

DRAFT CONDITIONS

RESPONSIBLE AUTHORITY: Minister for Planning
ADDRESS: 365, 371 & 395 Plummer Street, Port Melbourne
APPLICATION NO: Minister Ref: PA2386/2017
Council Ref: 5/2017/MIN

Draft Permit Preamble

Demolition of the existing building and construction of a mixed-use development, comprising three (3) residential towers atop mixed-use podiums, including a supermarket, food and drinks premises, day spa and offices; use of a childcare center, gymnasium and accommodation; the provision of car parking in excess of rates specified in the Parking Overlay; and alteration to access in a Road Zone Category I.

Draft Conditions

Amended Plans required

1. Before the development and/or use 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 three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:

a)

No Alterations

2. The layout of the site and the size, levels, design and location of buildings and works, and external materials, finishes and colours 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.

Privacy Screens - Cross-Sections Required

3. Before the development starts (other than demolition or works to remediate contaminated land), cross section elevation drawings of the screens to the balcony(s), window(s) <delete as applicable> must be submitted to and approved by the Responsible Authority. The drawings must:
 - a) Be drawn to scale and fully dimensioned;
 - b) Clearly delineate any solid parts of the screen and any louvre or batten parts of the screen;
 - c) Clearly illustrate how any louvre or batten system may allow horizontal or upward views but will prevent downward views to neighbouring properties;
 - d) Show the exact width and thickness of each louvre or batten, the exact spacing between each louvre or batten and a section detail from behind the screen demonstrating that direct views of adjacent private open space are precluded, while allowing outlook horizontally and upward from the balcony and/or window.

All to the satisfaction of the Responsible Authority.

Privacy Screens Must be Installed

4. 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.

Sustainable Management Plan

5. Before the development starts (other than demolition or works to remediate contaminated land) a Sustainable Management Plan that outlines proposed sustainable design initiatives 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

Incorporation of Sustainable Design initiatives

6. Prior to the occupation of the building(s) allowed by this permit, the project must incorporate the sustainable design initiatives listed in the endorsed Sustainable Management Plan.

Water Sensitive Urban Design Response

7. 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.

Incorporation of Water Sensitive Urban Design initiatives

8. Prior to the occupation of the building(s) allowed by this permit, the project must incorporate the water sensitive design initiatives listed in the endorsed Water Sensitive Urban Design Response.

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

9. 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

10. 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.

Environmental Wind Assessment

11. Prior to the occupation of the building(s) allowed by this permit, the project must incorporate the wind amelioration initiatives listed in the endorsed Wind Impact Assessment Report to the Satisfaction of the Responsible Authority.

Incorporation of Noise attenuation Measures

12. Prior to the occupation of the building(s) allowed by this permit, the project must incorporate the noise attenuation measures listed in the endorsed Acoustic Report and shown on the endorsed plans to the satisfaction of the Responsible Authority.

Vehicle crossings

13. Prior to the occupation of the building(s) allowed by this permit, vehicle crossings must be constructed in accordance with Council's current Vehicle Crossing Guidelines and standard drawings and all redundant crossings must be removed and the footpath, naturestrip, kerb and road reinstated as necessary at cost of the applicant/owner to the satisfaction of the responsible authority.

Car and Bicycle Parking Layout

14. 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; and
 - 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.

Completion of Landscaping

15. 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

16. 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.

Alteration/Reinstatement of Council or Public Authority Assets

17. Prior to the occupation of the building(s) 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

18. 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.

Urban Art Plan

19. 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.

Incorporation of Urban Art Plan Measures

20. Prior to the occupation of the building(s) allowed by this permit, urban art in accordance with the endorsed Urban Art Plan must be installed to the satisfaction of the Responsible Authority.

Contaminated Land

21. Before the development starts (other than demolition or works to remediate contaminated land), the Responsible Authority must be provided with:
 - (a) A certificate of Environmental Audit for all of the land in the Planning Unit issued in accordance with Section 53Y of the Environment Protection Act 1970; or
 - (b) A Statement of Environmental Audit for all of the land in the Planning Unit issued under Section 53Z of the Environment Protection Act 1970 confirming that the environmental conditions of the land are suitable for the use and development allowed by this permit.

Compliance with Statement of Environmental Audit

22. Where a Statement of Environmental Audit is issued for the land, the buildings and works and the use(s) of the land that are the subject of this permit must comply with all directions and conditions contained within the statement.

Where a Statement of Environmental Audit is issued for the land, before the commencement of the use, and before the issue of a Statement of Compliance under the Subdivision Act 1988, and before the issue of an occupancy permit under the Building Act 1993, a letter prepared by an Environmental Auditor appointed under Section 53S of the Environment Protection Act 1970 must be submitted to the Responsible Authority to verify that the directions and conditions contained within the statement have been satisfied.

