

PORT PHILLIP PLANNING SCHEME

INCORPORATED DOCUMENT

33, 35-37 Fitzroy Street, St Kilda

February 2021

This document is an incorporated document in the Port Phillip Planning Scheme under section 6(2)(j) of the *Planning and Environment Act 1987*.

1.0 INTRODUCTION

This document is an incorporated document in the Schedules to Clauses 45.12 (Specific Controls Overlay) and 72.04 (Documents Incorporated in this Planning Scheme) of the Port Phillip Planning Scheme (the scheme).

The land identified in Clause 3.0 of this document may be used and developed in accordance with the specific controls and clauses contained in Clauses 5.0 and 6.0 of this document.

The provisions of this document prevail over any contrary or inconsistent provision in the scheme.

2.0 PURPOSE

The purpose of this document is to facilitate the use and development of the land described in Clause 3.0 of this document for the demolition of existing buildings, construction of a multi-storey residential hotel, including food and drink premises and bar, including the use of land to sell and consume liquor (including sale of packaged liquor), on-site car and bicycle parking, solar panels and rainwater tanks; and the display of signage including direction, promotion and identification signs, generally in accordance with the plans approved in Clause 5.0 of this document and subject to the clauses at Clause 6.0 of this document.

3.0 LAND

The control in this document applies to land at 33, 35-37 Fitzroy Street, St Kilda, formally described as Lot 1 on Plan of Subdivision 076938 Vol 08943 Fol 315 and Land in Plan of Consolidation 107002 Vol 09339 Fol 605, that is affected by the Specific Controls Overlay (SCO34) as shown on Planning Scheme Map 6SCO in the planning scheme and identified in Figure 1 below.



Figure 1: Land subject to the incorporated document highlighted in red.

4.0 EXEMPTION FROM PLANNING SCHEME REQUIREMENTS

Despite any provision to the contrary or any inconsistent provision in the planning scheme, no planning permit is required for, and no planning provision in the planning scheme operates to prohibit, restrict or regulate the use and development of land for the purposes of the project as described in Clauses 5.0 and 6.0 of this document.

5.0 THIS DOCUMENT ALLOWS

The Incorporated Document allows the use and development of the land for:

- Demolition of existing buildings, including part demolition
- Buildings and works for the construction of a multi-storey residential hotel
- Use of the land for a food and drink premises and bar
- Use of land to sell and consume liquor (including sale of packaged liquor licence)
- On-site car and bicycle parking
- Solar panels and rainwater tanks
- Display of signage including direction, promotion and identification signs.

The use and development must be generally in accordance with the following Revision A plans prepared by Mostaghim dated August 2020 and modified by clause 6.0 of this Incorporated Document:

SHEET NUMBER	SHEET NAME
TP-02	EXISTING / DEMOLITION GROUND FLOOR PLAN
TP-03	EXISTING/DEMOLITION LEVEL 1 PLAN
TP-04	EXISTING/DEMOLITION LEVEL 2/3 PLAN
TP-05	EXISTING/DEMOLITION LEVEL 4 PLAN
TP-06	EXISTING/DEMOLITION ROOF PLAN
TP-07	PROPOSED GROUND FLOOR PLAN
TP-08	PROPOSED LEVEL 1 FLOOR PLAN
TP-09	PROPOSED LEVEL 2/LEVEL 3 FLOOR PLAN
TP-010	PROPOSED LEVEL 4 FLOOR PLAN
TP-11	PROPOSED LEVEL 5 FLOOR PLAN
TP-12	PROPOSED LEVEL 6 FLOOR PLAN
TP-13	PROPOSED ROOF PLAN
TP-14	PROPOSED SECTION SHEET 1
TP-15	PROPOSED SECTION SHEET 2
TP-16	PROPOSED SECTION SHEET 3
TP-17	NORTH ELEVATION
TP-18	SOUTH ELEVATION
TP-19	EAST ELEVATION
TP-20	WEST ELEVATION

And including any amendment of the plans that may be approved from time to time under the requirements of this document. Once approved, these plans will be the endorsed plans.

