



PLANNING PERMIT

Application Number: **490/2020/A**

Planning Scheme: **Port Phillip**

Responsible Authority: **City of Port Phillip**

ADDRESS OF THE LAND:

1-7 WATERFRONT PLACE PORT MELBOURNE VIC 3207

THE PERMIT ALLOWS:

Use and development of the land, to carry out works and construct a 10 storey mixed use building over two basement levels, comprising dwellings, retail (shop, food and drink premises, wellness centre), a restricted recreation facility (gymnasium) and a reduction in car parking requirements., generally in accordance with the endorsed plans and subject to the following conditions.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1 Amended Plans Required

Before the use and/or development starts, other than demolition, early works (hording site services, site shed etc) works to remediate contaminated land, and excavation and piling, 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 plans amended by way of Section 57A of the Planning and Environment Act 1987 and advertised by Council, date stamped as being received by Council on 8 April 2021 and identified as A0003 (Rev: D), A0098 (Rev: D), A0099 (Rev: D), A0100 (Rev: D), A0101 (Rev: D), A0102 (Rev: C), A0103 (Rev: C), A0104 (Rev: C), A0105 (Rev: C), A0106 (Rev: C), A0107 (Rev: D), A0108 (Rev: D), A0109 (Rev: D), A0110 (Rev: D), A0900 (Rev: D), A0901 (Rev: D), A0902 (Rev: D), A0903 (Rev: D), A0904 (Rev: B), A0905 (Rev: B), A0950 (Rev: D), A0951 (Rev: D), A0952 (Rev: D), A0960 (Rev: D), A0961 (Rev: D), A0963 (Rev: B), A1100 (Rev: B), A1101 (Rev: B), A1600 (Rev: B), A1601 (Rev: B) and Schedule 002 – External Materials and Finishes (Rev: B) but modified to show:

- a) Details of the surface materials to be used to the north/south laneway (to the western interface of the site), to identify it as a shared surface for pedestrians and vehicles.
- b) A detailed (1:50 scale) elevation(s) to all ground floor commercial frontages which includes a solid section of wall at the base of the building, to better anchor the building and improve tactility.

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- c) An improved western interface to Townhouse 6, by including privacy measures to windows and by extending/reconfiguring the abutting planter, to create defensible space adjacent to the bedrooms and bathroom.
- d) Public seating provided to the eastern 'parklet'.
- e) Internal disabled ramp access to the southern entrances of the food and drink premises, provedore and gym. Ramp access can replace platform lifts.
- f) Introduction of external shading to the east elevation; and, details of operable external shading devices to east and west façade including dimensions, design details, materials, operability; to be shown on elevations as well as the floor plans.
- g) All windows that are openable on the floor plans.
- h) All balconies that are to be winter gardens.
- i) Details of winter gardens showing the method used to enclose them, the allowance for light penetration and that they shall be fully openable (full height and across the full width of the balcony).
- j) Provide appropriate privacy measures to the east facing windows of the townhouses, to protect their own privacy and also limit overlooking to adjoining townhouses.
- k) The car park entrance 'garage door' at Beach Street to be setback a minimum of 6 metres from the property boundary with Beach Street.
- l) All buildings/built form at ground floor to be setback a minimum of 2m from the southern boundary, including the architectural corner features and the planter extending from the southern courtyard.
- m) Removal of the seating and planter boxes within the east/west pedestrian linkage.
- n) Reduction in height of the podium to ensure the podium does not exceed 3 Storeys or 12m at any point.
- o) The development must not exceed 10 storeys (inclusive of the podium and exclusive of rooftop services).
- p) A notation on the plans that written confirmation by a Licensed Land Surveyor will be provided to the Responsible Authority verifying that the development does not exceed 35m above natural ground level in height. This must be provided at relevant stages during the construction of the building as nominated by the Responsible Authority and before the building is occupied.
- q) Details that demonstrate that architectural features, such as building services, that exceed the maximum building height, do not exceed the height by more than 4 metres and do not

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exceed 10% of the gross floor area of the top building level; and, any associated reduction in roof top services.

