li> <li>• General amenities (85.2)</li> <li>• Co-working area/meeting rooms (67m2)</li> </ul> <p>Total area: 405.2m2</p>
<p><b>Setbacks</b></p>	 <p><b>Ground floor:</b></p> <ul style="list-style-type: none"> <li>• Minimum 4.5m to Leopold St (North)</li> <li>• Minimum 13.7m to St Kilda Road (East)</li> <li>• Minimum 500mm to Queens Lane (West)</li> <li>• Minimum 4.5m to the South (adjoins No. 476 St Kilda Road)</li> </ul> <p>Tower:</p> <ul style="list-style-type: none"> <li>• Minimum 4.5m to Leopold St (North)</li> <li>• Minimum 13.7m to St Kilda Road (East)</li> <li>• Minimum 5m to Queens Lane (West)</li> <li>• Minimum 4.5m to the South (adjoins No. 476 St Kilda Road)</li> </ul>	 <p><b>Ground floor:</b></p> <ul style="list-style-type: none"> <li>• Minimum 4.5m to Leopold St (North)</li> <li>• Minimum 13.7m to St Kilda Road (East)</li> <li>• Minimum 500mm to Queens Lane (West)</li> <li>• Minimum 4.5m to the South (adjoins No. 476 St Kilda Road)</li> </ul> <p><u>No change to minimum setbacks</u></p> <p>Tower:</p> <ul style="list-style-type: none"> <li>• Minimum 4.5m to Leopold St (North)</li> <li>• Minimum 13.7m to St Kilda Road (East)</li> <li>• Minimum 5.1m to Queens Lane (West)</li> <li>• Minimum 4.5m to the South (adjoins No. 476 St Kilda Road)</li> </ul> <p><u>100mm increase to minimum setback to Queens Lane, no other changes to minimums</u></p> <p><b>The minor changes to the setbacks are detailed within dashed blue line on the proposed plans. These changes are due to the proposed minor amendments to the “petal” shape of the building.</b></p>
<p><b>Dwelling access</b></p>	<p>Lobby facing St Kilda Road</p>	<p>Lobby facing St Kilda Road</p>
<p><b>Residential Hotel Access</b></p>	<p>Lobby facing Leopold Street</p>	<p>Lobby facing Leopold Street</p>
<p><b>Commercial access</b></p>	<p>Various access points at the St Kilda Road, Leopold Street, and through block link interfaces</p>	<p>N/A – deleted from proposal</p>
<p><b>Crossovers</b></p>	<ul style="list-style-type: none"> <li>• Two new crossovers to Leopold Street (one double and one single width)</li> </ul>	<ul style="list-style-type: none"> <li>• Two new crossovers to Leopold Street (one double and one single width)</li> <li>• One crossover to Queens Lane to access the loading</li> </ul>

- One crossover to Queens Lane to access the loading area. Location approx. 13.5m from the south



area.  
Minor positioning adjustment to the double crossover to Leopold Street would see it moved slightly further to the west. No impact on overall on street car parking provisions.

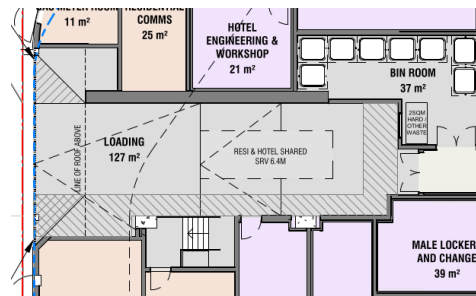


**Loading bay**

Located off Queens Lane.  
175m<sup>2</sup> including separate waste and residential/hotel loading bay.  
Times of use 9am – 7pm Monday to Friday, 9am – 4pm Saturday.



Located off Queens Lane. Positioning slightly altered.  
127m<sup>2</sup>, residential and hotel shared loading bay.  
Times of use are not detailed within the Loading Report.



**Car parking**

Component	Approved Spaces/Rate	Proposed Spaces/Rate	Difference in rate/provision
1 bedroom dwelling	58 spaces 0.69 spaces/dwelling	50 spaces 0.40 spaces/dwelling	- 0.29 spaces/dwelling



	2 bedroom dwelling	103 spaces 0.95 spaces/dwelling	72 spaces 1.00 spaces/dwelling	+0.05 spaces/dwelling
	3 bedroom dwelling	57 spaces for 3 & 4 BR dwellings 1.43 spaces/dwelling	70 spaces 1.67 spaces/ dwelling	+0.24 spaces/dwelling for 3BR
	4 bedroom dwelling (Penthouse)	As above	16 spaces 4 spaces/ dwelling	+2.33 spaces/dwelling for 4BR
	Total residential spaces	218	208	-10
	Residential Hotel	30 spaces 0.15 spaces/room	27 spaces 0.15 spaces / room	No change in rate
	Office/ Shop/ Restaurant/ Bar (2,806 sqm)	7 spaces 0.25 spaces/100m2	N/A	Commercial deleted from proposal and associated car parking.
	Car share	0	3	+3
	Total spaces	255	238 (Inc. car share)	-17
<b>Motorcycle parking</b>	0	0	0	
<b>Bicycle parking</b>	110 spaces in total		151 resident and staff spaces 42 visitor spaces Total = 193 spaces	
<b>Open space</b>	Nil		Nil.	

5.4 The following permit conditions are proposed to be amended and deleted as noted:

- Permit conditions 1aa-1cc (Amended Plans), 6 (Waste Management Plan), 7 (Loading and Waste Collection Management Plan), 8 (Serviced Apartments), 11 (Landscape Plan), 14 (Sustainable Management Plan), 16 (Implementation of Sustainable Design initiatives), 17 (Water Sensitive Urban Design), 22 (Wind Assessment) and 24 (Car Parking) are proposed to be amended to update references to the most recent reports. As the condition 1aa-cc requirements have been discharged they are proposed to be deleted, with an amended condition 1a cross referencing reports.
- Conditions 19 (Maintenance Manual for WSUD), 33 (Hours for the Sale and Consumption of Liquor), 34 (Number of Patrons), 35 (No Amplified Music) and 37 (Patron Management Plan) are proposed to be deleted.

5.5 The application was amended via Section 50 on 10 March 2023 to make voluntary changes to the proposal including deletion of the proposed additional third basement level and subsequent changes to the car parking provision.



5.6 A response to the Request for Further Information (RFI) was submitted on 19 April 2023, with a full set of architectural plans submitted later on 05/05/2023. The plans which form the basis of this assessment are referred to as Sheets 1 to 40, prepared by Cox Architecture, and received by Council on 05/05/2023 (advertised plans).

