



# PLANNING PERMIT

Application Number: **1051/2017/A**

Planning Scheme: **Port Phillip**

Responsible Authority: **City of Port Phillip**

## ADDRESS OF THE LAND:

**28 - 32 ALBERT ROAD SOUTH MELBOURNE VIC 3205**

## THE PERMIT ALLOWS:

The construction of buildings and works, the use of the land for dwellings and residential hotel (as of right) with a ground floor level frontage exceeding 2 metres, the use of the land for the sale and consumption of liquor and variation of easement E-1 in TP948355L, generally in accordance with the endorsed plans and subject to the following conditions.

## THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

### Amended Plans Required

1. Before the development starts (excluding demolition), amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans submitted with the Section 87a application (identified as project no 17016, plans no's A0000, A0001, A0002, A0003, A0099, A0100LG, A0100, A0101, A0102, A0103, A0106, A0107, A0110, A0111, A0115, A0121, A0123, A0124, A0125, A0953 and A4000 all dated 07.04.2022.; A2500, A2501, A2502, A2503, A2504, A2505, A2506, A2507, A2508, A2510 all dated 20.04.2022; A2509 dated 19.05.2022; and A0126, A00900, A00901, A00902, A00903, A00950, A00951, A00952, A00953 all dated 22.06.2022 prepared by Elenberg Fraser but modified to show:
  - a) The height of any electrical /gas points or switches that are located external to the automated flood barriers on the western elevation must be above the level of 4.12m AHD.
  - b) Swept path diagrams to demonstrate that there would be adequate clearance from column and parking offset from obstructions and columns in accordance with Clause 52.06 of the Port Phillip Planning Scheme.
  - c) Confirmation from the manufacturer of the car lift, the car lift make and model to be installed has the capacity to prop at different levels.
  - d) Deleted.
  - e) Details of sightlines at the exit point to Albert Road to improve the visibility of pedestrians waiting on the footpath along Albert Road.

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- f) A longitudinal section through the entire length of the vehicle accessway from the entry point at the Right of Way to the exit point on Albert Road (including the loading bay area).  
  
The longitudinal section to show details of ramp grades and head room clearance, with a minimum 2.5m head clearance to be provided throughout the entire vehicle accessway and loading bay area.
- g) 20 percent of provided bicycle facilities to be horizontal.
- h) A schedule to demonstrate compliance with Clause 58.05-4, Standard D20 Storage objective of Port Phillip Planning Scheme.
- i) The roof plan to detail access arrangements for plant maintenance.
- j) Access to the rooftop machinery and plant
- k) Elevations to detail that all screening, access and roof structures, lift over runs, structures for mechanical and service equipment and the like do not exceed the maximum development height of 85 m AHD and any height over 85 m AHD be deleted.
- l) The redline plan amended to show any relevant internal layout changes.
- m) Delete the podium level terraces associated with hotel rooms on level 6 and replace with four hotel rooms with a floor to ceiling not exceeding 4 m in height.
- n) The physical enclosure of the balconies associated with apartments A1 and A3 on levels 12 to 20 (inclusive) to a height of 1.7 m above FFL.
- o) The inclusion of vertical louvres on balconies for apartments A1 and A3 on levels 10 and 11 (inclusive) to minimise direct views to the adjoining site.
- p) The south eastern edge of the building to be setback from the boundary:
  - i. 4.5 m at levels 21 to 24 (inclusive);
  - ii. 4.3 m at level 20;
  - iii. 4.1 m at level 19;
  - iv. 3.9 m at level 18;
  - v. 3.7 m at level 17; and
  - vi. 3.5 m at level 16.
- q) The relocation of the commercial kitchen exhaust and filtration system from the rooftop to the ground floor of the building adjacent to the main kitchen.

