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Our Ref: 1051/2017



19 February 2019

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**ASSIST Customer Service**  
☎ 9209 6777

Dear Sir/Madam,

Re: **Application for Planning Permit No. 1051/2017**  
Address: **28 - 32 Albert Road, SOUTH MELBOURNE VIC 3205**

I refer to the above matter and application for review to the Victorian Civil and Administrative Tribunal (VCAT). I advise that VCAT have now directed that a permit be granted, in accordance with the consent order.

Accordingly, please find attached a copy of Planning Permit 1051/2017 as per the direction of the Tribunal. You should make sure that you are familiar with these conditions before you act on this permit.

You may also need building or other approvals from the Council, so you should ensure that these matters are also attended to prior to acting on this Planning Permit.

**Note:** Any variation from the Planning Permit and Approved Plans will require prior written consent from the Responsible Authority, this may require you to submit a new application for a planning permit from Planning & Building Services at the City of Port Phillip. An Enforcement Notice will be issued to a building surveyor who fails to comply with the Building Regulations as they relate to Planning consent. Enforcement action under the Planning & Environment Act 1987 may also involve the owner where they have shown disregard for the conditions of this Planning Permit issued under the Port Phillip Planning Scheme.

**PLEASE READ AND CONSIDER THE CONDITIONS CAREFULLY.**

Yours faithfully,

Scott Parkinson  
Urban Planner

Planning & Building Services *Located at:-*  
*St Kilda Office*  
*99A Carlisle Street, St Kilda*

**City of Port Phillip  
Advertised Document  
No. of Pages: 13**



# PLANNING PERMIT

Application Number: 1051/2017  
Planning Scheme: Port Phillip  
Responsible Authority: City of Port Phillip

## ADDRESS OF THE LAND:

28-32 ALBERT ROAD, SOUTH MELBOURNE VIC 3205

## THE PERMIT ALLOWS:

Construction of buildings and works, use of land for dwellings, reduction in the statutory car parking requirements and variation of easement E-1 in TP948355L.

In accordance with the endorsed plans

## THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

### 1. Amended Plans Required

Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans submitted with the application (identified as project no 17016, plans no's plan no's A001\_A(B), A010\_A, A490\_A(D); A491\_A(B); A492\_A(C); A494\_A(A), A494\_M\_A(A), A500\_A(F), A501\_A(F), A502\_A(E), A506\_A(E), A507\_A(E), A508\_A(E), A518\_A(D), A524\_A(C), A525\_A(C), A900\_A(E), A901\_A(D), A902\_A(E), A903\_A(D), A950\_A(D), A951\_A(C), A952\_A(D), A1100\_A(A), A1101\_A(A), A1102\_A(C), A1103\_A(B), prepared by Elenberg Fraser but modified to show:

- a) The changes depicted in plans SK001 to SK006 prepared by Elenberg Fraser and signed at the VCAT Compulsory Conference dated 5 February 2019 and any consequential rearrangement of internal spaces.
- b) The provision of an automated flood barrier(s) at the entry to the western internal (rear) ramp access to the basement and the entry to the western internal (rear) pedestrian arcade, capable of extending 500mm above the ground level at 3.41 AHD in Basement Plan\_B1 (Dwg No. A490\_A).
- c) The height of any electrical /gas points or switches that are located external to the automated flood barriers on the western elevation must be above the level of 4.12m AHD.
- d) Dimensioned setbacks provided to all floor plans showing that the southern wall of the tower, excluding the basement and podium levels (B5-Level 06), would be setback a minimum 4.5m from the southern boundary.
- e) The southern edge of the rear balconies on levels 7 to 24 setback a minimum 4.5m from the southern boundary with dimensioned setbacks provided on the plans to show the 4.5m setback would be provided.
- f) Details of how the privacy of the bedrooms on level 1 would be protected from views from the wellness spa on the ground floor.
- g) Details of the apartments which comply with Standard D17 - Accessibility including:
  - A clear opening width of at least 850mm at the entrance to the dwelling and main bedroom.