- r) Details that demonstrate that development above 3 storeys (and 12 metres) to be set back a minimum of 8 metres in addition to any ground level setback, this includes to the eastern corner of the development where the setback must be taken from the ground level setback; and to the canopy overhangs along the southern elevation and to the eastern corner. Consequential design changes are permitted albeit setbacks must be absorbed within the building envelope, without the reduction of any other setback.
- s) Specifications that demonstrate the external finishes to be of a type that does not reflect more than 15% of visible light, when measured at an angle of 90 degrees to the surface.
- t) A storage schedule which demonstrates compliance with Clause 58 standard D20, for all dwellings.
- u) An annotation to the ground floor plan to state that all offsite works are indicative and are subject to the relevant approval of the Responsible Authority.
- v) Any changes required by the Car and Bicycle Parking Management Plan, in accordance with condition 16.
- w) An Urban Art Plan, in accordance with condition 21.
- x) Any changes required by the findings of the amended Wind Assessment, in accordance with condition 22.
- y) Any changes required by the findings of the Arboricultural Impact Assessment and the TPMP, in accordance with conditions 23 and 24 respectively.
- z) An updated Landscape Plan, in accordance with condition 25.
 - aa) Any changes required by the amended SMP, in accordance with condition 27.
 - bb) Any changes required by the amended WMP, in accordance with condition 32.
 - cc) Any changes required by the findings and recommendations of the Amended Acoustic Report, in accordance with condition 33.
 - dd) Deleted.

2 No Alterations (development and use)

The layout of the site and the size, levels, design, finishes and location of buildings and works; and, the description of the use(s), as shown on the endorsed plans must not be modified for any reason (unless the Port Phillip Planning Scheme specifically states that a permit is not required) without the prior written consent of the Responsible Authority.

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3 Covenants

The uses and development approved by this permit must not commence until the relevant written consents are obtained from Mirvac (Beacon Cove Pty Ltd and/or Victoria Pty Ltd, as relevant) or its nominee pursuant to Restrictive Covenants V074097S (5/11/1997), PS344341D (29/05/1997), W413729L (17/11/1999) registered on the titles of the Subject Land OR the requirement for consent by Mirvac or its nominee is removed from Restrictive Covenants V074097S (5/11/1997), PS344341D (29/05/1997), W413729L (17/11/1999).

If the requirement for consent persists in the covenants, prior to the endorsement of plans the written consents of Mirvac or its nominee must be provided to the Council.

4 Satisfactory Continuation and Completion

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

5 Hours of Operation and Number of Patrons

Without the further written consent of the Responsible Authority the use(s) must operate only between the following hours and with no more than the following number of patrons:

- a) Food and drink premises: 7am to 11pm, Monday to Sunday; with a maximum of 150 patrons at any time.
- b) Retail/shops, including provedore: 7am to 11pm, Monday to Sunday.
- c) Gym (including wellness centre): 5:30am to 11pm, Monday to Sunday; with a maximum of 175 patrons at any time.

6 General Amenity

The amenity of the area must not be detrimentally affected by the use and development through the:

- a) Transport of materials, goods or commodities to or from the land
- b) Appearance of any building, works or materials, or
- c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.

To the satisfaction of the Responsible Authority.

7 Ongoing Involvement of the Architect

The applicant must retain the project architect, Elenberg Fraser, to complete the design and provide architectural oversight of the delivery of the detailed design as shown in the endorsed plans and

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endorsed schedule of materials and finishes during construction except with the prior written approval of the Responsible Authority.

8 No External Amplified Equipment

Without the further written consent of the Responsible Authority, no form of public address system, loud speakers or sound amplification equipment must be used on the premises so as to be audible outside the premises.

9 Privacy Screening Must be Installed

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.