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- r) The manufacturing specifications and design of the commercial kitchen exhaust and filtration system.
- s) The width of the pedestrian arcade at the lower ground and ground levels is to increase generally in accordance with plans A0100LG and A0100, prepared by Elenberg Fraser (Rev H dated 30 August 2022).
- t) Realignment of the crossover for egress from the Site to Albert Road to retain Tree PH046, an on street loading zone indicated on the Approved Amended Domain Development Plans for Anzac Station and to create an on street drop off / pick up space, relocation of the bicycle parking to adjoin the pedestrian arcade and the width of the pedestrian arcade at the lower ground and ground levels is to increase generally in accordance with the plans A0100LG and A0100, prepared by Elenberg Fraser (Rev H dated 30 August 2022).
- u) The deletion of any LED lighting on the southern elevation and a notation that LED lighting will not be used along the southern elevation (with the exception of balcony lights used for the purposes of lighting the balcony for its use)
- v) Any changes required by condition 13 (Pedestrian Link Plan).
- w) Any changes required by condition 23 (Disability Access Report).
- x) Any changes required by condition 25 (Sustainable Management Plan).
- y) Any changes required by condition 31 (Water Sensitive Urban Design).
- z) Any changes required by condition 32 (Wind Impact Assessment)
- aa) Any changes required by condition 33 (Waste Management Plan).
- bb) Any changes required by condition 45 (Landscape Plan).

## No Alterations (use and development)

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

## Hours for sale and Consumption of Alcohol

- 3. The sale of alcohol may occur at any time to guests of the hotel in their room, and in the restaurant and bar between the following hours:

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## Restaurant and Bar

- a) Good Friday and ANZAC Day: between 12 noon and 10 pm.
- b) Any other day: between 9am and midnight.

## External Areas at level 1

- c) Good Friday and ANZAC Day: between 12 noon and 10pm.
- d) Any other day: between 9am and 10pm.

## Hotel MiniBar

- e) Anytime.

## **Restaurant and Bar**

- 4. Tables and chairs must be placed in position on the licensed premises so as to be available for at least 75 per cent of the patrons attending the premises at any one time; and
  - a) The licensee must not permit –
    - i. The live performance of any musical works; or
    - ii. the playing of any recorded musical works –
 on the premises at higher than background music level
- 5. The windows to the bar are to be closed between the hours of 10pm and 7am

## **No Alterations – Red Line Plan**

- 6. The red line indicating areas in which liquor may be sold for consumption on the site as shown on the endorsed plan must not be altered without the written consent of the Responsible Authority.

## **Responsible Serving of Alcohol**

- 7. The Permit Operator must require that all employees of the premises engaged in the service of alcohol undertake a “Responsible Serving of Alcohol” course.

## **Noise Emissions**

- 8. All noise emissions associated with the licensed premises must comply with the noise limits determined in accordance with Part II of the Noise Limit and assessment protocol for the control of noise from

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commercial, industrial or trade premises and entertainment venues, Publication 1826 (the Noise Protocol) to the satisfaction of the Responsible Authority.

9. The Responsible Authority may require noise monitoring to be undertaken, at no cost to the Responsible Authority, to demonstrate compliance with the Noise Protocol.
10. No external sound amplification equipment or loudspeakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose.\

## Venue & Patron Management Plan

11. Before the development is occupied, a Venue & Patron Management Plan (the VPMP) to the satisfaction of the Responsible Authority and prepared by a suitably qualified consultant must be submitted to and approved by the Responsible Authority. The restaurant and bar use must operate and be managed in accordance with the approved VPMP to the satisfaction of the Responsible Authority. The VPMP must include:

### Noise

- a) The identification of all noise sources (including, but not limited to, patrons on the premises, patrons entering and leaving the premises);
- b) Measures to be undertaken to address all noise sources identified, including on and off-site noise attenuation measures;
- c) Details of the provision of music, including the frequency and hours of entertainment provided;