6.0 THE FOLLOWING REQUIREMENTS APPLY TO THIS DOCUMENT:

6.1 Plans to be endorsed

1. Prior to the commencement of any development (other than demolition, bulk excavation works and site preparation/retention works), detailed architectural plans must be prepared and submitted to and approved by the Responsible Authority. The plans must be drawn to scale, and be generally in accordance with the plans listed in clause 5.0 to this incorporated document modified to show:

- a) Any design changes resulting from recommendations contained in the approved:
 - i. Noise and Amenity Action Plan as required by Clause 8
 - ii. Acoustic Report as required by Clause 9
 - iii. Waste Management Plan as required by Clause 13
 - iv. Landscape Plan as required by Clause 17
 - v. Sustainability Management Plan as required by Clause 20.
- b) A schedule and sample panel of all external materials and finishes showing materials, colours and finishes, roof and glazing treatment;
- c) The following changes to car parking:
 - i. At least 10 parking spaces provided for staff only.
 - ii. Accessible parking space 18 to be relocated to space 15 next to the shared zone.
 - iii. The revised accessible parking space 15 may also serve as a loading bay for courier vans.
 - iv. Space 17 to be converted from a shared zone to a parking space;
- d) The following changes to bicycle parking and facilities:
 - i. Provision of at least two bicycle rails on public land along the Fitzroy Street frontage of the site or a nearby location;
- e) The details of all proposed signage, including signage type, location, any internal or external illumination and dimensions.

Use and Development

- 2. The use and development must be constructed and operated in accordance with the endorsed plans, unless with the prior written consent of the responsible authority.
- 3. Unless with the further written approval of the responsible authority, the site is to be exclusively used as a Residential Hotel meaning the provision of temporary accommodation mainly for travellers and tourists.

Amenity, Noise and the sale and consumption of liquor

- 4. All external lighting must be baffled to ensure no adverse impact on abutting or adjacent properties to the satisfaction of responsible authority.
- 5. All external building elevations, fixtures and works must be maintained in good condition at all times in accordance with the schedule of finishes shown on the endorsed plans to the satisfaction of responsible authority.
- 6. The amenity of the area must not be detrimentally affected by the use or development of the land to the satisfaction of the responsible authority, including through the:
 - (a) Transport of materials, goods or commodities to or from the land,
 - (b) Appearance of any building, works or materials,
 - (c) Emission of artificial light, vibration, smell, fumes, smoke, steam, soot, ash, dust, waste water, waste products, grit or oil,

- (d) Presence of vermin.
7. Unless with the written consent of the responsible authority, the sale and consumption of liquor (including packaged liquor) must only occur within the Level 5 bar between the hours of 10am – 1am the following day. During these times, patron numbers within the bar at Level 5 are limited to 330.
8. Prior to the commencement of the use, a Noise and Amenity Action Plan prepared by a suitably qualified professional must be submitted to and approved by the responsible authority, and contain the following:
- a) The identification of all noise sources associated with the outdoor terrace and other licensed food and drink premises (including, but not limited to, music noise, external areas allocated for smokers, queuing lines, entries and exists to the premises).
 - b) Hours of operation for all parts of the premises.
 - c) Details of the provision of music including the frequency and hours of entertainment provided by live bands and DJs.
 - d) The identification of noise sensitive areas including residential uses and accommodation in proximity to the licensed premise.
 - e) Measures to be undertaken to address all noise sources identified, including on and off-site noise attenuation measures, including, but not limited to:
 - i. The measures to be taken by management and staff to ensure patrons depart the premises and the surrounding area in an orderly manner.
 - ii. 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.
 - f) Details of staffing arrangements including numbers and working hours of all security staff.
 - g) Standard procedures to be undertaken by staff in the event of a complaint by a member of the public, the Victoria Police, an authorised officer of the responsible authority or an office of the liquor licensing authority.
 - h) A telephone number provided for residents to contact the premises and linked to the complaints register.
 - i) An attendant or doorman responsible for monitoring the number of patrons on the premises after 10pm.
 - j) The keeping of a register recording the number of patrons on the premises each hour between 10pm and closing time.
 - k) The measures to be taken by management and staff to ensure that patrons do not cause nuisance or annoyance to persons beyond the land.
 - l) Staff being trained in the responsible service of alcohol.
 - m) Procedures, and standards for guests to minimise amenity and parking issues in the neighbourhood (with guest parking by valet/desk clerk only)
 - n) Standards for property maintenance, health and cleanliness including measures to be undertaken to ensure areas surrounding the establishment are kept clean of litter.
 - o) Establishment of house rules (to be displayed in a prominent location and clearly visible to guests in the premises at all times) regarding:
 - i. Guest behaviour and no refund eviction practice and processes should inappropriate guest behaviour exist
 - ii. Control of noise from inside and outside the site

