

**VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL**

**PLANNING AND ENVIRONMENT LIST**

VCAT REFERENCE NO. P936/2024 & P955/2024  
 PERMIT APPLICATION NO. PDPL/00115/2024

**APPLICANT**

**P936/2024** Owners Corporation OC545213S

**P955/2024** Angelo Pignalosa

**RESPONSIBLE AUTHORITY** Port Phillip City Council

**RESPONDENT** St Kilda Road Fund 1 Developer Pty Ltd

**SUBJECT LAND** 424-426 St Kilda Road  
 MELBOURNE VIC 3004

**DATE OF ORDER** 16 December 2024

**ORDER**

**Permit granted**

- 1 In applications P936/2024 and P955/2024 the decision of the responsible authority is varied.
- 2 In planning permit application PDPL/00115/2024 a permit is granted and directed to be issued for the land at 424-426 St Kilda Road, Melbourne in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:

<b>Planning scheme clause</b>	<b>Matter for which the permit has been granted</b>
Clause 34.01-1	The use of the land for Accommodation.
Clause 34.01-4	To construct a building or construct or carry out works.
Clause 43.02-2	To construct a building or construct or carry out works.
Clause 52.06-3	Reduce the number of car parking spaces required under Clause 52.06-5 for Office and Retail.
<b>In accordance with the endorsed plans.</b>	

- 3 The hearing scheduled on **10, 11, 12, 13, 14 & 17 February 2025** are cancelled and the dates are **vacated**.



4 No further orders.

Christopher Harty  
**Member**



## REMARKS

- 1 This order is made at the request of the parties in Tribunal matters P936/2024 and P955/2024 and with their consent.
- 2 It relates to applications for review by Owners Corporation OC545213S in relation to P936/2024 and Angelo Pignalosa in relation to P955/2024 ('applicants') of Port Phillip City Council's ('Council') Notice of Decision to Grant a Permit No. PDPL/00115/2024 on 2 August 2024. The planning application was for a multi storey building containing office, retail and dwellings and parking reduction on land at 424-426 St Kilda Road, Melbourne.
- 3 The parties have reached agreement prior to the hearing subject to conditions relating to privacy screening.
- 4 The Tribunal regards the consent of the parties, including that of the responsible authority to be a confirmation to the Tribunal that:
  - the responsible authority is of the opinion that the permit is appropriate having regard to the matters it is required to consider under section 60 of the *Planning and Environment Act 1987* (Vic), including the balanced application of the strategies and policies of the Port Phillip Planning Scheme and is otherwise in conformity with the provisions of the planning scheme and the *Planning and Environment Act 1987* (Vic);
  - the proposed orders will not result in any change to the proposed use or development which would materially affect any person other than the applicants and responsible authority.
- 5 Based on the information available to the Tribunal, I consider it is appropriate to make these orders.

Christopher Harty  
**Member**



## APPENDIX A – PERMIT DESCRIPTION AND CONDITIONS

<b>PERMIT NO</b>	PDPL/00115/2024
<b>PLANNING SCHEME</b>	Port Phillip Planning Scheme
<b>RESPONSIBLE AUTHORITY</b>	Port Phillip City Council
<b>ADDRESS OF THE LAND</b>	424-426 St Kilda Road, Melbourne

### THE PERMIT ALLOWS:

<b>Planning scheme clause</b>	<b>Matter for which the permit has been granted</b>
Clause 34.01-1	The use of the land for Accommodation.
Clause 34.01-4	To construct a building or construct or carry out works.
Clause 43.02-2	To construct a building or construct or carry out works.
Clause 52.06-3	Reduce the number of car parking spaces required under Clause 52.06-5 for Office and Retail.
<b>In accordance with the endorsed plans.</b>	

### CONDITIONS TO APPLY TO THE PERMIT:

#### Amended Plans Required

- 1 Before the use and development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and an electronic copy must be provided. The plans must be generally in accordance with the advertised plans (identified as **Revision 2, Plans No's as A-001 to A-003, A-100 to A-109, A-111, A-114 to A-119, A-200 to A-203, and A-250 to A-252 dated 30 April 2024**) but modified to show:
  - (a) The St Kilda Road forecourts finished surface level to be set to no lower than 6.95 AHD or otherwise to the satisfaction of the Responsible Authority, and the interface to ground floor tenancies and subsequent design changes to the satisfaction of the Responsible Authority.
  - (b) Provide universally accessible pedestrian entrances to the site and building entrance.