### Hotel, restaurant, and bar operations

- d) Hours of operation for all parts of the building.
- e) Procedures to be undertaken by staff in the event of a complaint by a member of the public, the Victoria Police, or an authorised officer of the Responsible Authority.
- f) Details of any measures to work with neighbours and other residents to address complaints and general operational issues;
- g) Details of the staffing arrangement, including numbers and working hours of all security staff, hotel staff, bar staff, waiters, on-premises manager, and any other staff.
- h) Details of proposed management of the venue including emergency procedure management plan, patron management, crowd control and access to external areas.
- i) The management and dispersal of patrons, including patrons loitering around the venue after the venue has closed:

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- j) Details of operating procedures for patron querying and patron management when the restaurant and bar uses close.
- k) Arrival and departure process for hotel guests.
- l) Location and operation of air-conditioning, exhaust fan systems and security alarms.
- m) A monitoring and maintenance program for the kitchen exhaust and filtration system.
- n) How waste facilities and collection are to be managed for the site.
- o) Emergency evacuation procedures.
- p) The procedure for cleaning services associated with hotel.
- q) Details of deliveries associated with the hotel, restaurant, bar and licensed premises including timing of deliveries.

## Other

- r) Any other measures to be undertaken to ensure appropriate amenity impacts from the restaurant and bar use and licenced premises.
- s) Details of any measures to work with neighbours or other residents in the immediate areas to address complaints and general operational issues.

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

The provisions, recommendations and requirements of the endorsed VPMP must be implemented and complied with to the satisfaction the Responsible Authority.

Except with the prior written consent of the Responsible Authority, the VPMP must not be modified.

## **Agreements under Section 173 of the Act**

12. Prior to occupation, the owner must enter into an agreement under Section 173 of the Planning and Environment Act 1987 with the Responsible Authority and make application to the Registrar of Titles to have the agreement recorded on the title to the land under section 181 of the Act to the satisfaction of the Responsible Authority. The agreement must: provide for the following:
  - a) subject to condition 14 require unencumbered access to the pedestrian link that is to be open except between the hours 12 midnight and 6am.
  - b) to define the areas of responsibility for the maintenance and upkeep of the pedestrian link.
  - c) to ensure the design of the pedestrian link provided for in the development as approved in planning permit 1051/2017/A and any subsequent amendment or application contributes to an active, high quality pedestrian environment.

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- d) to ensure a high level of amenity to users and occupants of the approved hotel rooms on levels 02 to 09 of the building that forms part of the residential hotel are to remain for the use of a Residential Hotel use only as approved in planning permit 1051/2017/A and any subsequent amendment or application.

The agreement must include covenants that run with title to the Land.

The owner must pay for all reasonable costs (including legal costs) associated with preparing, reviewing, executing and registering the agreement on the certificate of title to the land (including those incurred by the Responsible Authority).

## Pedestrian Link

13. Before the endorsement of plans under Condition 1, an urban design and functional layout plan for the pedestrian link must be submitted to, be to the satisfaction of and approved by the Responsible Authority. The plan must include:
- a) The pedestrian link widened to the width at the entrance / exit points generally in accordance with plans A0100LG and A0100, prepared by Elenberg Fraser (Rev H dated 30 August 2022)

All to the satisfaction of the Responsible Authority

## Public Access to the Pedestrian Arcade

Before a formal pedestrian link on 13 Palmerston Crescent between Palmerston Crescent and the laneway to the rear of the subject site (Palmerston Crescent Link) is open to the public

14. Until such time as the full extent of the pedestrian link between Palmerston Crescent and Albert Road is complete on 28-32 Albert Road and 13-21 Palmerston Crescent, the western end of the pedestrian arcade in the 28-32 Albert Road development which allows public access between the laneway to the rear of the subject site and the pedestrian arcade may only be open between the hours of 10.00am and 4.00pm subject to the matters outlined below in conditions 15, 16, 17, 18, 19 and 20 below.
15. Prior to the commencement of development an independent Road Safety Audit (RSA) of the laneway to the rear of the subject site must be undertaken by Traffix Group, who must be appointed for the duration of the project and must author all RSAs and oversee the implementation and recommendations associated with this permit. All costs associated with the RSA including the implementation of works, signage or other improvements arising from the recommendations are at the owner's/occupier's expense

The RSA must be submitted to and approved by the responsible authority. Once approved, the RSA will be endorsed and will form part of the Permit. The RSA must:

- a) Identify the vehicular/bicycle/pedestrian access arrangements, loading arrangements and internal circulation/layout.