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- A clear path with a minimum width of 1.2 metres that connects the dwelling entrance to the main bedroom, an adaptable bathroom and the living area.
  - A main bedroom with access to an adaptable bathroom.
  - At least one adaptable bathroom that meets all of the requirements of either Design A or Design B specified in Table D4.
- h) The rear balconies on levels 2 to 7 to be redesigned to show a minimum 2m width would be provided along the entire balcony.
- i) Swept path diagrams to demonstrate that there would be adequate clearance from the inner column near the western car lift transfer compartment in (Basement B1).
- j) The provision of a convex mirror or similar be installed to minimise conflict between vehicles egressing from Car Lift 01 and vehicles attempting to enter car lift 02.
- k) Confirmation from the manufacturer of the car lift, the car lift make and model to be installed has the capacity to prop at different levels.
- l) Confirmation of how the shared zone will be managed between functioning as a shared zone and as a loading zone in off-peak periods.
- m) Adequate internal service personnel circulation spaces within the service corridor(s) of Level B1, including any consequential design changes.
- n) The provision of a bollard or similar structure between the accessible parking spaces and residential lobby on basement plan B1.
- o) Details of sightlines at the exit point to Albert Road to improve the visibility of pedestrians waiting on the footpath along Albert Road.
- p) A longitudinal section through the entire length of the vehicle accessway from the entry point at the Right of Way to the exit point on Albert Road (including the loading bay area).  
The longitudinal section to show details of ramp grades and head room clearance, with a minimum 2.5m head clearance to be provided throughout the entire vehicle accessway and loading bay area.
- q) A full schedule of materials, finishes and paint colours, including colour samples (colour samples in a form that is able to be endorsed and held on file), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority.
- r) 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 rooftop including details of any such screening.
- s) All plan and elevation drawings fully dimensioned, including natural ground level, floor levels, and incremental and total wall and building heights and lengths, with heights to be expressed to Australian Height Datum (AHD) and/or reduced levels (RL).
- t) Any changes by condition 3 (Sustainable Management Plan).
- u) Any changes by condition 6 (Water Sensitive Urban Design).
- v) Any changes required by condition 10 (Waste Management Plan).
- w) Any changes required by condition 24 (Landscape Plan).
- x) An urban art contribution in accordance with condition 34.
- y) A notation on the plans that plant and equipment (other than solar panels) on the roof is non reflective.

## 2. No Alterations (use and development)

The layout of the site and the size, levels, design and location of buildings and works and the layout and description of the uses as shown on the endorsed plans must not be modified for any reason without the prior written consent of the Responsible Authority, unless the Port Phillip Planning Scheme exempts the need for a permit.

## 3. Sustainable Management Plan

Before the development starts (other than demolition or works to remediate contaminated land) an amended Sustainability Management Plan, that outlines proposed sustainable design initiatives must be submitted to, be to the satisfaction of and approved by the Responsible Authority. When

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approved, the Plan will be endorsed and will then form part of the permit and the project must incorporate the sustainable design initiatives listed. The Sustainable Management Plan must be generally in accordance with the plan submitted with the application prepared by Ark Resources dated 16 November 2017 but modified to show:

- Thermal performance improved to meet the 6.6 stars NatHERS rating
- Address heat loss particularly through thermal bridging.
- Details of how the privacy to the level 1 bedrooms would be protected from the wellness spa on the ground floor.

#### **4. Incorporation of Sustainable Design Initiatives**

The project must incorporate the sustainable design initiatives listed in the endorsed Sustainable Management Plan to the satisfaction of the Responsible Authority.

#### **5. Implementation of Sustainable Design Initiatives**

Before the occupation of the development approved under this permit, a report from the author of the 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 Sustainable Management Plan report have been implemented and/or incorporated in accordance with the approved report to the satisfaction of the Responsible Authority.

#### **6. Water Sensitive Urban Design**

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 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.