## 6. SUBJECT SITE AND SURROUNDS

Description of Site and Surrounds	
Site Area	4645 sqm
Existing building & site conditions	<p>The subject site is located on the corner of St Kilda Road and Leopold Street in Melbourne. The site has a frontage to St Kilda Road of 60m in length with a depth of 78m providing a frontage along Leopold Street to the north. The rear site boundary has a length of 60m along Queens Lane. The subject site has a regular rectangular shape and sits on a slight north westerly axis.</p> <p>The site contains an existing five storey commercial building comprising 4,500m<sup>2</sup> of office floor space, with a pay for parking car park fronting Leopold Street. The existing building features a predominantly glazed frontage and a sloping verandah feature. The building also features a setback from St Kilda Road of approximately 10m. There are existing walk up steps with landscape features located within the front setback. The building is setback from the Leopold frontage by approximately 3m and also accommodates landscaping within this setback.</p> <p>The site currently features two vehicle access points leading off Leopold Street accessed via two double crossovers to the pay for parking car park.</p> <p>The building has a landscaped setback from the rear of approximately 2m onto Queens Lane. This elevation is dominated by the multi-storey car park element of the proposal.</p>
Surrounds/neighbourhood character	<p>The subject site is located within the Commercial 1 Zone with land to the rear facing onto Queens Road which is designated as within the Residential Growth Zone.</p> <p>The surrounding area is therefore a combination of residential, commercial and mixed-use buildings. The era of buildings is varied with some original mid-20<sup>th</sup> century tall buildings and some more recent tower developments. There are also examples of original buildings subject to Heritage gradings that have been preserved with larger developments to the rear including at 478 St Kilda Road to the south of the site. The general scale of built form within the locality varies between three and up to twenty storeys. The emerging built form however is predominantly 18 storeys / 65m in response to the Design and Development Overlay that affects this</p>



	<p>section of St Kilda Road. The subject site features the following interfaces:</p> <ul style="list-style-type: none"><li>• To the south, 476 St Kilda Road is an existing 7 storey commercial building. The building appears of 1990's era construction and features a predominantly glazed external finish with marble entrance features. The lot is relatively narrow with a frontage to St Kilda Road of approximately 30m. The building has a front setback of approximately 13m with and incorporates side setbacks of approximately 3m.</li><li>• Beyond Queens Lane to the rear of the site is 26 Queens Road. The site is occupied by a part five – part six storey apartment building. The building is contemporary in construction era but incorporates some mock heritage detailing. The main pedestrian entrance is from Leopold Street. There is also a basement car parking level accessed via a ramp to the rear off Queens Lane. Adjacent to 26 Queens Road to the south and also to the rear of the subject site is 27 Queens Road. The site is also occupied by a 10-storey apartment building which appears of 1970's era construction. The site features pedestrian access off Queens Road to the site frontage. Vehicle access is provided via Queens Lane to the rear.</li><li>• To the north of the subject site beyond Leopold Street is a multi-storey contemporary apartment building which is of recent era construction (No. 470 St Kilda Road). The building features predominantly dark-tinted glazing with black painted metallic finishes. The building features a front setback from St Kilda Road of approximately 12m. vehicle access is provided via ramp leading off Queens Lane to the rear.</li><li>• The common boundary with Melbourne City Council runs along the centre of St Kilda Road. This section of St Kilda road is tree lined and accommodates multi lane traffic and tram lines partially separated by road reserves. The opposite side of St Kilda Road is populated by multi-storey apartment buildings to this section.</li></ul>
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**7. PERMIT TRIGGERS**

- 7.1 Section 73(1) of the *Planning and Environment Act 1987* states that Sections 47 to 62 apply to an application to amend a permit as if the application were an application for a permit and any reference to a permit were a reference to the amendment to the permit.
- 7.2 Therefore, the amendments to the permit and plans are to be assessed against the relevant planning controls affecting the proposal.
- 7.3 Note: Only the changes to the approved proposal are considered as part of this application for amendment. The following zone and overlay controls apply to the site, with planning permission required as described.

Zone or Overlay	Why is a permit required?	New Permit Trigger?
Clause 34.01 Commercial 1 Zone (C1Z)	<p>Pursuant to Clause 34.01-1 a permit <b>is required</b> for the use of land for the purpose of Accommodation (including dwellings and residential hotel) where the frontage at ground level exceeds 2 metres. A permit <b>is required</b> for the use of land for the purpose of accommodation (dwellings and residential hotel).</p> <p>Pursuant to Clause 34.01-4 a permit <b>is required</b> for buildings and works within the Commercial 1 Zone.</p> <p>An apartment development must meet the requirements of Clause 58.</p>	No



<p>Clause 43.02 Design and Development Overlay Schedule 13 (DDO13)</p>	<p>Pursuant to Clause 2.2 of Schedule 13 a permit is not required for a building or works to be constructed up to 33 metres in height above AHD.</p> <p>A permit <b>is required</b> under DDO13 as the proposed building has a height of 65m above AHD. Pursuant to Clause 6.0 of the Schedule the views of the Shrine of Remembrance Trustees must be considered by the Responsible Authority.</p> <p>The proposed amendments would not increase the approved building height.</p>	<p>No</p>
<p>Clause 43.02 Design and Development Overlay Schedule 26- 5a (DDO26)</p>	<p>Pursuant to Clause 43.02-2 a permit <b>is required</b> to construct a building or construct or carry out works.</p>	<p>No</p>
<p>Clause 44.05 Special Building Overlay Schedule 2 (SBO2)</p>	<p>Pursuant to Clause 44.05-2 a permit <b>is required</b> to construct a building or to construct or carry out works.</p> <p>The City of Port Phillip is the Responsible Authority for land affected by SBO2.</p>	<p>No</p>
<p>Clause 52.06 Car Parking</p>	<p>A permit <b>is required</b> to reduce (including to zero) the number of car parking spaces required under Clause 52.06-5 or in a schedule to the parking overlay.</p>	<p>No</p>
<p>Clause 52.27 Licensed Premises</p>	<p>Pursuant to Clause 52.27 a permit is required to use land to sell or consume liquor if any of the following apply:</p> <ul style="list-style-type: none"> <li>• A licence is required under the <i>Liquor Control Reform Act 1998</i>.</li> <li>• A different licence or category of licence is required from that which is in force.</li> <li>• The hours of trading allowed under a licence are to be extended.</li> <li>• The number of patrons allowed under a licence is to be increased.</li> <li>• The area that liquor is allowed to be consumed or supplied under a licence is to be increased.</li> </ul> <p>A general liquor licence is required for the proposed sale and consumption of liquor on the site, therefore a planning permit <b>is required</b>.</p>	<p>No</p>
<p>Clause 52.34</p>	<p>The proposed development would provide the required number of bicycle spaces under Clause</p>	<p>No</p>





Bicycle Facilities	52.34. A permit <b>is not required</b> to reduce the number of required bicycle spaces under Clause 52.34.	
Clause 58 Apartment Developments	<p>Clause 58 applies to apartment developments within Commercial 1 Zones.</p> <p>A development:</p> <ul style="list-style-type: none"> <li>• Must meet all of the objectives of this clause</li> <li>• Should meet all of the standards of this clause</li> </ul>	No

## 8. PLANNING SCHEME PROVISIONS

### 8.1 Planning Policy Frameworks (SPPF)

The following provisions of the PPF are relevant to this application:

Clause 02: Municipal Planning Strategy

02.01 – Context

02.02 - Vision

02.03 – Strategic Directions

02.04 – Strategic Framework Plans

Clause 11: Settlement

11.03-6L-02 – St Kilda Road North Precinct Clause

Clause 12: Environmental and Landscape Values

12.01 – 1L – Urban Forest Clause

Clause 13: Environmental Risks and Amenity

13.07-1L-03 – Interfaces and Amenity Clause

Clause 15: Built Environment and Heritage

15.01-1L-02 – Urban Design

15.01-2L-01 – Building Design

15.01-2L-02 – Environmentally Sustainable Development

15.01-2L-03 – Urban Art Clause

Clause 16: Housing

16.01-1L-01 – Housing Diversity

16.01-1L-02 – Location of Residential Development

Clause 18: Transport

18.01-1L-01 – Land use and transport integration

18.02-4L-01 – Car Parking

18.02-4L-02 – Loading Facilities

Clause 19: Infrastructure



19.03-3L – Stormwater Management (Water Sensitive Urban Design)

19.03-5L – Waste and Resource Recovery

**8.2 Other Relevant Provisions**

The following local planning policies are relevant to this application:

Clause 52.06 Car Parking

Clause 52.29 Land Adjacent to the Principal Road Network

Clause 52.34 Bicycle Facilities

Clause 58 Apartment Developments

Clause 65 Decision Guidelines Clause

71.02 Integrated Decision Making

**8.3 Relevant Planning Scheme Amendment/s**

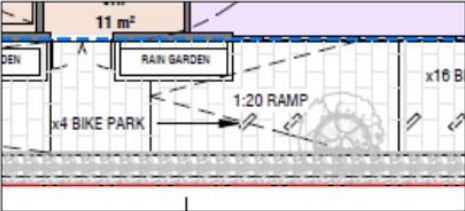
Amendment C203port was approved with changes by the Minister for Planning and was gazetted on 14 April 2023. There are no transitional arrangements in the adoption of C203port. The Planning Scheme Amendment is policy neutral in respect to the majority of the policy changes where it does not alter the meaning of policy previously in the Port Phillip Planning Scheme. Where it is not policy neutral, it introduces and gives effect to adopted Council strategies and plans, augments policy by filling a known policy gap and/or responds to a recommendation of the Port Phillip Planning Scheme Audit 2018.

**9. REFERRALS**

**9.1 Internal referrals**

9.2 The application was referred to the following areas of Council for comment. The comments are discussed in detail in Section 11 and full comments can be found at Attachment 4.

Internal Department/Officer	Referral Comments (Summarised)
Urban Design	<ul style="list-style-type: none"> <li>• Design developments have been made to ground floor canopies to refine their design for appearance and constructability. The proposed changes are considered appropriate.</li> <li>• Through block access along southern boundary is retained with clear, ramped laneway providing access to the office and bike storage entries. Office use has been retained and addresses the middle section of the laneway contributing to its activation and security.</li> <li>• Urban artworks previously proposed for the southern laneway and hotel porte cochere have been deleted.</li> <li>• The changes to the ground floor program will reduce the potential for internal activities to spill out and activate the abutting external spaces diminishing street level vitality. While this is not a desirable outcome it is considered acceptable given the anticipated levels of varied internal activities and likely movement</li> </ul>

	<p>to and from the building across the day. Access arrangements remain the same with the hotel porte cochere and driveway midway along the Leopold St frontage and the resident entry midway along the St Kilda Rd frontage. The loading bay entry remains located on Queens Lane, south west corner.</p> <ul style="list-style-type: none"> <li>The landscaping to the ground floor level incorporates rain gardens and bike hoops to the southern boundary. The arrangement of these elements creates a pinch-point which will impede movement along this axis (see image below).</li> </ul>  <ul style="list-style-type: none"> <li>The landscaping to the ground floor could be amended to consolidate and relocate the raingardens against the southern boundary, away from the active edge of the building. This will remove the pinch-point and improve circulation along this thoroughfare.</li> <li>Further consideration should be given to the location of wayfinding signage for the bike parking on the ground floor, given this may be approached from a variety of directions.</li> <li>Concerns are raised in relation to the access to landscaped areas of the building.</li> </ul> <p><b>Planner Note:</b> The landscaping arrangement was approved under the original permit, and the maintenance details were considered acceptable within the landscape architects referral comments on 5 May 2022. A revised Urban Art contribution will need to go through the approval process with Councils Art Officer, revised locations of the urban art would be acceptable.</p> <p>A laneway plan has been prepared and submitted by Cox Architecture (refer to sheet TP-60-60 of the advertised plans). This details adequate space throughout the laneway to accommodate DDA access.</p>
<p>Landscape Architect</p>	<ul style="list-style-type: none"> <li>The landscape package is well resolved, contextually responsive and comprehensive in terms of overall concept, species selection, layout and details. It provides clear information about the required design outcome on each level of the building with reference to the necessary maintenance of difficult to access spaces across the building's façade. Construction details for hard and soft landscape elements including containerized planting are well resolved and shown clearly.</li> <li>We note the location of the water feature on the St Kilda Rd frontage and question whether this may present a hazard for visually impaired, or inattentive, people using the stairs. We recommend further information or clarification be provided regarding safety around this feature.</li> <li>Otherwise, the landscape proposal is appropriate and supported.</li> </ul> <p><b>Planner Note:</b> The location of the water feature to the St Kilda Rd frontage was approved under the original application and cannot be revisited.</p>



<p>Waste Officer</p>	<p>The WMP is generally consistent with the requirements of Condition 6 and the CoPP Waste Management Plan Guidelines, subject to the comments provided below:</p> <p><u>Residential waste management</u></p> <ul style="list-style-type: none"> <li>• No detail provided in WMP regarding the separation and management of food organics or glass waste streams for the residential component. Recommend that these streams be considered for separation and demonstrate space is provided for bins (including clearance for manoeuvring) as management may opt in to these collections in future.</li> <li>• Recommend recycling stations within chute waste room on each floor for large cardboard, hard waste/ewaste, food organic waste to encourage waste separation and reduce possible blockages of chute.</li> <li>• Chute inlet on level 1 (TP-21-01) is confusing, seem to be penetrating wall through lift core. The error should be resolved.</li> <li>• Details of bin wash down area to be provided/indicated on plans.</li> <li>• WMP is to outline specific waste generation rates used for each non-residential use type, for clarity.</li> <li>• Bins to be labelled on plans (i.e. GW (general waste) / R (recycling) / G (glass) etc) for ease of reference.</li> </ul> <p><b>Planner Note:</b> Condition 1 (Amended Plans) should address the bin chute error, refer to condition 1b. It is not considered reasonable to request additional requirements to condition 6 in light of the proposal. i.e + 12 dwellings &amp; -20 hotel rooms, and these suggested changes will not be pursued.</p>
<p>ESD Officer</p>	<ul style="list-style-type: none"> <li>• The following key ESD matters must be improved/addressed prior to approval: <ul style="list-style-type: none"> <li><b>A.</b> Increase energy rating commitment to align with imminent NCC increase to 7 star NatHERS, as the proposal commits to targeting a 6.5 average NatHERS rating.</li> <li><b>B.</b> Address natural daylight to living areas if within the scope of this amendment.</li> </ul> </li> <li>• WELS ratings applied in the updated BESS report is accepted.</li> <li>• The stormwater management and WSUD responses outlined in the updated SMP and WSUD report, and detailed within the plans, is acceptable.</li> <li>• Rainwater tank and raingarden maintenance has been adequately addressed in the WSUD report by ADP dated 20 February 2023. The information provided would be acceptable to satisfy standard stormwater treatment maintenance conditions on permit. Standard conditions must remain on permit and the WSUD report can be endorsed accordingly.</li> <li>• The updated SMP now provides adequate detail to confirm provision of electric vehicle charging infrastructure, consistent with credit claimed in BESS.</li> <li>• Reflective materials to reduce urban heat island impact have been utilised.</li> </ul>