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- b) Assess whether the public use of the pedestrian arcade between the rear laneway and Albert Road between the hours of 10:00am and 4:00pm provides for the safe movement of pedestrians, cyclists and vehicles (with or without further works).
  - c) Based on the above, outline any further works, signage or other improvements to the laneway environs should be implemented.
16. When endorsed by the responsible authority, the recommendations in the RSA in respect of the operation of the pedestrian arcade must be implemented to the satisfaction of the responsible authority.
  17. No earlier than 6 months and no later than 7 months after any opening of the pedestrian arcade, a second independent Road Safety Audit (Second RSA) of the laneway to the rear of the subject site must be undertaken by Traffix Group, who must be appointed for the duration of the project and must author all RSAs and oversee the implementation and recommendations associated with this permit.
  18. All costs associated with the RSA including the implementation of any works, signage or other improvements arising from the recommendations are at the owner's/occupier's expense.
  19. The Second RSA must be submitted to and approved by the responsible authority. Once approved, the Second RSA will be endorsed and will form part of the Permit. The Second RSA must:
    - a) Assess whether the continued operation of the pedestrian arcade is safe for use by the public.
    - b) Based on the above, outline any further works, signage or other improvements to the laneway environs should be implemented
  20. When endorsed by the responsible authority, the recommendations in the Second RSA in respect of the operation of the pedestrian arcade must be implemented to the satisfaction of Responsible Authority until the Palmerston Crescent Link is open to the public. Where the endorsed Second RSA recommends operational restrictions more stringent than those specified in the conditions on this permit or the RSA, the stricter restriction applies.

## After the Palmerston Crescent Link is open to the public

21. Once the Palmerston Crescent Link is open to the public, the pedestrian arcade must be open to the public for use between 6am and 12 midnight. At all other times, the pedestrian arcade must be closed to the public unless otherwise approved in writing by the responsible authority.
22. Subject to the consent of the Port Phillip City Council as the relevant land owner, prior to occupation, a ground floor treatment that delineates the pedestrian path in between the pedestrian links of the subject site and the approved pedestrian link on no 13 – 21 Palmerston Crescent must be provided to the satisfaction of and at no cost to the Responsible Authority.

## Disability Access Report

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23. Prior to the endorsement of Condition 1 plans, a Disability Access Report prepared by a Disability Access Consultant must be submitted to and approved by the Responsible Authority. When approved, the report will be endorsed and will form part of this permit. The Disability Access Report must demonstrate how the design of the development meets the needs of people with limited mobility with specific regard to:
- a) the functionality and accessibility to all common areas.
  - b) recommendations to improve the layout and built form to improve the functionality and accessibility to all common areas
- All to the satisfaction of the Responsible Authority
24. The provisions, recommendations and requirements of the endorsed Disability Access Report must be implemented and complied with to the satisfaction of the Responsible Authority.

## Sustainable Management Plan

25. Before the endorsement of plans under Condition 1 an amended ESD report based on the Environmentally Sustainable Design Assessment prepared by Lid Consulting and dated 26/05/2022 must be submitted to, approved by and be to the satisfaction of 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.
- a) Stormwater response at Appendix 5 of the SDA containing the Stormwater Treatment Plan indicating all catchment areas to be clearly linked to rainwater tanks (or raingardens).
  - b) Consistency with the BESS report including:
    - i. Net Zero carbon / carbon neutral capability commitments for gas consumption and the BESS report.
    - ii. EV Infrastructure amended in BES. The plans must annotate:
  - c) RWT's location, size and connections.
  - d) all permeable areas including those to the front entrance area.
  - e) EV infrastructure to be provided in the basement carpark and annotated on plans.
  - f) the openable component of a window.
  - g) air-conditioning indoor and outdoor units.
  - h) hot water system location and type.
  - i) car park CO2 sensor – ventilation system and carbon monoxide monitor.
  - j) internal / external clotheslines