#### **7. Incorporation of Water Sensitive Urban Design Initiatives**

Before the occupation of the development approved under this permit, the project must incorporate the water sensitive urban design initiatives listed in the endorsed Water Sensitive Urban Design Report to the satisfaction of the Responsible Authority, and thereafter maintained to the satisfaction of the Responsible Authority.

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

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.

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

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.

## **10. Waste Management Plan for Higher Density Residential Development**

Before the development starts (other than demolition or works to remediate contaminated land), a Waste Management Plan, 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. Once submitted and approved, the waste management plan must be carried out to the satisfaction of the Responsible Authority.

The Waste Management Plan must be generally in accordance with the Waste Management Plan submitted with the application (Waste Space Solutions dated 13 November 2017 but modified to address the following:

- Frequency of collection and details of the time required for collection;
- Food and drink waste and recycling estimates are under (should be 535.5 using CoPP guidelines for cafes);
- Waste and recycling signage;
- Charity bins are recommended for a development of this size;
- Hard waste space needs to be drawn into the plans;
- Adequate circulation space and door clearances for the manoeuvring of waste bins; and
- Traffic Management Plan needs to include truck access and egress from site.

## **11. Loading / Waste Collection**

Any onsite loading/unloading or collection of waste must not occur between 7am to 9am and 4pm to 7pm Monday to Friday.

## **12. Car Parking and Bicycle Parking Layout**

Before the use or occupation of the development starts, the area(s) set aside for the parking of vehicles and bicycles and access lanes as shown on the endorsed plans must be:

- Constructed
- Properly formed to such levels that may be used in accordance with the plans;
- Surfaced with an all weather surface or seal coat (as appropriate);
- Drained and maintained;
- Line marked, as appropriate, to indicate each car space, visitor space, bicycle space, loading bay and/or access lane;
- Clearly marked to show the direction of traffic along access land and driveways

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All to the satisfaction of the Responsible Authority.

### **13. Parking and Loading Areas must be Available**

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.

### **14. Lighting**

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

### **15. Direction Sign**

Before the occupation of the development allowed by this permit a sign containing details and of a size to the satisfaction of the Responsible Authority must be displayed directing drivers to the area(s) set aside for car parking. The sign must be located and maintained to the satisfaction of the Responsible Authority.

### **16. Vehicle Crossings**

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, naturestrip, kerb and road reinstated as necessary at the cost of the applicant/owner and to the satisfaction of the Responsible Authority.

### **17. Applicant to Pay for Reinstatement**

Before the occupation of the development allowed by this permit, the applicant/owner must 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 the 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 alterations/reinstatement.

### **18. Public Services**

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.

### **19. Car Parking Allocation**

Without the further written consent of the Responsible Authority car parking for the approved development must be allocated on any Plan of Subdivision as follows:

- A minimum of 1 car space for each one and two bedroom apartment
- A minimum of 2 car spaces for each three or four bedroom apartment
- A minimum of 6 visitor spaces
- A minimum 3 spaces for the commercial spaces for staff

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- No car parking spaces are permitted to be leased to anyone not working or living on the premises.

All to the satisfaction of the Responsible Authority.

## **20. On-Site Bicycle Parking**

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

## **21. Car Parking Automated System and Lift Maintenance and Provision**

The mechanical car stackers and lift are to be maintained in a good working order for the parking of vehicles in accordance with their purpose, to the satisfaction of the Responsible Authority.

Prior to the occupation of the approved development, the owner/permit holder must prepare and have approved in writing by the Responsible Authority, a car stacker/ turntable/ lift system management plan including but not limited to the following:

- a) Details of the operation of the car lift and stacker system when waste would be collected or the loading space is in operation.
- b) Allocation of car parking spaces according to vehicle size and type;
- c) Ongoing maintenance of the car stacker system;
- d) Instructions to owners/occupiers about the operation of the car stacker system;
- e) Communicating to prospective residents about the availability of car stacker spaces and sizes; and
- f) Details of procedure in the event of a mechanical failure.

Once approved this document must be complied with to the satisfaction of the Responsible Authority and must not be varied except with the written approval of the Responsible Authority.