	<p><b>Planner Note:</b> Whilst some dwelling layouts have been altered, the design would not further reduce daylight access and further amendments to daylight access are not within the scope of this amendment.</p> <p>Developments approved prior to the increase in NCC to 7 star NatHERS do not need to provide a response to the updated NCC requirements, and this is outside the scope of this amendment.</p>
<p>Development Engineer</p>	<ul style="list-style-type: none"> <li>• The designated flood level for the above property is 5.67m AHD. The SBO2 encroaches into the northwest corner of the property on the corner of Leopold Street and Queens Lane as shown below.</li> <li>• The minimum required finished floor level for habitable area is 5.97m AHD (5.67m AHD + 300mm) and non-habitable area is 5.82m AHD (5.67m AHD +150mm).</li> <li>• We are satisfied with the proposed impermeable wall at the corner of Leopold St and Queens Lane proposed to prevent the floodwater from the public realm entering the property.</li> <li>• Could we please request applicant to have a notation on the drawings stating that the condition below (extracted from the Cardno Flood Impact Assessment) hasn't been undermined and there are measures in place to capture the water falling on parcel to prevent the water entering into the premises and prevent damage to assets that may be caused by this area being lower than the natural ground surface.</li> <li>• Access doors (Fire Booster, Substation) to the services as highlighted in yellow below, these doors are required to be:             <ul style="list-style-type: none"> <li>○ Self-closing and can be held fully open against the building wall for the time personnel are occupying the facility;</li> <li>○ In the fully open position do not encroach more than 100mm into the Road Reserve;</li> <li>○ Have a minimum clearance of 150mm from the footpath surface;</li> <li>○ Open onto a footpath with a minimum width of 1500mm.</li> <li>○ The doors must be kept locked when not in use with the keys made available to approved personnel only</li> </ul> </li> </ul> <p><b>Planner Note:</b> access doors have already been approved under the original application however a note could be included on a permit for completeness. A notation could also be included regarding the requirements of the Cardno Report. Refer to proposed permit notes.</p>
<p>Traffic Engineer</p>	<ul style="list-style-type: none"> <li>• <b>Access way</b> dimensions from Leopold Street into basement level 1 and the Porte cochere are in accordance with Clause 52.06 of the planning Scheme. Full pedestrian sight triangles have been provided.</li> <li>• <b>Proposed parking spaces</b> comply with Clause 52.06 Table 2 of the Planning Scheme. Additional 300mm clearance has been provided adjacent to any walls/columns.</li> <li>• <b>A swept path assessment</b> has been provided showing that B99 and B85 design vehicles are able to utilize the entry/exit ramp, with suitable clearance.</li> </ul>



	<ul style="list-style-type: none"> <li>• The proposed <b>car park layout</b> is considered satisfactory.</li> <li>• <b>Minimum headroom clearance</b> complies with Clause 52.06 of the planning scheme, this is considered acceptable.</li> <li>• <b>Proposed ramp grades</b> would be in accordance with the planning scheme and are considered acceptable.</li> <li>• <b>Clause 52.34</b> of the planning scheme requires 109 bicycle parking spaces to be provided for the proposed land uses, the proposal exceeds this with 193 bicycle spaces. 20% of all bicycle parking spaces are provided at ground level, to ensure plans are in accordance with the Australian Standards.</li> <li>• The traffic report has indicated that <b>loading/waste collection</b> is to occur onsite at ground floor accessed from Queens Lane.</li> <li>• The traffic report has provided a detailed swept path assessment which indicates that a small and medium rigid vehicle is able to enter and exit the site with suitable clearance. This is considered acceptable.</li> <li>• To ensure access to/from the site is not impacted by loading operations, ensure that all loading/waste collection operations occur outside of commuter peak periods.</li> <li>• The <b>traffic generation</b> assumptions have been reviewed and is considered acceptable. Leopold Street will mainly be impacted during the AM peak, as the additional traffic will leave the redeveloped site using Leopold Street. The modelling shows a negligible change at the with the intersection performing at a degree of saturation (DoS) of 0.10 and the 95th percentile back of queue of 2.0 m.</li> <li>• Overall, the traffic generation from the proposed development during peak periods is expected to have a negligible impact on the operation of the network.</li> <li>• Future residents/visitors/staff of the development will not be eligible for resident/visitor parking permits and will need to abide by on-street parking restrictions.</li> <li>• It is proposed to adjust the existing crossover to access the development, this approach is supported and will result in net balance to the number of <b>on-street parking spaces</b>.</li> <li>• Proposed <b>crossover</b> on Queens Lane will not impact parking given existing no stopping parking controls.</li> <li>• Clause 52.06 of the planning scheme requires 290 off-street parking spaces to be provided for the proposed land uses. The assessment for the appropriate rate for car parking provision lies with Statutory Planning.</li> </ul> <p><b>Planner note:</b> operating hours for the loading and waste collection bay have already been considered and approved as per Condition 7. Condition 7 of the permit prescribes deliveries and waste collection to occur between 9am – 7pm Monday to Friday, and 9am – 4pm Saturday. This condition should remain, and this is an aspect of the approval that</p>
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	<p>we cannot revisit. An assessment of the proposed car parking provision is detailed in Section 11 of this report.</p> <p>Council Traffic Engineers have engaged an external consultant to undertake a comprehensive review of traffic and parking conditions along Queens Lane to identify issues and recommend potential solutions. The subject site is within the study area which extends between Hanna Street and Kings Way. The report is yet to be completed. Irrespective of this work, the site has a current approved permit with access to a loading bay via Queens Lane used between the hours mentioned above. The location and design of the crossover are not proposed to be altered and the use of Queens Lane for loading purposes cannot be revisited through this application.</p>
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### 9.3 External referrals

Referral Authority	Response	Conditions
Department of Transport and Planning	Response dated 29/05/2023. No objection & no conditions required.	Nil

## 10. PUBLIC NOTIFICATION/OBJECTIONS

- 10.1 It was determined that the proposal may result in material detriment therefore Council gave notice of the proposal by ordinary mail to the owners and occupiers of surrounding properties, objectors of the original application, and the Shrine Trustees, and directed that the applicant give notice of the proposal by posting 6 notices on the site for an 18 day period, in accordance with Section 52 of the Planning and Environment Act 1987.
- 10.2 The application has received 36 objections. The key concerns raised are summarised below (officer comment will follow in italics where the concern will not be addressed in Section 11):

### Ground floor activation

Several objections have raised concerns about the impact of the amended proposal on the ground floor activation. The objections included the following:

- Concern that the deletion of the ground floor retail, restaurant, and bar would result in poor activation to St Kilda Road and would remove elements of the proposal that would benefit the neighbourhood.
- Request that that the ground floor spaces associated with retail and hospitality are retained to contribute to neighbourhood vitality.