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- k) air-conditioning indoor and outdoor units

## Incorporation of Sustainable Design Initiatives

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

## Implementation of Sustainable Design Initiatives

27. Before the occupation of the development approved under this permit, a report from the author of the Sustainable Management Plan approved pursuant to this permit, or similarly qualified person or company, must be submitted to the satisfaction of the Responsible Authority. The report must confirm that all measures and recommendations specified in the Sustainable Management Plan report have been implemented and/or incorporated in accordance with the approved report to the satisfaction of the Responsible Authority. Water Sensitive Urban Design.

## Incorporation of Water Sensitive Urban Design Initiatives

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

## Implementation of Water Sensitive Urban Design Initiatives

29. Prior to the occupation of the development approved under this permit, a report from the author of the endorsed Sustainable 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 endorsed Sustainable Management Plan have been implemented in accordance with the approved plan.

## Maintenance manual for water sensitive urban design initiatives

30. Before the endorsement of plans under condition 1, 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:
- a) inspection frequency
  - b) cleanout procedures
  - c) as installed design details/diagrams including a sketch of how the system operates

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The WSUD Maintenance Manual may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Builder' User's Guide or a Building Maintenance Guide.

## Site Management Water Sensitive Urban Design

31. 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.

## Wind Impact Assessment

32. Before the endorsement of plans under Condition 1, an amended Wind Impact Assessment, based on wind tunnel modelling must be provided for the written endorsement of the Responsible Date Issued: 20 February 2019 Signature for Responsible Authority Date Amended: 31 October 2022 Planning and Environment Regulations 1998 Form 4 Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon Page 10 of 18 Authority. Any modifications required to the development in order to ensure acceptable wind conditions must be submitted to and approved by the Responsible Authority as part of the plans for endorsement. The design details of any wind mitigation works must receive the endorsement of the owner's wind climate experts, preferencing the use of architectural features and planting to resolve any issues identified, to the satisfaction of the Responsible Authority.

## Waste Management Plan

33. Before the endorsement of plans under condition 1, an amended Waste Management Plan based on the report prepared by prepared by Low Impact Development Consulting, dated 6 June 2022 must be submitted to, approved by and be to the satisfaction of the Responsible Authority. When approved, the report will be endorsed and will then form part of the permit. The report must be amended to detail:

- a) Bin allocation for restaurant increased or the frequency of collection increased

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- b) Bin allocation for bar increased or the frequency of collection increased.
- c) Collection times per our Local Laws:
  - i. Any onsite loading/unloading or collection of waste must not occur between 7am to 9am and 4pm to 7pm Monday to Friday.
  - ii. Information about keeping the bin room vermin proof and clean.
- d) Consistency with plans. The plans must annotate:
- e) FOGO and Glass bins as noted on the WMP.
- f) Details consistent with the report

## Loading / Unloading

- 34. Any onsite loading/unloading must not occur between 7am to 9am and 4pm to 7pm Monday to Friday.

## Car Parking and Bicycle Parking Layout

- 35. Before the use or occupation of the development starts, the area(s) set aside for the parking of vehicles and bicycles and access lanes as shown on the endorsed plans must be:
  - Constructed
  - Properly formed to such levels that may be used in accordance with the plans;
  - Surfaced with an all weather surface or seal coat (as appropriate);
  - Drained and maintained;
  - Line marked, as appropriate, to indicate each car space, visitor space, bicycle space, loading bay and/or access lane;
  - Clearly marked to show the direction of traffic along access land and driveways

All to the satisfaction of the Responsible Authority

## Parking and Loading Areas must be Available

- 36. 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.