- (c) The application for works (car parking spaces and associated works) along Kings Way deleted.
- (d) The relocation of one of the two public bicycle parking facilities on Kings Way to the St Kilda Road frontage (within the site boundary).
- (e) Reduce the length of the freestanding wall located along Queens Lane (located within the port cochere) to the extent of the services cupboards and basement ventilation only.
- (f) A dimension added to the narrowest point of the Kings Way footpath.
- (g) Any bicycle lift to have minimum internal dimensions of 2.0 metres door width and 2.5 metres depth.
- (h) The provision of a flashing light, signage or convex mirror to the basement ramp at the Queens Lane property boundary
- (i) A correction to drawings A-200 to A-203, A-250 and A-251 to show the building at 430 St Kilda Road as a residential building.
- (j) Apartment layout plans for all dwelling types proposed in this development to be provided. The layout plans to show how the proposal satisfies Clause 58.05-1 to Clause 58.05-4, and Clause 58.07-1 to Clause 58.07-4 for each dwelling type proposed in this development.
  - Each typical apartment floor plan to include a list of the addresses that reflect that floor plan.
  - Each typical apartment floor plan to also include a summary to show how the proposal satisfies Clause 58.05 and Clause 58.07.
- (k) Details of how the proposal satisfies Standards D21 (Storage) and D29 (Natural Ventilation).
- (l) Fencing along St Kilda Road reduced to a maximum height of 1.2 metres and to be designed to be visually permeable, unless otherwise required from a wind mitigation purpose.
- (m) Any changes required to satisfy Condition 6 (Sustainability Management Plan), 12, (Landscape Plan), 15 (Tree Management Protection Report), 17 (Wind Assessment), and 18 (Waste Management Plan).
- (n) Privacy screening measures and façade treatment to the external face of the south elevation from levels 8-18 in accordance with plans prepared by SOM Architects labelled SK32\_A108, SK32\_A109, SK32\_A111, SK32\_A114 and SK32\_A116, SK32\_A117 and SK32\_A118 all dated 12 November 2024.
- (o) Further and additional privacy screening to those treatments referred to in condition 1(n) by way of the following:

- i The southernmost master bedroom window of apartment L14.11 and L15.11 (Level 14-15) to have directional glazing which inhibits any outlook (greater than 25% transparency) to the building at 430 St Kilda Road, Melbourne.
- ii The southeastern bedroom of L14.11 and L15.11 (Level 14-15) to have a spandrel finish.
- iii The southernmost 'bay' of the terrace of apartment L14.11 and L15.11 (Level 14-15) to have obscure glazing to 1.8 metres above finished floor level.
- iv The spandrel finish associated with master bedroom of apartment L17.08 (Level 17) to return / wrap north 0.3 metres along the interface with the terrace.

### **No Alterations**

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

### **Privacy Screening Must be Installed**

- 3 Prior to occupation of the development approved by this permit the installation of privacy screens must be undertaken in accordance with the endorsed plans. The privacy screens must be maintained thereafter to the satisfaction of the Responsible Authority.

### **No Equipment or Services**

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

### **No Change to External Finishes**

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

### **Sustainable Management Plan**

- 6 Prior to the endorsement of condition 1 plans, a Sustainable Management Plan (SMP) must be submitted to and approved by the Responsible Authority. Upon approval the SMP will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the SMP to the satisfaction of the Responsible Authority. Amendments to the SMP must be incorporated into plan changes required under Condition 1. The report must be generally in accordance with the SMP prepared by ADP Consulting Pty Ltd dated 29 April 2024 but updated to address the following:

- (a) Confirmation from the Green Building Council of Australia that the development is in the process of achieving a minimum certified 4 Star Green Star Buildings rating.
- (b) The MUSIC assessment the report must include the following:
  - i Version of MUSIC used,
  - ii Rainfall station closest to the project site selected,
  - iii Rainfall data 10-year period selected,
  - iv Clear depiction of catchment areas with impervious percentages shown,
  - v Input parameters of all proposed treatment devices,
  - vi Use of any modelling parameters that are not in accordance with Melbourne Water's MUSIC Modelling Guidelines to be provided with explanations and supporting evidence.
  - vii Summary report from the MUSIC auditor tool is to be provided.
- (c) Double glazing to match as described in the Glazing Legend of the Acoustic Report prepared by Enfield Acoustics dated 5 March 2024.