#### Comment:

*These concerns will be addressed in the consideration of the proposal at Section 11 of this report.*

### Loading bay

Several objections have raised concerns about the impact of the amended proposal regarding the loading bay. The objections included the following:



- Requests to make further improvements to the loading bay to Queens Lane.
- Noise impacts near nearby bedrooms.
- Safety issues for pedestrians, including reversing down the single direction laneway.

**Comment:**

*The location and use of the loading bay has already been considered under the original application and cannot be revisited. What we can consider is the proposed amended design and amended permit condition No. 7, which is assessed in detail in section 10 of this report.*

*Note: trucks would reverse into the loading space not down Queens Lane as stated within several of the objections.*

### External amenity impacts

Several of the objections have raised concerns about the impact of the amended proposal regarding external amenity impacts. The objections include the following:

- Concerns relating to the impact on privacy.
- Concerns regarding the wind impacts caused by the building.
- Increased setbacks to title boundaries to address privacy concerns.

**Comment:**

*The building envelope (height and setbacks) have already been assessed and approved under the original permit, these elements cannot be revisited through this application. The adjustment proposed to the positioning of the four quadrants is minor and would not result in any changes to minimum setbacks as discussed within section 11 of this report.*

### Construction management

Several of the objections have raise concerns about construction management. The objections include the following:

- Concerns regarding traffic management and impacts during the construction phase.
- Misters requested to minimise dust.
- Restriction of the use of Queens Lane for construction purposes requested.
- Concern with the cumulation of impacts due to other developments.

**Comment:**

*Construction management issues are addressed outside of the Planning System, through Local Laws and Permitting Officers. There was comment from the developers team at the community consultation that coordination of traffic management with other developments is being considered, as would misters.*

*It is not considered reasonable or necessary to include a condition for a Construction Management Plan as the development has already been approved without one, furthermore this requirement sits outside planning.*





### Over development

Several objections have raised over development as a concern.

#### Comment:

*The scale of the development and site coverage is not proposed to be altered and cannot be revisited.*

### Dwelling mix & serviced apartments

An objection has been raised in regard to the increased provision of 1 bedroom apartments, and the use of serviced apartments. The concern includes potential transient residents and antisocial behaviour.

#### Comment:

*The mix of dwelling types will be discussed in Section 11 of this report. The serviced apartment (now proposed to be defined as Residential Hotel) has been approved under the original permit and cannot be revisited. The proposal deletes uses which can often relate to antisocial behaviour such as the licenced bar. There is no link between bedroom numbers and antisocial behaviour and transient accommodation.*

### Transformation of the development

Several objections have raised concern about the type of application used for the proposed amendments. The objections include the following:

- The application is a “transformation” of the development which should be addressed via a fresh application.
- The changes, including the deletion of the ground floor retail, restaurant, and bar, are a significant, and warrant the submission of a fresh application.
- A fresh application would allow for the assessment of the development in the context of the “new use”, and to allow the community to respond accordingly.

#### Comment:

*The Planning and Environment Act 1987 anticipates that applicants may want to amend approved plans and permits from time to time, therefore allowing the Section 72 Amendment mechanism. The proposal is not considered a transformation. The proposal would maintain the building height and minimum setbacks, and overall design, and reduce the intensity of the use of the site. The Section 72 Amendment process allows for notification which enables the local community to respond to the permit application.*

### Car Parking & Traffic

Several of the objections have raised car parking as a concern. The objections included the following:

- Concern with the proposed car parking reduction.
- The impact of the removal of the existing private car parking facility within the site.

#### Comment:

*The removal of the existing car park facility and replacement with the development has already been considered under the original permit and cannot be revisited. Car parking provisions are assessed in detail at section 11 of this report.*



10.3 A consultation meeting was held on 25 July 2023. The meeting was attended by a Ward Councillor, applicants, objectors and Planning Officers. The meeting did not result in any changes to the proposal.

10.4 It is considered that the objectors do not raise any matters of significant social effect under Section 60 (1B) of the Planning and Environment Act 1987.

## 11. OFFICER'S ASSESSMENT

11.1 This amendment seeks to make several changes to the endorsed plans, as outlined in the section 5.1 of this report. Because this is an application to amend the existing planning permit, only the proposed changes can be assessed.

11.2 The key issues that require assessment are considered under the following headings:

- Would the amendment proposal remain consistent with the planning policy framework?
- Would the amended building comply with the relevant built form policy and requirements?
- Would there be any additional off-site amenity impacts?
- Would the amended dwelling layouts provide the same level of internal amenity?
- Would sufficient car parking and bicycle parking be provided and is the layout appropriate (including the loading bay)?
- Would the amendment alter any specific requirements of the original permit?

11.3 These questions are considered in turn below.

### **Would the amendment proposal remain consistent with the planning policy framework?**

11.4 The delegate and council reports for the original application detailed that there was state and local policy support for high density residential development on the subject site. The site is located within the Commercial 1 Zone, and has excellent access to transport, jobs, and services. Furthermore, the site is located within sub precinct 5 of the Design and Development Overlay – Schedule 26 which includes a mandatory height maximum of 65mAHD. There is clear strategic intent to facilitate residential growth within this location, importantly Clause 11.03-6L includes the following objectives for the St Kilda Road North Precinct:

- *To reinforce the St Kilda Road North Precinct as a dynamic, connected, integrated, safe and inclusive place to live, work and visit.*
- *To maintain the role of St Kilda Road as a preferred location for premier office accommodation and well-designed, higher density residential development.*

11.5 The proposal would continue to respond to these objectives by providing high quality accommodation (dwellings and residential hotel) in the Precinct. The increase in 12 dwellings, and reduction of 20 serviced apartments would be a natural change in regard to overall dwelling density.

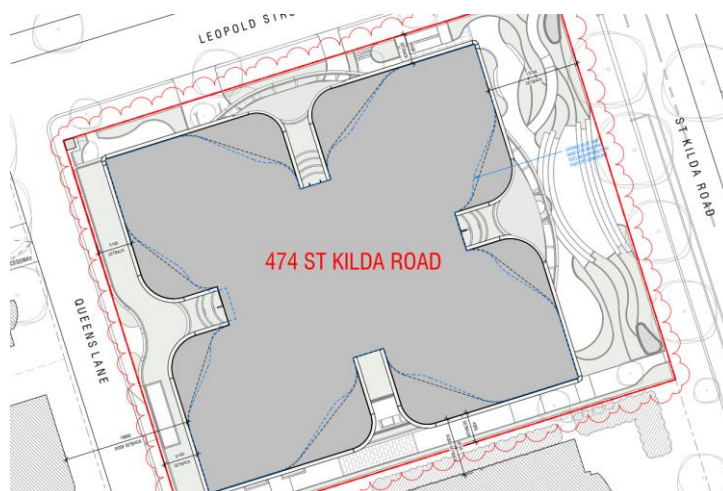
11.6 The dwelling mix would continue to provide acceptable variety of dwelling type to meet the needs of a diverse community. One-bedroom dwellings would comprise 51.6% of the overall dwelling provision, two-bedroom dwellings would comprise 29.5% (72),

three bedroom dwellings would comprise 17.2%, the penthouse/4 bedroom apartments would be maintained at 4. The provision of one-bedroom dwellings would increase by 15.4% (42) and the two bedroom dwellings would decrease by 17% (36), this is combated by the slight increase of 1.7% (6) three bedroom apartments.