Where a Statement of Environmental Audit is issued for the land, and any condition of that statement requires any maintenance or monitoring of an on-going nature, the owner(s) must enter into an agreement with the Responsible Authority pursuant to Section 173 of the Planning & Environment Act 1987, which must be executed before the commencement of the permitted use and before the certification of the Plan of Subdivision under the Subdivision Act 1988. All such expenses related to the Section 173 Agreement including drafting, negotiating, lodging, registering, execution and ending of the Agreement, including those incurred by the Responsible Authority, must be met by the owner(s).

Remediation Works Plan

23. Before any remediation works are undertaken in association with the environmental audit, a 'remediation works plan' must be submitted to and approved by the Responsible Authority. The plan must detail all excavation works as well as any proposed structures such as retaining walls required to facilitate the remediation works. Only those works detailed in the approved remediation works plans are permitted to be carried out before the issue of a Certificate or Statement of Environmental Audit.

Agreement under Section 173 of the Planning and Environment Act 1987 Re:

Developer Contribution

- 24.** Before the development starts (other than demolition or works to remediate contaminated land), the applicant must:
- (a) Enter into an agreement under Section 173 of the *Planning and Environment Act 1987* with the Responsible Authority;
 - (b) Register the agreement on the title(s) for the land in accordance with Section 181 of the *Planning and Environment Act 1987*; and
 - (c) Provide the Responsible Authority with the dealing number confirming the registration of the title.

The agreement must be in a form to the satisfaction of the Responsible Authority, and the applicant must be responsible for the expense of the preparation and registration of the agreement, including the Responsible Authority's reasonable costs and expense (including legal expenses) incidental to the preparation, registration, enforcement and ending of the agreement. The agreement must contain covenants to be registered on the Title of the property so as to run with the land, and must provide for the following:

- (a) The developer to pay a development contribution of:
 - \$15,900 per dwelling
 - \$180 per sqm of gross commercial floor area;
 - \$150 per sqm of gross retail floor area;or other amount outlined within an approved development contribution plan to the satisfaction of the Responsible Authority.
- (b) Require that development contributions are to be indexed quarterly from 1 July 2015 using the Price Index of Output of the Construction Industries (Victoria) by the Australian Bureau of Statistics.
- (c) Require registration of the Agreement on the titles to the affected lands as applicable.
- (d) Include a schedule of the types of infrastructure to be delivered by the Development Agency using development contributions.
- (e) Confirm that contributions will be payable to the Metropolitan Planning Authority.
- (f) Confirm that the contributions will be used by the Development Agency as stipulated by the Metropolitan Planning Authority to deliver the schedule of types of infrastructure.
- (g) Require that a bank guarantee to the value of 50% of the development contribution must be deposited with the Responsible Authority prior to the commencement of any works. The bank guarantee will be returned upon full payment of the development contribution.
- (h) Confirm the procedure for reducing the contribution paid if the permanent development contributions plan for the area is less than the amount stipulated in the Section 173 Agreement.
- (i) Require that payment of 10% of the contribution is at the time of issue of the building permit and 90% to be made prior to the issue of a Statement of Compliance in accordance with the *Subdivision Act 1988*.
- (j) The agreement must make provision for its removal from the land following completion of the obligations contained in the agreement.

Agreement under Section 173 of the Planning and Environment Act 1987 Re: Affordable Housing

- 25.** Within 12 months of the commencement of construction, including demolition, bulk excavation and site preparation works (but excluding any clean up works), the owner must:
- (a) enter into an agreement under Section 173 of the *Planning and Environment Act 1987* to the satisfaction of the Responsible Authority;

- (b) register the agreement on the title(s) for the land in accordance with Section 181 of the *Planning and Environment Act 1987*; and
- (c) provide the Responsible Authority with the dealing number confirming the registration of the title.

The agreement must be in a form to the satisfaction of the Responsible Authority, and the owner must be responsible for the expense of the preparation and registration of the agreement, including the Responsible Authority's reasonable costs and expense (including legal expenses) incidental to the preparation, registration, and ending of the agreement. The agreement must contain covenants to be registered on the Title of the property so as to run with the land, and must provide for the following:

- (i) the provision of 6% of the total number of dwellings (rounded down to the nearest whole number) as affordable housing 1 bedroom dwellings within the building;
- (ii) the dwellings to be tenure blind;
- (iii) title to the dwellings to be transferred to a Housing Trust approved by the Responsible Authority and the City of Port Phillip
- (iv) dwellings must be managed as social housing in perpetuity in accordance with the Trust Deed by a registered Housing Association or Housing Provider approved by the Responsible Authority and the City of Port Phillip.
- (v) the dwellings be set aside for occupation by low income residents to the satisfaction of the Responsible Authority and the City of Port Phillip; and
- (vi) one bicycle space must be allocated to each affordable housing dwelling.
- (vii) in the event the permit holder is unable to achieve an arrangement in accordance with this condition, to Council's satisfaction, the City of Port Phillip would be responsible for locating a Housing Association or Housing Provider.