## **22. Pedestrian Arcade**

Subject to the consent of the Port Phillip City Council as the relevant land owner, prior to occupation, the permit holder at its cost must deliver a ground floor treatment that delineates the pedestrian path in between the pedestrian links of the subject site and the approved pedestrian link on no 13 - 21 Palmerston Crescent.

## **23. Public Access to Pedestrian Arcade**

The pedestrian arcade shown on the ground level plan must be open to the general public for use, except between the hours of 12 midnight and 6am the following day upon completion of the development, unless otherwise approved in writing by the responsible authority.

## **24. Landscape Plan**

Before the development starts (other than demolition or works to remediate contaminated land), a detailed Landscape Plan must be submitted to, approved by and be to the satisfaction of the Responsible Authority. When the Landscape Plan is approved, it will become an endorsed plan forming part of this Permit. The Landscape Plan must incorporate:

- 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;

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- e) A planting schedule of all proposed vegetation 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.

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

#### **25. Completion of Landscaping**

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.

#### **26. Landscaping Maintenance**

The landscaping as shown the endorsed Landscape Plan must be maintained, and any dead, diseased or damaged plant replaced in accordance with the landscaping plan to the satisfaction of the Responsible Authority.

#### **27. External Finishes**

Before the development starts (other than demolition or works to remediate contaminated land), a full schedule of materials, finishes and paint colours, including colour samples (colour samples in a form that is able to be endorsed and held on file), must be submitted to, be to the satisfaction of and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit.

#### **28. No Change to External Finishes**

All external materials, finishes and colours as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

#### **29. No Equipment or Services**

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.

#### **30. Noise Attenuation for Apartments**

Before the use commences, the applicant/owner must ensure that internal noise levels of the sleeping areas of the proposed dwellings must not exceed 35dB(a) with the windows closed; and for all other habitable rooms, levels must not exceed 40dB(A) with windows closed in accordance with relevant Australian Standards for acoustic control (including AS2107-1987 and AS3761 – Road Traffic) to the satisfaction of the Responsible Authority.

A report prepared by a suitably qualified professional demonstrating compliance with the requirements of this condition must be submitted prior to the commencement of the use.

#### **31. Ongoing Involvement of the Architect**

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

#### **32. Number of Dwellings**

Without the further written consent of the Responsible Authority, no more than 55 dwellings may be constructed on the land.

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### **33. Wind Assessment**

Before the development starts, an amended Wind Impact Assessment, based on wind tunnel modelling 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.

### **34. Urban Art Plan**

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. 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.

### **35. SEPP N-1**

All air conditioning and refrigeration plant must be screened and baffled and/or insulated to minimise noise and vibration to ensure compliance with noise limits determined in accordance with State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 to the satisfaction of the Responsible Authority.

### **36. Light Baffled**

All lighting of external areas both during construction and after completion must be suitably baffled so as not to cause nuisance or annoyance to nearby properties or roads, to the satisfaction of the Responsible Authority and all illuminated advertising lighting on cranes must be turned off between the hours of 10pm and 7am.

### **37. Major Transport Infrastructure Authority**

#### Provision of Final Foundation Plans

Prior to occupation, the permit holder must provide Major Transport Infrastructure Authority with a copy of the final foundation designs, loading details and as constructed details of the footings and if piled, the piling records. Plans should be submitted electronically by emailing [planningapprovals@railprojects.vic.gov.au](mailto:planningapprovals@railprojects.vic.gov.au) quoting reference no. MM2018/005

### **38. Major Transport Infrastructure Authority**

#### Ground Anchor/Rock Bolts

Ground anchors or rock bolts used in the development must not intrude into the road reserve of Albert Road unless first agreed in writing by Major Transport Infrastructure Authority.

### **39. Major Transport Infrastructure Authority**

#### Ground Water Management Plan

Before bulk excavation of the development starts, a Groundwater Management Plan must be submitted to the satisfaction of Major Transport Infrastructure Authority to demonstrate that any change in the groundwater level, either during or post construction, will not have adverse impact on the Metro Tunnel structures.