10 Walls on or Facing the Boundary

Prior to occupation of the development approved 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.

11 No Equipment or Services

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 mechanical plant is permitted on balconies/terraces.

12 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.

13 Car and Bicycle Parking Layout

Prior to occupation of the development approved by this permit the area(s) set aside for the parking of vehicles and bicycles and access lanes as shown on the endorsed plans must, to the satisfaction of the Responsible Authority, be:

- a) Constructed;
- b) Properly formed to such levels that may be used in accordance with the plans;

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- 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, motorcycle space, loading bay and/or access lane.
- f) Clearly marked to show the direction of traffic along access lanes and driveways.

14 Parking and Loading Areas Must Be Available

Car, motorcycle 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.

15 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) not less than one car space for each one and two bedroom dwelling;
- b) not less than two car spaces for each dwelling with three or more bedrooms;
- c) not less than 13 car spaces (total) for the food and drink / shop / retail uses;
- d) not less than 10 car spaces for the gym use.

All to the satisfaction of the Responsible Authority.

16 Car and Bicycle Parking Management Plan

Prior to the endorsement of plans under condition 1 of this permit, other than demolition, early works (hording site services, site shed etc) works to remediate contaminated land, and excavation and piling, a parking plan to the satisfaction of the Responsible Authority, prepared by a suitably qualified professional, must be submitted to and approved by the Responsible Authority. Once approved the plan will be endorsed and form part of this permit. The plan must detail a car parking management plan (CPMP) including a line-marking plan, specific details regarding the car park access controls and location of intercom system, how to use the bike racks and where residents, staff and accredited visitors should park bikes, to the satisfaction of the Responsible Authority.

17 Lighting

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

18 Utility connections

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Before the occupation of the development *allowed by this permit*, any modification to existing infrastructure and services within the road reserve (including but not restricted to electricity, telecommunications services, gas, water, sewerage 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 Provision of Bike Racks on the Pavement

Prior to occupation of the development approved by this permit, stainless steel bike racks must be installed in the adjacent public footpath or nature strip in a location to the satisfaction of the Responsible Authority. Installation of the bike racks shall be undertaken by the Responsible Authority. All costs associated with the supply and installation of the bike racks are to be borne by the applicant/owner/developer. 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.

20 Green Transport Plan

Before the occupation of the development *allowed by this permit*, a green travel plan to the satisfaction of the Responsible Authority, prepared by a suitably qualified professional, must be submitted to and approved by the Responsible Authority. Once approved the plan will be endorsed and form part of this permit. The green travel plan must provide detailed advice regarding how traffic movements and staff parking will be managed and ensure an alternative, non-private vehicle transport modes will be encouraged. The plan should also identify specific opportunities for the provision of more sustainable transport options and encouragement of their use. The plan must include but not be limited to:

- a) Bicycle parking, including that suitable for e-bikes, to be installed in well secured and prominent locations at ground level if possible, for tenants and visitors.
- b) Provide electric vehicle recharge facilities
- c) Install signs in prominent locations advising of the location of existing and proposed share car schemes, bicycle parking facilities for staff, residents and visitors, tram stops, taxi ranks, railway stations, bus stops and bicycle lanes and paths.
- d) Ensure that access to the on-site parking is restricted and controlled.
- e) Establishment of a car-pooling database for residents/employees
- f) Specific targets to guide the plans ongoing implementation;
- g) Identify persons responsible for the implementation of actions;
- h) Estimate timescales and costs for each action;
- i) Include a plan for monitoring and review of the Travel Plan on an annual basis for at least three years.

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21 Urban Art Plan

Concurrently with the submission of plans for endorsement under condition 1 of this permit, other than demolition, early works (hording site services, site shed etc) works to remediate contaminated land, and excavation and piling, 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.