## Lighting

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

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## Direction Sign

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

## Vehicle Crossings

39. 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.

## Applicant to Pay for Reinstatement

40. Before the occupation of the development allowed by this permit, the applicant/owner must do the following things to the satisfaction of the Responsible Authority:
- a) Pay the costs of all alterations/reinstatement of Council and Public Authority assets necessary and required by such Authorities for the development.
  - b) Obtain the prior written approval of the Council or other relevant Authority for such alterations/reinstatement.
  - c) Comply with conditions (if any) required by the Council or other relevant Authorities in respect of alterations/reinstatement.

## Public Services

41. 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.

## Car Parking Automated System and Lift Maintenance and Provision

42. The mechanical lifts are to be maintained in a good working order for the parking of vehicles in accordance with their purpose, to the satisfaction of the Responsible Authority. Prior to the occupation of the approved development, a lift system management plan must be prepared and then submitted to the Responsible Authority for approval. The plan must include but not be limited to the following:
- a) Ongoing maintenance of the lift system;

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- b) Instructions to owners/occupiers about the operation of the car stacker system;
- c) Details of procedure in the event of a mechanical failure.
- d) Car lift internal platforms to have a clear width of 3m wide and 5.85m long.
- e) Minimum headroom within the system to be at least 2.2m.
- f) Car lift speed to be at least 0.5m/s.
- g) Car lift system to be activated by remote.

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

## Car Parking Allocation

43. Without the further written consent of the Responsible Authority car parking for the approved development must be allocated on any Plan of Subdivision as follows:
- A minimum of 1 car space for each one and two bedroom apartment
  - A minimum of 2 car spaces for each three or four bedroom apartment
  - No car parking spaces are permitted to be leased to anyone not working or living on the premises.

All to the satisfaction of the Responsible Authority

## On Site Bicycle Parking

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

## Landscape Plan

45. Before the endorsement of plans under Condition 1 an amended Landscape Plan must be submitted to, approved by and be to the satisfaction of the Responsible Authority. When the Landscape Plan is approved, it will become an endorsed plan forming part of this Permit. The Landscape Plan must incorporate:
- a) All condition 1 changes;
  - b) A survey plan, including botanical names, of all existing vegetation/trees to be retained;
  - c) Buildings and vegetation (including botanical names) on neighbouring properties within 3m of the boundary;
  - d) Significant trees greater than 1.5m in circumference, 1m above ground;
  - e) All street trees and/or other trees on Council land;

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- f) 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;
- g) All planters dimensioned and volume notated;
- h) Details of access to planter boxes and a maintenance schedule;
- i) Landscaping and planting within all open space areas of the site; and
- j) Water sensitive urban design treatments.

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

## Completion of landscaping

- 46. 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

- 47. 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.

## Green Roofs / Walls Maintenance Plans

- 48. Prior to occupation, a Landscape Management Plan detailing the maintenance regime and management responsibilities for the Rooftop Gardens and Green Walls associated with the development must be prepared and submitted to the satisfaction of the Responsible Authority. The Landscape Management Plan should include, but is not necessarily limited to, the following:
  - a) State the systems and products in the green roof and how they are designed to maintain the green roof;
  - b) Outline access to the green roofs;
  - c) Outline any management risks, and how these will be managed
  - d) State the estimated annual maintenance budget;
  - e) Summarise the type of maintenance tasks required;
  - f) Outline the skills and certification required in the maintenance team to perform these tasks
  - g) Outline communication requirements to Body Corporate / Owners / Users;
  - h) State when the management plan is due for review; and
  - i) Any setbacks of the southern façade to accommodate access for maintenance purposes.

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If the Rooftop Garden and Green Walls falter or fail, details of an alternative treatment must be submitted to, and approved by, the Responsible Authority. The alternative treatment must be implemented within three months of approval and to the satisfaction of the Responsible Authority.