### **Green Star Pre Certification**

- 7 Prior to occupation or commencement of any use, a Green Star Designed assessment representing pre-certification that the building's design is on track to achieve a minimum 4-star Green Star rating when assessed after construction must be obtained from the Green Building Council of Australia (GBCA) and submitted to the Responsible Authority.

When approved, the report will be endorsed and will then form part of this permit.

### **Implementation Report for Environmentally Sustainable Design**

- 8 Prior to the issue of any Certificate of Occupancy or Certificate of Final Inspection for the development approved by this permit, an ESD Implementation Report (or reports) from a suitably qualified person or company, must be submitted to and endorsed by the Responsible Authority. The Report must confirm that all ESD initiatives in the endorsed SMP and WSUD report have been implemented in accordance with the approved plans, or otherwise to the satisfaction of the Responsible Authority. The ESD and WSUD initiatives must be maintained throughout the operational life of the development to the satisfaction of the Responsible Authority.

### **Incorporation of Sustainable Design Initiatives and Green Star Certification**

- 9 The project must incorporate the sustainable design initiatives and Green Star certification listed in the endorsed Sustainable Management Plan to the satisfaction of the Responsible Authority.

Within 12 months of completion of the development, a certificate must be obtained from the Green Building Council of Australia (GBCA), and provided to the Responsible Authority, that a 4 Star Green Star Buildings rating has been achieved for the development.

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

- 10 Before the occupation of the development approved under this permit, the project must incorporate the water sensitive urban design initiatives listed in the SMP to the satisfaction of the Responsible Authority, and thereafter maintained to the satisfaction of the Responsible Authority.

### **Construction Management Water Sensitive Urban Design**

- 11 The developer must ensure that throughout the construction of the building(s) and construction and carrying out of works allowed by this permit;
  - (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.

### **Landscape Plan**

- 12 Prior to the endorsement of condition 1 plans (other than demolition or works to remediate contaminated land), an amended 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 must be generally in accordance with the Landscape Plan submitted with the application (identified as *424-426 St Kilda Road, Melbourne Town Planning Report: Landscape Architecture*, revision 1, prepared by T.C.L and dated 3 May 2024) but modified to show:
  - (a) All condition 1 changes.
  - (b) Revised bicycle parking location and allow for more garden bed opportunity along Kings Way.

- (c) A revised species list to fit the garden bed/raised planter space or revise the raised planter to include enough soil volumes for each tree.
- (d) Revised landscape plans to show tree overlays on separate plans so that the landscape layout can be clearly documented.
- (e) Details of landscape proposal to Queens Lane
- (f) Provide section locations at the narrowest point, with dimensions on sections.
- (g) Plant schedules to include mature, height and width, and installation size (in addition to botanical and common names).
- (h) Correct fencing details to St Kilda Road and Kings Way.
- (i) The trees to Kings Way to be tolerant of pollution and have low water requirements.
- (j) The following details to ensure the correct level of assessment can be undertaken as part of the landscape referral:
  - i materials palette including fencing, paving, furniture, art, walls etc.
  - ii In ground tree planting.
  - iii Raised planter detail.
  - iv Retaining wall/planter detail.
  - v Seating details or proprietary item information.
  - vi Paved details.
  - vii Feature stair and terrace stair details.
  - viii Water feature detail.
- (k) Accuracy to the architectural plans.

### **Completion of Landscaping**

- 13 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**

- 14 The landscaping as shown in 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.

## **Tree Management Protection Report**

- 15 Prior to the commencement of development, including any related demolition or removal of vegetation, a Tree Management Report (TMR), prepared by a suitably qualified arborist, to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority.

The applicant must undertake measures to ensure that all contractors, sub-contractors and tradespersons operating on the site are aware of the contents of this report.

The Tree Management Report must include a Tree Protection Plan (TPP) in accordance with AS4970-2009 Protection of Trees on Development Sites.

Both the TMR & TPP must be part of one document that must be named as the Tree Management Protection Report (TMPR).