22 Wind Assessment

Concurrently with the submission of plans for endorsement under condition 1 of this permit, other than demolition, early works (hording site services, site shed etc) works to remediate contaminated land, and excavation and piling, a suitably qualified person must prepare an updated Wind Climate Assessment Report to the satisfaction of the Responsible Authority, which must be provided for the written endorsement of the Responsible Authority. The Report must be in general accordance with the submitted Environmental Wind Considerations, prepared by MEL Consultants and dated 29 October 2020 but updated to reflect the requirements of Condition 1 of this permit. 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.

23 Arboricultural Impact Assessment

Prior to the commencement of the development (excluding works required for relevant pre-commencement testing), an Arboricultural Impact Assessment report must be submitted to, be to the satisfaction of and approved by the Responsible Authority, the impact assessment must be prepared by a suitably qualified Arborist (AQF level 5 or equivalent) and include:

- a) trees on neighbouring properties with TPZs that fall within the subject site,
- b) the nature strip tree(s) adjacent the property.

The report must follow the guidelines from Council Arboriculture Victoria and comply with the Australian Standard 4970:2009 Protection of Trees on Development Sites.

Should the report find that any works encroach into 10% or more of the Tree Protection Zone, or into the Structural Root Zone of any tree, and the design cannot be modified to reduce the incursion, then a non-destructive root investigation (NDRI) must be conducted and documented, with a root map to show the location, depth and diameter of all roots found along the line of the proposed works. The findings, photographs and recommendations shall be presented in the impact assessment report.

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

24 Tree Protection Management Plan

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Prior to the commencement of the development (excluding works required for relevant pre-commencement testing), and prior to any related demolition or vegetation removal, a Tree Protection and Management Plan (TPMP) that details how the trees will be protected, in accordance with AS4970-2009 (Protection of Trees on Development Sites), will be required, to the satisfaction of the Responsible Authority. Once approved, the TPMP will be endorsed and form part of the permit. The TPMP must be prepared by a suitably qualified Arborist (AQF level 5 or equivalent) and include:

- a) measures to protect trees including any modified construction techniques such as root sensitive footings and permeable paving;
- b) identification and methodology of any canopy or root pruning required (for onsite or offsite trees);
- c) trees on neighbouring properties with TPZs that fall within the subject site;
- d) the nature strip tree(s) adjacent the property.

The tree protection measures directed in the TPMP must be installed prior to commencement of works at the site, maintained and remain in place until such time as specified within the TPMP.

25 Landscape Plan

Concurrently with the submission of plans for endorsement under condition 1 of this permit, other than demolition, early works (hording site services, site shed etc) works to remediate contaminated land, and excavation and piling, an updated 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 be in general accordance with the Landscape Concept Plan (Rev: 02) dated 08/04/2021 but updated to 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, as measured 1m above ground;
- (d) All street trees and/or other trees on Council land;
- (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) Advanced tree stock (minimum 45 litre pot or bag 2.5 metres tall when planted unless otherwise agreed to in writing by the Responsible Authority);
- (h) Consistency with the plans required under condition 1 of this permit;

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- (i) Details of the green wall to the north facing wall, above the food and drink premises;
- (j) Details of the façade planting to the western retail units;
- (k) Landscaping to the first floor level;
- (l) Details of surfaces and appropriate integration with the public realm;
- (m) Details of irrigation;
- (n) Details of the green roof.

Trees are not to be sited over easements.

26 Completion and Maintenance 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. 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 Sustainable Management Plan

Concurrent with the endorsement of plans under condition 1 of this permit, other than demolition, early works (hording site services, site shed etc) works to remediate contaminated land, and excavation and piling, a revised Sustainable Management Plan must be submitted to, be to the satisfaction of and approved by the Responsible Authority. The revised Sustainability Management Plan must be generally in accordance with the ESD design memo 'Further Initiatives to BESS Excellence' dated 5 March 2021 that commits to at least a 70% BESS score for the development but modified to be consistent with items specified in condition 1 of this permit. In addition, the following shall be incorporated in the updated SMP:

- a) Confirm that all dwellings would achieve NatHERS cooling loads not exceeding 30 MJ/M² per annum.
- b) For residential windows within the podium level, the usage of windows with visible light transmissions (VLTs) exceeding 50%.