## Walls on or facing the boundary

49. Prior to the occupation of the building(s) allowed by this permit, all new walls on or facing the boundary of adjoining properties and/or the laneway must be cleaned and finished to a uniform standard. Unpainted or unrendered masonry walls must have all excess mortar removed from the joints and face and all joints must be tooled or pointed 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.

## No Change to External Finishes

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

## No Equipment or Services

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

## Piping and ducting

52. All piping and ducting (excluding down pipes, guttering and rainwater heads) must be concealed to the satisfaction of the Responsible Authority.

## Noise Attenuation for Apartments

53. Prior to occupation of the development, an amended acoustic review based on the advertised s87a report prepared by SLR Consulting Australia Pty Ltd, dated 23 May 2022 must be submitted to, approved by and be to the satisfaction of the Responsible Authority. The report must confirm that the building has been constructed to achieve the following noise levels:

- a) Not greater than 35dB(A) for bedrooms, assessed as an LAeq,8h from 10pm to 6am.
- b) Not greater than 40dB(A) for living areas, assessed LAeq,16h from 6am to 10pm.

Noise levels should be assessed in unfurnished rooms with a finished floor and the windows closed. The noise influence area should be measured from the closest part of the building to the noise source

54. All works must be undertaken in accordance with the endorsed Acoustic Report to the satisfaction of the Responsible Authority. No alterations to the Acoustic Engineering Report may occur without the written consent of the Responsible Authority.

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## Ongoing Involvement of the Architect

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

## Number of Dwellings

56. Without the further written consent of the Responsible Authority, no more than 44 dwellings may be constructed on the land.

## Urban Art Plan

57. 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.

This should be generally in accordance with the Public Art Strategy prepared by the Blueprint, Issue 03 / J10229 and dated 30 May 2022.

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.

## EPA noise guidelines (roof plant)

58. All air conditioning, refrigeration and other plant must be screened, baffled and insulated to minimise noise and vibration and comply with applicable noise levels in the Noise Limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues, Publication 1826.4 May 2021 to the satisfaction of the Responsible Authority.
59. Within 3 months of all uses commencing, an acoustic compliance report prepared by an independent, suitably qualified acoustic consultant and to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. The acoustic compliance report must demonstrate the required level of noise attenuation has been achieved in accordance with the Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues, Publication 1826.4 May 2021 or, if not, what further buildings and works must be undertaken to achieve the required levels of noise attenuation.
60. Any further works must be:

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- a) Undertaken within 2 months of the compliance report being submitted to Responsible Authority or such later time as agreed by the Responsible Authority; and
- b) Retested to demonstrate compliance with the Noise Limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues, Publication 1826.4, May 2021. The results of the retesting must be provided to and approved by the Responsible Authority.

## Reflectivity assessment

- 61. Prior to the endorsement of the plans, a Reflectivity Assessment of external glazing and any other visibly reflective material must be submitted to the responsible authority. The assessment must ensure that materials, including glazing, used on external walls must be of a type that do not reflect more than 20% of visible light when measured at an angle of 90 degrees to the surface (or such other reflectivity that is to the satisfaction of the responsible authority). The Assessment must be to the satisfaction of the responsible authority and when approved will form part of this permit.

## Air Quality (Kitchen Exhaust)

- 62. Before the hotel use starts, the commercial kitchen exhaust filtration system must be installed to the satisfaction of the Responsible Authority. The system must include conveniently located odour sampling points in the exhaust duct for odour testing.
- 63. When installed, the commercial kitchen exhaust filtration system must be tested in operation and an odour commissioning report must be submitted to and approved by the Responsible Authority. The odour commissioning report must:
  - a) be prepared by an independent odour management consultant with suitable qualifications and experience to the satisfaction of the Responsible Authority, and
  - b) demonstrate that odour emissions from the commercial kitchen exhaust filtration system achieve compliance with Australian Standard AS 1668.2.2012.
- 64. After the hotel use starts a commercial kitchen exhaust filtration system maintenance report must be submitted to the Responsible Authority. The maintenance report must demonstrate that odour emissions from the commercial kitchen exhaust filtration system achieve ongoing compliance with Australian Standard AS 1668.2.2012.
- 65. The commercial kitchen exhaust filtration system must achieve compliance with Australian Standard AS 1668.2.2012.