- iii. Control of alcohol consumption,
 - iv. Ensuring that the number of guests per unit must not exceed the number included in the appropriate tariff.
- p) The maintenance of a complaint register, which must, on reasonable request, be made available for inspection by the responsible authority.

When approved, the Noise and Amenity Action Plan will be endorsed and will form part of this incorporated document.

The actions and recommendations of the Noise and Amenity Action Plan must be carried out to the satisfaction of the responsible authority.

9. Prior to the commencement of the use, an Acoustic Report prepared by a suitably qualified Acoustic Consultant must be submitted to, approved by and be to the satisfaction of Responsible Authority which demonstrates compliance with the State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2 (SEPP N-2) noise limits and confirms that a Noise Monitor and Limiter ("the Device") is operating and has each and every of the following characteristics which are also operating, and that the device:
- a) limits music noise levels so as to ensure compliance with the music noise limits according to State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2 (SEPP N-2);
 - b) is a limiter suitable for interfacing with a Permanently Installed Sound System which will include any amplification equipment and loudspeakers;
 - c) monitors noise levels at octave band frequencies to ensure that the limiter governs amplification in accordance with SEPP N-2;
 - d) controls are locked (either in a cabinet or via software) so that it is not accessible by personnel other than a qualified acoustic engineer or technician nominated by the owner of the land and notified to the Responsible Authority;
 - e) is installed to control all amplification equipment and associated loudspeakers;
 - f) is set in such a way that the thresholds do not exceed the noise limits of SEPP N-2;
 - g) includes a monitor level component which includes a microphone incorporated in its own tamper-proof enclosure (beyond the normal reach of a person) and stores the monitored data.

Once submitted and approved the Acoustic Report will be endorsed and will form part of the incorporated document.

The actions and recommendations of the Acoustic Report must be carried out to the satisfaction of the responsible authority.

10. Noise levels emanating from the outdoor terrace must not exceed noise levels as determined by the State Environment Protection Policies N-1 & N-2, as applicable.
11. Plant and equipment shall be assessed by a suitably qualified acoustic consultant during design and construction to ensure compliance with SEPP N-1.
12. A bottle crusher must be located within the premises and used for the disposal of bottles and glass. Disposal of the crushed bottles and glass outside of the premises must not occur after 10pm or before 8am Monday to Saturday or after 10 pm or before 10am on Sunday. This can be varied with the prior written consent of the responsible authority.

Waste Management Plan

13. Before the commencement of the development (other than demolition, bulk excavation works and site preparation/retention works), a Waste Management Plan, generally in accordance with the waste management plan prepared by Traffix dated August 2020, must be submitted to and approved by the Responsible Authority.
14. The waste storage and collection arrangements must be undertaken in accordance with the approved Waste Management Plan, to the satisfaction of the Responsible Authority. The Waste Management Plan must not be altered without written consent of the Responsible Authority.