- 11.7 The change in land use terminology would not impact the proposals response to the planning policy framework and is administrative in nature. 'Residential hotel' is a land use term defined within Clause 73.03 of the planning scheme, whereas 'serviced apartment' is an un-defined term commonly used within planning permits to describe short-term accommodation. Both uses are classified as accommodation and require a permit under the Commercial 1 Zone due to the frontage at ground level (wider than 2m). The intensity of the residential hotel use would be slightly reduced in comparison than the approval due to the reduction in 20 rooms. The change however would not be significant enough to notably reduce the economic viability of the use, and it would continue to provide employment options within a suitable location.
- 11.8 St Kilda Road is not identified in the Planning Scheme as an Activity Centre where a wide mix of uses is critical to encourage vitality. St Kilda Road is largely characterised by Residential and Office uses. Whilst it is acknowledged that the food and drink and retail uses at the ground level would assist in creating vitality it is not mandatory that these uses are provided, and it is considered that the deletion of these elements would still result in an acceptable outcome.

**Would the amended building comply with the relevant built form policy and requirements?**

- 11.9 The proposed amendments do not include changes to the height or minimum setbacks. The built form changes would largely relate to the minor adjustments to the positioning of the four quadrants. The blue line within the below image from the advertised plans (TP-11-01) shows the limited changes proposed.



- 11.10 The façade treatment and detailing would also continue as approved with minor changes to landscaping. Façade landscaping was required to be rationalised due to viability issues. The building would continue to provide a development which would be integrated with its urban and landscape surrounds as encouraged by Schedule 26 of the Design and Development Overlay.



Approved

Proposed

#### Height and setbacks

11.11 Given the changes would not alter the approved “building envelope” the response to Schedule 13 (Shrine Vista) of Clause 43.02 (Design and Development Overlay) would continue to be acceptable, with no objection received from the Shrine Trustees. The height would remain at 65m AHD with the number of levels reduced by 1, and associated floor to floor heights slightly increased throughout. This would comply with the height requirement detailed within the Schedule 26 (St Kilda Road North) to the Design and Development Overlay for precinct 5a (Clause 43.02). No changes are proposed to the minimum building setbacks.

#### Ground floor activation

11.12 The proposal would result in the deletion of the retail, food and drink premises, bar, and office components. It is acknowledged that deletion of these elements would change the level of activation and potentially reduce the vitality of the perimeter of the site at the street level. However, as identified by Council’s Urban Designer, this would be acceptable given the anticipated levels of varied internal activities and likely movement to and from the building during the day. The activation would be acceptable.

11.13 Schedule 26 of the Design and Development Overlay (Clause 43.02) encourages active space at the street level that contributes to a high-quality public realm. Furthermore, and the decision guidelines of the Commercial 1 Zone (Clause 34.01) require the responsible authority to consider, as appropriate, the streetscape including protection of active frontages to pedestrian areas.

11.14 The amendment, whilst altering the uses at the ground level would not alter the orientation of the building, general extent of glazing and would continue to provide active uses at each interface including the lobbies, hotel lounge communal areas/facilities, and office along the through block link, maintaining an appropriate level of activation along these pedestrian areas.

11.15 The proposal would provide transparent windows for the commercial uses (noted as GL01 on the elevation plans) in excess of 60% of the width of the street in accordance with the requirements of the DDO26, excluding the Queens Lane ground floor elevation



which would be acceptable in the context of the laneway. The proposal has been submitted with a revised lighting plan, detailing the incorporation of lighting that would contribute to a sense of safety at night.

11.16 The images located within Appendix No, 3 titled “Ground Floor Comparisons” identify little change in clear glazing, and show the level of opportunity for activation of the approved ground level elevations in comparison to the proposed elevations.

#### Pedestrian link

11.17 The width of the pedestrian link would be maintained as per the original approval, however it would now accommodate additional bike parking throughout, and the provision of new raingardens. The advertised plans include a Laneway Plan at TP-60-60 which identifies a 1m wide clear path of travel throughout with additional clearance in two areas to accommodate for wheelchair passing, providing sufficient width for access for all.

#### Flooding

11.18 The site is located within an SBO2. Council’s Development Engineer has reviewed the proposal and is satisfied with the proposed FFLs, and revised design of the flood wall. Notes should be included on any amended permit issued to include requirements for access doors, and in relation to water required to be captured to prevent damage to assets in areas that are lower than natural ground surface.

### **Would there be any additional off-site amenity impacts?**

#### Privacy, overshadowing, and wind

11.19 As the scope of the proposed amendment does not include changes to the height or setbacks there would not be any additional overlooking, wind impacts or overshadowing. Noting that the overshadowing plans have been corrected as part of this application. The set of plans reviewed at the Condition 1 stage were prepared for March instead of September, this has now been corrected and is detailed in the advertised plans.

#### Red line plan

11.20 The provision of a licensed premises at the subject site was considered acceptable at the time of the determination, and the planning permit includes approval for the sale and consumption of liquor on the site. The amendment application seeks to alter the associated red line plan which dictates where the alcohol can be sold and stored. The red line is proposed to be amended to delete the red line associated with the retail, restaurant, and bar, and to include the hotel rooms presumably for room service and mini bars, and the hotel lobby, MEA Lounge and courtyard.

11.21 The hours for the sale and consumption of liquor at Condition 33 of the permit are as follows:

#### **Internal**

- Between 7am and 1am the following morning Monday to Saturday
- Between 10am and 11.30pm Sunday
- Between 12noon and 11.30pm Good Friday and Anzac Day



**External areas**

- Between 7am and 11pm Monday to Saturday
- Between 10am and 10.30pm Sunday
- Between 12noon and 10.30pm Good Friday and Anzac Day

11.22 The applicant has advised the proposed hours are now:

**Internal**

- Between 7am and 1am the following morning Monday to Saturday
- Between 10am and ~~11.30pm~~ 1am **the following morning on** Sunday
- Between 12noon and ~~11.30pm~~ **1am** Good Friday and Anzac Day

**External areas**

- Between 7am and ~~11pm~~ **10.30pm** Monday to Saturday
- Between 10am and 10.30pm Sunday
- Between 12noon and 10.30pm Good Friday and Anzac Day

11.23 The application has not been submitted with any justification to extend the internal hours to 1am on Sundays and Good Friday and Anzac Day. It is considered that the existing condition should be retained to control the hours sufficiently.