## Light Baffled

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

## Emergency Contact

67. Before development starts, including demolition and bulk excavation, an emergency contact that is available for 24 hours per day for residents of Owners Corporation in Albert Road and the Responsible Authority must be provided in the event of relevant queries or problems experienced.

## Major Transport Infrastructure Authority

68. Provision of Final Foundation Plans

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

## Major Transport Infrastructure Authority

69. Ground Anchor/Rock Bolts

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

## Major Transport Infrastructure Authority

70. Ground Water Management Plan

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

## Major Transport Infrastructure Authority

71. Construction Management Plan and Traffic Management Plan

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

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The Construction Management Plan and Traffic Management Plan may be approved in stages.

The Construction Management Plan and Traffic Management Plan must include details of (but not be limited to) management proposals to minimise impacts to Metro Tunnel Infrastructure during construction and must set out objectives and performance and monitoring requirements for:

## Construction Management Plan

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

## Traffic Management Plan

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

## Major Transport Infrastructure Authority

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

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

## Time for starting and Completion

73. This permit will expire if one of the following circumstances applies:
  - a) The development is not started within four (4) years of the date of this permit.
  - b) The development is not completed within two (2) years of the date of commencement of works.
  - c) The use is not commenced within two (2) years of the completion of the development.

The Responsible Authority may extend the periods referred to if a request is made in writing:

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

## Notes

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

## THIS PERMIT HAS BEEN AMENDED AS FOLLOWS:

Date of amendment	Brief description of amendment	Name of responsible authority that approved the amendment
Date: 31 October 2022	Section 87A(2)(a) of the Planning and Environment Act 1987 <ul style="list-style-type: none"> <li>• Amendment to the planning permit preamble (what the permit allows)</li> <li>• Amendment to the planning permit conditions</li> <li>• Amendment to the decision plans.</li> </ul>	By consent as an outcome of a compulsory conference at the Victorian Civil and Administrative Tribunal (VCAT)
Date: 24 March 2023	Application PDPX/00212/2022 pursuant to Section 69(2) of the Planning and Environment Act 1987 to extend the time in which to commence the development by 2 years.  The new expiry date for the commencement of development is 20 February 2025.	City of Port Phillip
Date: 2 February 2024	Correction to the planning permit in accordance with section 71 of the planning and Environment Act 1987.  Deletion of condition 1d.	City of Port Phillip

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## IMPORTANT INFORMATION ABOUT THIS NOTICE

### Permit Notes:

Date of amendment	Brief description of amendment	Outcome
Date: 14 January 2021	<p>A section 87a amendment was lodged with VCAT and sought consent for the use of the land for residential hotel and the sale and consumption of liquor.</p> <p><b>Note: This application was referred to as amendment A but because it was withdrawn the subsequent amendment application a also referred to as Amendment A</b></p>	<b>Withdrawn on 14 January 2021</b>



## IMPORTANT INFORMATION ABOUT THIS NOTICE

### WHAT HAS BEEN DECIDED?

The responsible authority has issued a permit at the direction of the Victorian Civil & Administrative Tribunal.

(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,



## IMPORTANT INFORMATION ABOUT THIS NOTICE

development or any of those circumstances requires the certification of a plan under the Subdivision Act 1988, unless the permit contains a different provision –

- the use or development of any stage is to be taken to have started when the plan is certified; and
- the permit expires if the plan is not certified within two 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**

# PLANNING COMPLIANCE



## Common planning compliance issues when developing land

### Fact Sheet

#### Planning and building permit compliance

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

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

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](mailto:helpplanningcompliance@portphillip.vic.gov.au)

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