Walls on or facing the boundary

26. Before the occupation of the development allowed by this permit, all new or extended walls on or facing the boundary of adjoining properties and/or a laneway must be cleaned and finished to a uniform standard to the satisfaction of the Responsible Authority. Unpainted or unrendered masonry walls must have all excess mortar removed from the joints and face and all joints must be tooled or pointed also to the satisfaction of the Responsible Authority. Painted or rendered or bagged walls must be finished to a uniform standard to the satisfaction of the Responsible Authority.

3D Model

27. Before the development starts other than demolition and site preparation works, a 3D digital model of the overall development and its immediate surrounds, as appropriate, must be submitted to the Responsible Authority and be to the satisfaction of the Responsible Authority in conformity with the Department of Planning and Community Development Advisory note – 3D Digital Modelling.

In the event that substantial modifications are made to the overall development a revised 3D digital model must be submitted to and be to the satisfaction of the Responsible Authority.

Dual Water Reticulation

28. Before the occupation of the development allowed by this permit, the development must include dual reticulation and a connection point to connect to a potential future precinct scale alternative water supply via a third pipe network to the satisfaction of the relevant water authority to the satisfaction of the Responsible Authority.

Traffic Assessment

29. Before the development starts other than demolition and site preparation works, an amended Traffic Assessment Report prepared by a suitably qualified person must be submitted to and approved by the Responsible Authority. The Report must:
- (a)
 - (b)
 - (c)

Satisfactory continuation

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

Services to be underground

31. All new services to the property including water, electricity, gas, sewerage, telephone and telecommunications (whether by means of a line or cable) must be installed underground and located in a position approved by the Responsible Authority. All costs associated with any such works must be borne by the applicant / owner.

Lighting baffled

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

No equipment and services

33. No equipment, services and exhausts other than those shown on the endorsed plan must be erected above the roof level of the building unless otherwise agreed to in writing by the Responsible Authority.

Building equipment and services

34. No external plant, equipment, services and exhausts other than those shown on the endorsed plans may be constructed unless otherwise agreed to in writing by the Responsible Authority.

Any satellite dishes, antennas or similar structures associated with the development must be designed and located at a single point on each building in the development to the satisfaction of the Responsible Authority, unless otherwise approved to the satisfaction of the Responsible Authority.

Parking and Loading Areas Must Be Available

35. 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.

Water Supply / Recycled Water / Sewerage Provision

36. The construction of the development must comply with the provisions of any agreements between the owner and the relevant water authority relating to the supply of water, recycled water or the provision of sewerage as appropriate. All works in relation to the supply of water, recycled water or sewerage must be completed prior to the issue of a Statement of Compliance unless an alternative arrangement is set out in any agreement with the relevant water authority.

Energy Supply Provision

37. The construction of the development must comply with the provisions of any agreements between the owner and the relevant energy authority relating to the supply of energy as appropriate. All works in relation to the supply of energy must be completed prior to the issue of a Statement of Compliance unless an alternative arrangement is set out in any agreement with the relevant energy authority.

Glazing Reflectivity

38. Glazing materials used on all external walls must be of a type that does not reflect more than 15% of visible light, when measured at an angle of 90 degrees to the glass surface, to the satisfaction of the Responsible Authority.

No Damage to Existing Street Tree(s)

39. The proposed development and works must not cause any damage to any existing street tree to be retained. Root pruning of any adjacent street tree must be carried out to the satisfaction of the Responsible Authority prior to the construction of any crossover/works.

All adjacent street trees to be retained will require a tree protection zone which complies with AS 4970-2009 at all times throughout the demolition and construction phase of the development. A tree protection fence is to be installed around any tree that is likely to be impacted by construction. The fence is to be constructed in a diamond or square position around each tree trunk from 4 panels of a minimum height 1.8m x

minimum length 2.1 m, interlocking by bolted clamps and concrete pads. No entry to this area is permitted without the consent of the Responsible Authority.

Car Parking Space Allocation

40. A minimum of car parking spaces must be provided on the land for the development/use, includingspaces for the shop, spaces for visitors and car spaces for the dwellings to the satisfaction of the Responsible Authority. The spaces for the shop and the visitors' spaces must be clearly marked for these uses to the satisfaction of the Responsible Authority.

Parking and Loading Areas Must Be Available

41. 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.

Loading/Unloading – Where a Loading Bay is Provided

42. The loading and unloading of goods from vehicles must only be carried out on the subject land within the designated loading bay, as detailed on the endorsed plans, and must be conducted in a manner which does not cause any interference with the circulation and parking of vehicles on the land to the satisfaction of the Responsible Authority.

SEPP N-1 and N-2

43. 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.

Time for Starting and Completion

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

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

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