11.24 The application also included deletion of Conditions 34 (Patron numbers) and 35 (No amplified music). Patron numbers have not been submitted with the amendment. The planning permit allows for a maximum of 250 patrons within the bar. The MEA resident lounge has an area of 234m<sup>2</sup> internally with a 70m<sup>2</sup> (approx.) courtyard. In accordance with the guidelines provided by the Victorian Liquor Commission the number of patrons can be calculated using a ratio of one patron per 0.75m<sup>2</sup>, and the Building Code of Australia. A ratio of 1 person to 0.75m<sup>2</sup> for the total area would be 312 internally and 93 externally, however this does not take into consideration the number of toilets and the like which are typically included in a Building Surveyors assessment. As the applicant has not submitted any details on the patron numbers proposed, it is considered reasonable to retain Condition No. 34 which prescribes a maximum of 250 people, while making amendments to the wording to delete the reference to plans and the 'lounge bar' and replace with the MEA Residents lounge and courtyard.

11.25 Condition 35 which restricts amplified music should also be retained to address potential amenity impacts. Condition 37 requires a patron management plan, this condition is proposed to be deleted, however given the hours and patrons proposed it is considered necessary to retain the condition to ensure external amenity impacts are adequately considered. Furthermore, the patron management plan was required through the consultation at the Compulsory Conference. It is appreciated it was required for the bar, however given the limited information provided by the applicant about how the MEA Resident lounge would operate the condition should be retained on the permit.

**Would the amended dwelling layouts provide the same level of internal amenity?**

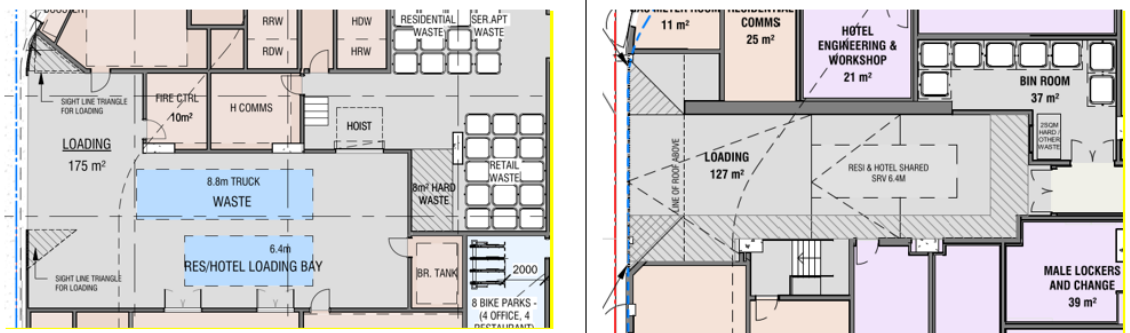
11.26 The revised dwelling layouts would maintain an acceptable level of compliance with Clause 58, consistent with the approved development. Revised dwelling layouts are a



result of the revised dwelling mix and are not significantly difference from the approved development. Cross ventilation, and minimum dimensions for a second bedroom would continue to have lower levels of compliance in comparison to the remainder of the proposal which would achieve high compliance rates often up to 100%. This is commensurate with the approved development, and in some instances better. The design of the internal privacy screens would be amended to maintain privacy for dwellings opposite each other within the development whilst maintaining the same level of internal amenity.

**Would sufficient car parking and bicycle parking be provided and is the layout appropriate (including the design of the loading bay)?**

- 11.27 The parking provision is proposed to be reduced by 17 spaces overall, noting that the assessment should be focused on the change to the car parking rates rather than the overall change in car spaces due to the increase in dwelling numbers and reduction in hotel rooms, and deletion of commercial uses.
- 11.28 The car parking rate for the Residential Hotel has been maintained at 0.15%.
- 11.29 The car parking rate for 1-bedroom dwellings has reduced from 0.69 spaces/dwelling to 0.40 spaces/dwelling, this is a reduction of 0.29 spaces/dwelling. This would be acceptable, particularly due to the lower rate of car ownership for those in one-bedroom dwellings, and the provision of 3 new car share spaces within Basement Level 01.
- 11.30 The car parking rate for two-bedroom dwellings has slightly increased from 0.95 spaces/dwelling to 1.00 spaces/dwelling which is a minor increase of 0.05 spaces/dwelling which would align with the statutory requirements of Clause 52.06 (Car Parking) of the Planning Scheme.
- 11.31 The car parking rates for three-bedroom dwellings would increase slightly from 1.43/dwelling to 1.67 spaces/dwelling. This is a minor increase of 0.24 spaces/dwelling which would improve the compliance with Clause 52.06 (Car Parking) of the Planning Scheme.
- 11.32 The penthouses (4 bedroom dwellings) have been proposed to be allocated 4 spaces/dwelling. This would exceed the requirements of Clause 52.06 (Car Parking) of the Planning Scheme and would be acceptable.
- 11.33 The loading bay design is proposed to be amended as detailed within the below images. The approved access via Queens Lane cannot be revisited and is not proposed to be altered, however the revised loading bay design and use requires assessment. The proposal seeks to amend the side by side spaces to one long singular space. The width of the loading bay access to Queens Lane was reduced through consultation at the Compulsory Conference. Given the crossover did not match the width of the loading bay area, it is extremely unlikely that two vehicles could have efficiently used the space at one time. As such the one long space would be acceptable, however it is suggested that the report clarify if the longer loading area is intended to be used as a tandem space, or if it would be for a single vehicle. It is assumed that it would accommodate one vehicle due for practicality, however this should be clarified. Refer to condition Condition 7e.



- 11.34 The loading bay would be 5m wide, would have a clearance of approximately 4.8m, and could accommodate accommodating 6.4m small rigid vehicles (SRV) for loading, waste collection and residential removalist services. A loading dock manager would be engaged by the building manager as detailed within the submitted Loading Dock Management Plan submitted with the application.
- 11.35 Within the Loading Dock Management Plan it is noted that the hours are yet to be determined, however the hours for the use must follow those already approved in the original permit which were imposed because of the consultation with objectors at the VCAT Compulsory Conference.
- 11.36 The revised design of the car parking within the basement levels, and slight re-positioning of the double crossover to Leopold Street would be acceptable as confirmed by Council's Traffic Engineer.

**Would the amendment alter any specific requirements of the original permit?**

- 11.37 A full review of the existing conditions has been undertaken and all conditions that remain relevant are recommended to be retained or modified as necessary.
- 11.38 In summary, the following changes to the Permit Preamble and conditions are recommended:

Permit Preamble

- 11.39 The proposed permit preamble is proposed to be amended as follows:

*“Construct a multi-storey mixed use building, ~~comprising a retail, food and drinks premises, bar, serviced apartments~~ Residential hotel and dwellings, a reduction in the number of car parking spaces required and a licence for the sale and consumption of liquor”*

Permit Conditions – Proposed Amendments and Deletions

- 11.40 Permit conditions are proposed to be amended and deleted to respond to the updated proposal and associated reports. Including the following:

**Condition 1 (Amended Plans):** The changes to Condition 1 (Amended Plans) would be acceptable. Conditions 1aa – 1cc have been discharged and the Section 72 Amended plans maintain compliance with these requirements. The new condition 1a cross referencing the associated Waste Management Plan, Loading and Waste Dock Management Plan, Landscape Plan, Sustainability Management Plan, WSUD, and Wind Report is necessary and supported.