### **40. Major Transport Infrastructure Authority**

#### Construction Management Plan and Traffic Management Plan

Before development starts, including demolition and bulk excavation, a Construction Management Plan and a Traffic Management Plan must be submitted to the satisfaction of Major Transport Infrastructure Authority.

The Construction Management Plan and Traffic Management Plan may be approved in stages. The Construction Management Plan and Traffic Management Plan must include details of (but not be

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limited to) management proposals to minimise impacts to Metro Tunnel Infrastructure during construction and must set out objectives and performance and monitoring requirements for:

Construction Management Plan

- a) The demolition and construction program
- b) An outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services
- c) Describe how the public interfaces between the Melbourne Metro Tunnel project area and the subject site will be managed in respect to public and worker safety and wayfinding
- d) Measures to ensure that all works on the subject site will be carried out in accordance with the Construction Management Plans.

Traffic Management Plan

- a) Preferred arrangement for trucks accessing to the subject site, including delivery and unloading and expected duration and frequency
- b) How traffic management (including traffic controllers) will be delineated from the Melbourne Metro Tunnel project and the subject site to avoid confusion between areas of control

**41. Major Transport Infrastructure Authority**

Compliance with Groundwater Management Plan, Construction Management Plan, and Traffic Management Plan

All demolition and construction works must be carried out in accordance with the approved Groundwater Management Plan, Construction Management Plan, and Traffic Management Plan. These must be implemented at no cost to Major Transport Infrastructure Authority.

**42. Time for Starting and Completion**

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

- a) The development is not started within four (4) years of the date of this permit.
- b) The development is not completed within two (2) years of the date of commencement of works.
- c) 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.

***Note: This permit was issued by the direction of the Victorian and Administrative Tribunal order dated 11 February 2019 (VCAT reference P2072/2018)***

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# IMPORTANT INFORMATION ABOUT THIS NOTICE

## WHAT HAS BEEN DECIDED?

The Responsible Authority has issued a permit.

## WHEN DOES A PERMIT BEGIN?

A permit operates:

- \* from the date specified in the permit, or
- \* if no date is specified, from
  - (i) the date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the direction of the Tribunal, or
  - (ii) the date on which it was issued, in any other case.

## WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if: -
  - \* the development or any stage of it does not start within the time specified in the permit, or
  - \* the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act, 1988 and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision; or
  - \* the development or any stage is not completed within the time specified in the permit, or if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within five (5) years of the certification of the plan of subdivision or consolidation under the Subdivision Act, 1988.
2. A permit for the use of land expires if: -
  - \* the use does not start within the time specified in the permit, or if no time is specified, within two (2) years after the issue of the permit, or
  - \* the use is discontinued for a period of two (2) years
3. A permit for the development and use of land expires if: -
  - \* the development or any stage of it does not start within the time in the permit; or
  - \* the development or any stage of it is not completed within the time specified in the permit or if no time is specified, within two (2) years after the issue of the permit; or
  - \* the use does not start within the time specified in the permit, or if not time is specified, within two (2) years after the completion of the development or
  - \* the use is discontinued for a period of two (2) years.
4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in Section 6A(2) of the Planning and Environment Act, 1987 or to any combination of use, development or any of those circumstances requires the certification of a plan under the Subdivision Act, 1988 unless the permit contains a difference provision -
  - \* the use or development of any stage is to be taken to have started when the plan is certified; and
  - \* the permit expires if the plan is not certified within two (2) years of the issue of the permit.
5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

## WHAT ABOUT APPEALS? – ADVICE FOR APPLICANTS

- \* The person who applied for the permit may appeal against any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal (VCAT), in which case no right of appeal exists.
- \* An appeal must be lodged within 60 days after the permit was issued, unless a Notice of Decision to grant a permit has been issued previously, in which case the appeal must be lodged within 60 days after the giving of that notice.
- \* An appeal is lodged with the Victorian Civil and Administrative Tribunal (VCAT).
- \* An appeal must be made on an Application for Review – Permit Applicant form which can be obtained from the VCAT website, <https://www.vcat.vic.gov.au/resources/document/permit-applicantspermit-holder-application-review-form>
- \* An appeal must state the grounds upon which it is based.
- \* An appeal must also be served on the Responsible Authority.
- \* Details about appeals and the fees payable can be obtained from the VCAT website [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au) or by telephoning VCAT on (03) 9628 9777.