The TMPR must include:

- (a) Details of Tree Protection Zones, as per AS4970-2009, for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site.
- (b) Protection measures to be utilised and at what stage of the development they will be implemented.
- (c) Appointment of a project arborist detailing their role and responsibilities.
- (d) Stages of development at which the project arborist will inspect tree protection measures.
- (e) Monitoring and certification by the project arborist of implemented protection measures.
- (f) The TPP must:
  - Be legible, accurate and drawn to scale.
  - Show the location of all tree protection measures to be utilised.
  - Include a key describing all tree protection measures to be utilised.

## **Street Tree Protection**

- 16 Tree Protection Fencing is to be established around the four street trees parallel to the subject site frontage prior to demolition and maintained until all works on site are complete.

The fencing is to be a 1.8-metre-high temporary fence constructed using chain wire / cyclone mesh panels, with shade cloth attached (if required), held in place with concrete feet/pads. Alternative materials may be used, if approved by the Responsible Authority.

The fencing is to encompass the entire nature strip with each end beyond the TPZ of each tree as shown in the Tree Protection and Management Plan (drawing).

No excavation, construction activity, grade changes, surface treatment or storage of materials of any kind is permitted within the TPZ, unless approved in the endorsed Tree Management Protection Report.

### **Wind Assessment**

- 17 Prior to the endorsement of condition 1 plans, a suitably qualified person must undertake a comprehensive wind tunnel test of the entire development and a Wind Climate Assessment Report to the satisfaction of the Responsible Authority 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

### **Waste Management Plan**

- 18 Prior to the endorsement of condition 1 plans, a Waste Management Plan based on the City of Port Phillip's Waste Management Plan Guidelines for Developments 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 Waste Management Plan must be generally in accordance with the Waste Management Plan submitted with the application prepared by Ratio dated 5/03/2024.

### **Loading / Unloading**

- 19 The loading and unloading of vehicles and the delivery of goods to and from the premises must at all times be conducted entirely within the site and in a manner that limits interference with other vehicular traffic to the satisfaction of the Responsible Authority.

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.

### **Vehicle Crossings**

- 20 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 and road reinstated as necessary at the cost of the applicant/owner and to the satisfaction of the Responsible Authority.

### **Applicant to Pay for Reinstatement**

- 21 Prior to the occupation of the development, 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.

### **Urban Art Plan**

- 22 Before the development starts, 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 Installation**

- 23 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.

### **Car Parking and Bicycle Parking Layout**

- 24 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:
- (a) Constructed.
  - (b) Properly formed to such levels that may be used in accordance with the plans.
  - (c) Surfaced with an all-weather surface or seal coat (as appropriate).
  - (d) Drained and maintained.
  - (e) Line marked to indicate each car space, visitor space, bicycle space, loading bay and/or access lane.
  - (f) Clearly marked to show the direction of traffic along access land and driveways.

All to the satisfaction of the Responsible Authority.

### **Acoustic Testing**

- 25 All base building mechanical plant on the Subject Land must be assessed by a suitably qualified acoustic consultant prior to commencement of

development to ensure that noise impacts are managed to comply with the Noise Protocol at all on-site and off-site sensitive uses.

- 26 The roof top plant and services must be screened and baffled and/or insulated to minimise noise and vibration to other residences in accordance with Environmental Protection Authority Noise Control Technical Guidelines

### **Piping, Ducting, Service Units**

- 27 All service pipes/service units (excluding down pipes, guttering and rainwater heads) must be concealed from view from the public realm and any screening devices suitably integrated into the design of the building to the satisfaction of the Responsible Authority.

### **Lighting baffled**

- 28 All lighting of external areas must be suitably baffled so as not to cause nuisance or annoyance to nearby residential properties.

### **Glare**

- 29 Specular light reflectance must be less than 15 per cent for all external building glazing and cladding materials and finishes when measured at an angle of 90 degrees to the surface of the material (normal incidence), except with the written consent of the responsible authority.

### **Satisfactory Continuation and Completion**

- 30 Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

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

- 31 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 six (6) years of the date of this permit.
  - (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.

**No reticulated gas connection - apartments**

- 32 Any new apartment development allowed by this permit must not be connected to a reticulated gas service (within the meaning of clause 53.03 of the relevant planning scheme). This condition continues to have force and effect after the development authorised by this permit has been completed.

**– End of conditions –**