One new condition 1 requirements (1b) should also be included requiring a correction to the bin chute inlet on level 1 (TP-21-01) as discussed within the referrals table.

**Condition 6 (Waste Management Plan):** The permit applicant has requested the WMP referred to within Condition 6 (Waste Management Plan) be updated in line with the WMP submitted with this application. This is supported, however the remaining wording of the condition should be retained to address issues raised with the latest WMP. The condition should also be updated to identify bin wash down areas.

**Condition 7 (Loading and Waste Collection Management Plan):** Condition 7 (Loading and Waste Collection Management Plan) has been proposed to be amended by deleting reference to the "Waste Collection" component and make reference to the report submitted with this amendment application.

It is also proposed that the specifics requirements of the condition at 7a-7d be deleted, 7a-7d require inclusion of details of delivery and waste collection times, closure of the loading dock door except during use, maintenance and cleaning regime, and details of vehicles permitted to enter the loading bay. It is considered necessary to retain these requirements on the permit for clarity going forward and to ensure that these requirements are maintained. A revised report should be submitted which clearly details compliance with 7a-7d, and to confirm the number of vehicles to be located in the loading bay at any one time.

**Condition 8 (Serviced Apartments):** This condition is proposed to be updated in accordance with the change to the permit preamble which deletes the reference to Serviced Apartments, and replaces it with Residential Hotel. The maximum number of hotel rooms should be reduced from 200 to 180. These changes are supported.

**Condition 11 (Landscape Plan):** This condition is proposed to be updated to reflect the submitted landscape plan and to delete the previous alterations to the original landscape plan required in Condition 11a to 11k. This is acceptable as the submitted landscape plan details compliance with all of the previously noted requirements at Condition 11a-11k.

**Condition 14 (Sustainable Management Plan) & Condition 16 (Implementation):** These conditions are proposed to be updated to reflect the latest version of the SMP submitted. This is acceptable as the latest version of the SMP, reviewed by Councils ESD Officer, would be suitable for endorsement, noting the improvements to the Nathers rating and daylight access are outside the scope of this amendment.

**Condition 17 (Water Sensitive Urban Design) & 22 (Wind Assessment):** Both of these conditions are proposed to be updated in line with the updated reports submitted which is acceptable.

**Condition 24 (Car Parking):** This condition is proposed to be amended to reflect the revised car parking allocations.

**Conditions proposed to be deleted:** Condition 19 (Maintenance Manual for WSUD), Condition 33 (Hours for the Sale and Consumption of Liquor), Condition 34 (Number of Patrons), Condition 35 (No Amplified Music), and Condition 37 (Patron Management Plan).



Condition 19 (Maintenance Manual WSUD) should be retained. Whilst the WSUD Report prepared by ADP has included sufficient information to discharge the condition, it is required as part of the standard conditions.

Deletion of Conditions 33, 34, 35 and 37 are not supported. Hours for the sale and consumption of liquor should be retained as per Condition 33 for reasons outlined within Section 11 of this report. Condition 34 (Patron numbers) should be amended to replace the reference to 'lounge/bar' and plan reference with MEA resident lounge and courtyard. Condition 35 regarding no amplified music and Condition 37 for patron management should be retained as discussed in section 11 of this report.

## 12. COVENANTS

12.1 The applicant has completed a restrictive covenant declaration form declaring that there is no restrictive covenant on the titles for the subject site known as Land in Plan of Consolidation 155356 [Parent Title Volume 09518 Folio 655]. Two caveats are registered on the title however have no implication on the planning application.

## 13. INTEGRATED DECISION MAKING AND CONCLUSION

13.1 Clause 71.02 of the planning scheme requires the decision maker to integrate the range of policies relevant to the issues to be determined and balance the positive and negative environmental, social, and economic impacts of the proposal in favour of net community benefit and sustainable development. When considering net community benefit, fair and orderly planning is key; the interests of present and future Victorians must be balanced; and the test is one of acceptability.

13.2 The proposal would result in several positive, natural and negative impacts which are outlined below:

### Positive

- The proposal is considered to have strong strategic support from the planning scheme, which has a consistent theme of increasing residential density at strategic locations and within close proximity to jobs, services and public transport (environmental, economic and social).
- The proposal would continue to respond to the relevant zone and overlays being the Commercial 1 Zone, Design and Development Overlay Schedule 13 and Schedule 26, and the Special Building Overlay Schedule 2 which affect the site.
- The approved building envelope is not proposed to be amended thereby not causing any further external amenity impacts.
- The proposal would include three car share spaces not part of the original approval.
- 193 bicycle spaces would be provided which would exceed the requirements of the planning scheme. Additional bicycle parking has been provided at the ground level.

### Neutral

- Internal amenity would be provided commensurate with the approved development.
- The car parking provision for dwellings would be sufficient when considering the proposed rates vs approved rates, there would be no change to the car parking rate associated with the residential hotel.



- Landscaping has been rationalised.
- The flood wall would be retained, and a note would be included on the permit regarding doors to services and flooding.

Negative

- The application has received 36 objections (social).

**14. OFFICER DIRECT OR INDIRECT INTEREST**

14.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.

**15. OPTIONS**

- 15.1 Approve as recommended
- 15.2 Approve with changed or additional conditions
- 15.3 Refuse - on key issues

**16. CONCLUSION**

- 16.1 The proposed amendments to the approved development would be consistent with the strategic direction outlined within the planning scheme. The proposal would continue to provide a high-density residential development with residential hotel component in an appropriate location. The dwellings and hotel rooms would maintain a good level of internal amenity commensurate to the approved development.
- 16.2 The amendments would not alter the level of compliance with the built form requirements of the Design and Development Overlay Schedule 26 (area 5a) and Schedule 13, importantly the minimum setbacks and building height would not be altered. The level of ground floor activation would be acceptable and would be achieved through the clear glazing and active uses.
- 16.3 The altered car parking rates would be appropriate and continue to provide adequate car parking for the dwellings, noting a welcomed introduction of three car share spaces. The car parking rate for the residential hotel would not be altered.
- 16.4 Items required to be addressed and clarified are limited to the bin chute error at level 1, and the loading bay use. These elements could be address through conditions (refer to recommended conditions 1b & 7e).
- 16.5 The revised red plan would be acceptable and would facilitate an economic benefit to the residential hotel while balancing the potential amenity impacts.
- 16.6 It is considered that the changes proposed in the amendment application are acceptable subject to conditions. It is recommended that Council issues a Notice of Decision to Amend a Planning Permit.

**ATTACHMENTS**

- 1. [Attachment 1 - Advertised Plans](#)
- 2. [Attachment 2 - Permit and Endorsed Plans](#)
- 3. [Attachment 3 - Ground Floor Comparisons](#)
- 4. [Attachment 4 - Referrals Table](#)
- 5. [Attachment 5 - Zone Map](#)
- 6. [Attachment 6 - Assessment Table Approved vs Proposed](#)
- 7. [Attachment 7 - Endorsed Red Line Plan](#)