# PLANNING COMPLIANCE

## Common planning compliance issues when developing land

### Fact sheet

#### Planning and building permit compliance

Building permit plans must match planning permit plans for development. While building permit plans will have more technical and structural detail than planning permit plans, they must be consistent with the endorsed planning permit plans.

Council will enforce compliance with the endorsed planning permit plans, even in cases where an error in the building permit plans causes an inconsistency.

#### Expired planning permits

You must pay careful attention to any conditions relating to the expiration of your planning permit. Once the permit expires you may no longer be able to lawfully commence or continue any building and works allowed by the permit.

You can apply to extend your planning permit by contacting Council's Planning Department. This must be done while the permit is still valid; within six months of the permit's expiry date if the development has not commenced or within 12 months of the permit's expiry date to complete the development.

#### Additional reports and documents

Most planning permits require you to submit additional documentation to Council prior to commencing the development allowed by the permit. These documents must be endorsed by Council by the times specified.

Typical examples of documents still required after the issue of a planning permit include revised plans, demolition method statements, arborist reports, sustainable design statements and acoustic reports.

Please pay careful attention to the conditions of your permit, as failure to comply with the requirements of these conditions can result in enforcement action being taken with no notice to you.

#### Demolition within Heritage Overlay sites

Heritage Overlays are used to protect sites that have heritage significance, and are contained within Council's planning schemes.

Much of the municipality is covered by a Heritage Overlay, and as such, many planning permits deal with partial demolition of protected heritage buildings.

It is essential that you take particular care not to exceed the extent of any demolition that has been allowed by the planning permit. You should ensure that you are familiar with the Demolition Method Statement and the plans indicating the extent of demolition permitted.

Council takes illegal demolition very seriously and offenders may be referred to the Magistrates Court for prosecution.

#### Landscaping

Landscaping must be completed in accordance with the permit, usually before or within a set period of time after the occupation of the building.





# PLANNING COMPLIANCE

## Tree protection

Some planning permits require you to take special measures to protect trees located on your land or on neighbouring properties.

If your planning permit includes conditions regarding tree protection, you must ensure you comply with these conditions. This often means, installing protective fencing around trees and maintaining the fence during construction.

You may also be required to employ the services of a qualified arborist to supervise areas of construction near protected trees.

## Building heights and setbacks

Floor levels and parapets must comply with the approved heights indicated on the endorsed plans. Over-height buildings are considered a serious breach and can be very expensive to rectify.

Any changes to the height of a building must be approved prior to carrying out any building works, even if these changes are required for technical reasons.

## Screening – windows and decks

All privacy screening must be installed as approved prior to occupation of the building. Screening must comply with the conditions outlined in the approved permit and plans including materials, heights and design.

Generally, windows that require screening must not be able to be opened below a height of 1.7metres above floor level.

Screening materials must not be altered from those approved without first gaining further planning approval for the alternative screening proposal.

## Domestic services

In heritage areas, domestic services including air conditioners, solar panels, heaters and hot water services require planning approval if visible from a street (front or side) or public park. A condition on the planning permit may also restrict domestic services except with further Council consent. Consideration should be given to any noise issues that may result for neighbours from the placing and operation of these types of units.

Any domestic services you intend to install must be shown on the endorsed plans forming part of your planning permit, including any proposed screening, prior to the unit's installation.

## Finishes on boundary walls

Finishes must be completed to an acceptable standard in accordance with the conditions of the planning permit, prior to occupation.

Brick boundary walls must have any excess mortar removed and the brick face cleaned with joints tooled to a consistent finish, prior to occupation of the building.

## For more information contact

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