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.

28 Incorporation and Maintenance of Sustainable Design Initiatives

Prior to the occupation of any dwelling/building approved under this permit, the provisions, recommendations and requirements of the endorsed Water Sensitive Urban Design Report and Sustainability Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

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The ESD initiatives of the endorsed Water Sensitive Urban Design Report and Sustainability Management Plan must be fully implemented and maintained throughout the operational life of the development to the satisfaction of the Responsible Authority.

29 ESD Implementation Report

Prior to the occupation of any building approved under this permit, a report (or reports) from the author of the Sustainability Management Plan (SMP), approved under this permit, or similarly qualified person or company, must be submitted to the satisfaction of the Responsible Authority and must confirm all measures specified in the approved SMP and WSUD report have been implemented in accordance with the approved plans.

30 Confirmation of Green Power

Prior to the issue of a Statement of Compliance, electrical plans must be submitted to the responsible authority showing that the whole development will be serviced by an embedded network. Within one month of the first owners' corporation meeting required under the Owners Corporations Act 2006, a copy of the executed contract with the Embedded Network Operation, confirming that all electricity supplied to the entire development will be 100% accredited Green Power (or equivalent 100% renewable energy generation), must be submitted to Council.

31 Construction Management Water Sensitive Urban Design

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

32 Waste Management Plan

Concurrent with the endorsement of plans under condition 1 of this permit, other than demolition, early works (hording site services, site shed etc) works to remediate contaminated land, and excavation and piling, an updated Waste Management Plan must be submitted to, be to the satisfaction of and approved by the Responsible Authority. The plan must be in general accordance with the WMP

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submitted with the application but updated to reflect the plans required by condition 1. When approved the WMP will be endorsed and form part of the permit.

33 Acoustic Report and Mitigation Measures

Concurrent with the endorsement of plans under condition 1 of this permit, other than demolition, early works (hording site services, site shed etc) works to remediate contaminated land, and excavation and piling, an updated Acoustic Report prepared by a suitably qualified person must be submitted to, approved by and be to the satisfaction of the Responsible Authority. The Report must be generally in accordance with the submitted Acoustic Assessment prepared by Acoustic Logic (Rev: 3, 22/10/2020) but updated to include:

- Confirmation that the Port was audible during measurements, or if the measured noise levels are inclusive of Port noise and what noise level the Port was generating;
- Confirmation of how it was established that the Port was in full operation. Alternatively, provide long term continuous monitoring (at least 7-days) to reasonably sample and establish the variability of Port operation;
- Appropriate mitigation measures based on surrounding noise sources, including the Port (in full operation) and the adjacent tram/light rail, to confirm that all dwellings will achieve internal noise levels not exceeding 30dBA in any bedrooms and 40 dBA in living areas;
- Appropriate mitigation measures to ensure the use of the gym will not unreasonably impact the above/surrounding dwellings in terms of noise and vibration.

When approved, the Report will be endorsed and will then form part of this permit and the development must incorporate the mitigation measures listed.

34 Internal Noise Levels to Dwellings

All dwellings must achieve internal noise levels not exceeding 30dBA in any bedrooms and 40 dBA in living areas, to the satisfaction of the Responsible Authority.

35 Environmental Audit Overlay

Before the commencement of construction or carrying out of buildings and works pursuant to this permit, or any works associated with a sensitive use, either:

- A Certificate of Environmental Audit for the land must be issued in accordance with Section 53Y of the Environment Protection Act 1970 and provided to the Responsible Authority;
- A Statement of Environmental Audit for the land must be issued in accordance with Section 53Z of the Environment Protection Act 1970 that the environmental conditions of the land are suitable for the use and/or development that are the subject of this permit and this statement must be provided to the Responsible Authority.