Storage and disposal of garbage and collection

15. Provision must be made for the storage and disposal of garbage to the satisfaction of the Responsible Authority. All garbage storage areas must be screened from public view and garbage collection must, without the written consent of the responsible authority, utilise Council collection and must take place from the kerbside no more than three days a week at non-peak times of day.

Storage of goods

16. No goods associated with the residential hotel are permitted to be stored or left exposed outside the building so as to be visible from any public area.

Landscaping

17. Before the development starts (other than demolition, bulk excavation works and site preparation/retention works), a detailed Landscape Plan addressing the detail and viability of the proposed outdoor terrace landscaping treatment must be submitted to, approved by and be to the satisfaction of the Responsible Authority. When this Landscape Plan is approved, it will become an endorsed plan forming part of this incorporated document. The Landscape Plan must incorporate:
 - a) A planting schedule of all proposed vegetation including botanical names; common names; pot sizes; sizes at maturity; quantities of each plant.

All public realm works outside of the title boundary must be to the satisfaction of the Responsible Authority.

Before the occupation of the development, the landscaping treatments shown on the approved landscaping plan must be carried out, completed and maintained to the satisfaction of the Responsible Authority.

Materials and finishes

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

Ongoing involvement of Architect

19. The owner of the land must retain MOSTAGHIM 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, unless otherwise approved in writing by the Responsible Authority.

Sustainability Management Plan

20. Before the development starts (other than demolition, bulk excavation works and site preparation/retention works), a Sustainability Management Plan addressing ESD and WSUD initiatives and confirming how the development achieves the best practice policy objectives under clause 22.13 of the Port Phillip Planning Scheme must be submitted to and be approved by the Responsible Authority. The initiatives must demonstrate the new development has the preliminary design potential to achieve a minimum equivalent four star "Green Star New Buildings" rating for the development.
21. The measures included in the Sustainability Management Plan must be implemented prior to occupation of the building, to the satisfaction of the Responsible Authority.
22. Prior to the occupation of the development, a report from the author of the Sustainability Management Plan, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Sustainability Management Plan have been implemented in accordance with the approved plan. Any change during detailed design, which affects the approach of the endorsed report, must be assessed by a suitably qualified person or company, and a revised statement must be approved by the Responsible Authority. All measures specified in the Sustainability Management Plan must thereafter be maintained to the satisfaction of the Responsible Authority.

Site Management Water Sensitive Urban Design

23. 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.

Plant & equipment

24. No plant, equipment or domestic services (including any associated screening devices) or architectural features, other than those shown on the endorsed plan are permitted, except where they would not be visible from the primary street frontage (other than a lane) or public park without the written consent of the Responsible Authority.

Car Parking Areas must be Made Available

25. Car and bicycle parking areas and internal access ways 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.

Vehicle Crossings

26. Before the occupation of the development allowed by this permit, the existing vehicle crossing on Jackson Street must be reinstated to the satisfaction of the Responsible Authority.

Walls on or facing a boundary

27. 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.

Bicycle rails

28. Prior to the occupation of the development, at least two circular stainless steel bike racks must be installed at the cost of the applicant/owner on the adjacent public footpath along the Fitzroy Street frontage of the site or in a nearby location to the satisfaction of the Responsible Authority. Once the racks have been installed they will become a Council asset and the developer will have no further ongoing obligations or responsibilities regarding the racks

7.0 EXPIRY

The control in this document expires if any of the following circumstances apply:

- The development allowed by this control is not started by one year of the date of the gazettal of Amendment C196port.
- The development allowed by this control is not completed within four years from the date of gazettal of Amendment C196port.
- The use allowed by this control is not started within four years from the date of gazettal of Amendment C196port.

The Responsible Authority may extend these periods if a request is made in writing before the expiry date or within six months afterwards.