36 Compliance with Statement of Environmental Audit

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.

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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 and execution of the Agreement, including those incurred by the Responsible Authority, must be met by the owner(s).

37 Remediation Works Plan

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.

38 Removal of Easement

Before the commencement of construction or carrying out of buildings and works pursuant to this permit, other than demolition, early works (hording site services, site shed etc) works to remediate contaminated land, and excavation and piling, easement E7 (located centrally within the Site, between Lots 2 and 3) registered on the titles of the Subject Land shall be removed from the respective titles.

39 Construction Over Easement

No buildings or works are to be constructed over any easement or other restriction on the land or any sewers, drains, pipes, wires or cables under the control of a public authority without the prior written consent of the relevant authority and the Responsible Authority.

40 Section 173 Agreement – Use of the Meeting Room

Prior to the occupation of any dwelling/building approved under this permit, the applicant must enter into an agreement under Section 173 of the Planning and Environment Act 1987 with the Responsible Authority. 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 and enforcement of the agreement. The agreement must contain covenants to be registered on the Title of the property so as to run with the land pursuant to Section 181 of the Section 173 of the Planning and Environment Act 1987, and must provide for the following:

3rd August 2021

A handwritten signature in blue ink, appearing to be 'P. H.', with a stylized flourish extending to the right.

Date issued

Signature for Responsible Authority



PLANNING PERMIT

Application Number: **490/2020/A**

Planning Scheme: **Port Phillip**

Responsible Authority: **City of Port Phillip**

- a) That the ground floor meeting room be made available for the use of local residents (including residents outside of the development) by means of a booking system; the meeting room is to be available to residents for the lifetime of the development. The meeting room must be available for booking on all days between the hours of 8am to 10pm, unless otherwise agreed by the Responsible Authority.

The agreement will be registered on Title in accordance with Section 181 of the Planning and Environment Act 1987. A dealing number must be provided to the Responsible Authority.

41 Department of Transport Conditions – Additional Plans

Before the development starts, excluding demolition, excavation, piling, site preparation works and works to remediate contaminated land, amended plans must be submitted to and approved by the Head, Transport for Victoria. 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 plans submitted but modified to show:

- a) New/updated bus stop and all associated infrastructure in an agreed location on Beach Street outside the development site;
- b) A new shelter and barrier kerb as required;
- c) The inclusion of Passenger Information Displays (PIDS) in the vicinity of the bus stop (if required);
- d) The bus stop clear of any street furniture and obstacles; and
- e) A design compliant with the Disability Discrimination Act 1992 (Cth).

42 Department of Transport Conditions – Public Transport (Bus Stop Works)

If the existing bus stop on Beach Street cannot be used during the demolition and construction of the development a temporary bus stop must be provided in an alternative location at no cost and to the satisfaction of the Head, Transport for Victoria.

43 Department of Transport Conditions – Public Transport (Bus Stop Works)

Any request for written consent to disrupt bus operations or a temporary bus stop on Beach Street during the demolition and construction of the development must be submitted to and approved by the Head, Transport for Victoria not later than 8 weeks prior to the planned disruption / temporary bus stop relocation and must detail measures that will occur to mitigate the impact of the planned disruption or temporary bus stop.

44 Department of Transport Conditions – Prior to Occupation

Prior to the occupation of the development, all works outlined on the endorsed plans for the relocated bus stop must be completed at no cost to and to the satisfaction of the Head, Transport for Victoria. Any temporary bus stop (if required) must be removed and the site reinstated to the satisfaction of the Head, Transport for Victoria.

45 Time for Starting and Completion

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.

3rd August 2021

A blue ink signature, likely of the Responsible Authority, written over a horizontal line.

Date issued

Signature for Responsible Authority



PLANNING PERMIT

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Responsible Authority: **City of Port Phillip**

- b) The development is not completed within five (5) 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:

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

46. Early Works Plan

Except with the consent of the Responsible Authority, prior to the commencement of any buildings or works, an early Works Plan must be prepared to the satisfaction of the Responsible Authority. The Early Works Plan must provide details of all works which comprise 'early works', including, but not limited to:

- a) Piling works (Bored Piers) including capping Beams.
- b) Retention system including shotcrete walls and rock anchors.
- c) Bulk excavation.
- d) Detailed excavation.
- e) Excavation and pouring of pad footings, raft slab and pile caps.
- f) Civil drainage to retention system and Under Level Three Basement slab.
- g) Pouring of Lowest Basement slab.
- h) Crane Footing System.

Note: This permit was issued at the direction of VCAT's order for P11346/2021 dated 6 October 2022.

THIS PERMIT HAS BEEN AMENDED AS FOLLOWS:

| Date of amendment | Brief description of amendment | Name of responsible authority that approved the amendment |
|-------------------|--|---|
| 30/05/2024 | Issue date of the permit corrected pursuant to section 71 of the <i>Planning and Environment Act 1987</i> to be 03/08/2021. | City of Port Phillip |
| 20/01/2023 | <ul style="list-style-type: none"> Amend Conditions 1, 16, 21, 22, 23, 24, 25, 26, 27, 32, 33 and 38 Add Condition 45 | CoPP |

3rd August 2021

Date issued

Signature for Responsible Authority



PLANNING PERMIT

Application Number: **490/2020/A**

Planning Scheme: **Port Phillip**

Responsible Authority: **City of Port Phillip**

| | | |
|--|--|--|
| | | |
|--|--|--|

3rd August 2021

A handwritten signature in blue ink, appearing to be "P. H.", with a long horizontal stroke extending to the right.

Date issued

Signature for Responsible Authority



IMPORTANT INFORMATION ABOUT THIS NOTICE

WHAT HAS BEEN DECIDED?

The responsible authority has issued a permit.

(Note: This is not a permit granted under Division 5 or 6 of Part 4 of the *Planning and Environment Act 1987*)

CAN THE RESPONSIBLE AUTHORITY AMEND THIS PERMIT?

The responsible authority may amend this permit under Division 1A of Part 4 of the *Planning and Environment Act 1987*.

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 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 years after the issue of the permit; or
- the use is discontinued for a period of two 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 specified 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 years after the issue of the permit; or
- the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
- the use is discontinued for a period of two 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 different provision –



IMPORTANT INFORMATION ABOUT THIS NOTICE

- 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 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 REVIEWS?

- The person who applied for the permit may apply for a review of any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of review exists.
- An application for review 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 application for review must be lodged within 60 days after the giving of that notice.
- An application for review is lodged with the Victorian Civil and Administrative Tribunal.
- An application for review must be made on the relevant form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
- An application for review must state the grounds upon which it is based.
- A copy of an application for review must also be served on the responsible authority.
- Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal of the permit.

Sch. 1 Form 5 amended by S.R. No. 111/2020 reg. 5(1)

Planning and Environment Regulations 2015

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.

The layout of the site and the size, levels, design, and location of buildings and works shown on the endorsed plans associated with the planning permit must not be modified for any reason without the prior written consent of the Responsible Authority (Council).

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 with 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.

➤ Please turn over for more information.

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 1.7 metres 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

Domestic services shown on the endorsed plans form part of your planning permit, including any proposed screening, and must not be altered without the written consent of the Responsible Authority unless otherwise permitted by the planning permit.

If the associated land being developed is covered by a heritage overlay, domestic services including air conditioners, solar panels, heaters, and hot water services require planning approval if visible from a street (front, back or side) or public park.

Please note a further 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.

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

Planning Compliance, St Kilda Town Hall
99a Carlisle Street, St Kilda, Victoria, 3182
Ph: 03 9209 6293

Email: helpplanningcompliance@portphillip.vic.gov.au

Document updated May 2023