



PLANNING PERMIT

Application Number: **PDPL/00823/2022**

Planning Scheme: **Port Phillip**

Responsible Authority: **City of Port Phillip**

ADDRESS OF THE LAND:

97 ALMA ROAD ST KILDA EAST VIC 3183

THE PERMIT ALLOWS:

Construction of multiple dwellings on a lot and use and development of the land as a 'food and drink premises' in the General Residential Zone, and the construction of works in a Special Building Overlay, and a reduction in the number of car parking spaces required by Clause 52.06, 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 use and development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and an electronic copy must be provided. The plans must be generally in accordance with the plans ~~prepared advertised 31 July 2023 (development plans by Kerstien Thompson Architects Pty Ltd dated 03-27 July 2023/2024 (Rev 4)~~ but modified to show:
 - a) ~~A 1.2m minimum width for the three internal light courts within the apartment building.~~
 - b) ~~Details of all habitable room windows that face the internal light courts within the apartment building (height and width dimensions, extent of clear glazing, screening or obscure glazing). Habitable room windows that face the internal light courts must be increased in size and/or number where practicable.~~
 - c) ~~Details of all the window glazing, screening treatments and staircases along the internal corridors to ensure maximum daylight penetration.~~
 - d) ~~The use of light and reflective colours for the light court surface treatment to maximise daylight access to habitable rooms.~~
 - e) ~~Details of the treatment of openings for all the internal corridors to ensure appropriate access to natural ventilation and night purge in warmer months.~~
 - f) ~~Details (elevation plan, material, colour) of the gate and pedestrian entry from Raglan Lane.~~

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- ~~g) All upper level balconies with views to adjoining secluded private open space or habitable room windows within a 9m distance are screened and/or obscured in accordance with Standard B22 (Overlooking Objective) of Clause 55.04-6 of the Port Phillip Planning Scheme. This may require provision of additional detailed overlooking diagrams and sections to demonstrate compliance. Screening and/or obscuring information on elevations and floor plans must be consistent.~~
- ~~h) Wayfinding signage at several strategic locations, including in the area adjacent to the harbour structure on the east side of the site and adjacent to the pedestrian entry via the laneway that enables pedestrians to easily identify access to the Townhouses.~~
- ~~i) A cantilevered porch over each of the entries for the Townhouses.~~
- ~~j) Lighting within communal areas.~~
- ~~k) Alterations to the built form of the apartment building that result in compliance with Standard B21 (Overshadowing Open Space Objective) of Clause 55.04-5 of the Port Phillip Planning Scheme as related to the secluded private open space of 1 Graylings Grove.~~
- ~~l) Provision of a minimum of 6m³ storage for Townhouses 12-20 within the basement or an alternative location.~~
- ~~m) A traffic lighting system to manage traffic on the one-way ramp as per the recommendation at Section 8.3 (Single Width Ramp) of Traffic Impact Assessment prepared by Ratio and dated 27/7/2023.~~
- ~~n) Amended basement ramp to avoid encroachment of the 300mm clearance lines for waste truck collection.~~
- ~~o) Allocation of a commercial garbage bin of a minimum size of 660 Litres or alteration to the Waste Management Plan to require an increase in the frequency of commercial garbage collection for the food and drink premises.~~
- ~~p) The northern bin room door either a roller door or shown to open inwards to ensure ease of transportation of skip bins to and from the collection point.~~
- ~~q) Deletion of reference to landscaping on road reserve to the east of the site.~~
- ~~r) All ground floor habitable levels a minimum 500mm above the adjacent natural ground level.~~
- ~~s) All ground floor non-habitable levels a minimum 350mm above the adjacent natural ground level, excluding the substation which is subject to approval from the power authority~~
- ~~t) A notation that a minimum 300mm freeboard above the adjacent ground level will be provided to the external opening of the southern common basement stair (next to Townhouse 10).~~

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- ~~u) The mesh fencing along the south and west boundaries to be 'MS2'.~~
- ~~v) The mesh fencing along the southern boundary reduced in height to a maximum of 2.0 m.~~
- ~~w)a) Any changes or notations to the plans as recommended by the acoustic report required pursuant to Condition 5.~~
- ~~x)b) Urban Art in accordance with the requirements of Condition 9.~~
- ~~y)c) Any changes to the plans to accord with the amended Sustainability Management Plan required pursuant to Condition 10.~~
- ~~z)d) Any changes to the plans to accord with the amended landscape plan required pursuant to Condition 19.~~

No Alterations (Development)

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

Layout Not to be Altered (Use)

3. The layout and description of the food and drink premises as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority unless the Port Phillip Planning Scheme exempts the new use from requiring a permit.

Privacy Screens Must be Installed

4. Privacy screens as required in accordance with the endorsed plans must be installed prior to occupation of the building and thereafter maintained to the satisfaction of the Responsible Authority.

Acoustic Report

5. Prior to the endorsement of plans under Condition 1 of this permit an acoustic report, prepared by a suitably qualified acoustic consultant must be submitted to and approved by the Responsible Authority. The acoustic report must provide recommendations for appropriate acoustic treatment for the development to protect future occupants from noise from the nearby railway line or any other relevant noise sources and must be generally in accordance with the Acoustic Report prepared by Acoustic Logic dated 1 August 2022.

Amended Waste Management Plan

6. Prior to the endorsement of plans under Condition 1 of this permit, a Waste Management Plan (WMP) must be submitted to and approved by the Responsible Authority. The WMP must be generally in accordance with the WMP submitted with the application by prepared by Ratio Consultants dated 28 November 2022 10 July 2024, but amended to include nomination of a responsible party to ensure future residents are informed of the Waste Management Plan provisions relating to bin collection, hard waste removal and other waste facilities in the building and to include changes required by Condition 1 in relation to waste management.

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Walls on or facing the boundary

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

No equipment or services

8. 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.

Urban Art Plan

9. Prior to the endorsement of plans under Condition 1 of this permit, an urban art plan in accordance with Council's Urban Art Strategy must be submitted to 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 Urban Art plan must be installed prior the issue of any Certificate of Occupancy for the development.

Amended Sustainability Management Plan

10. Prior to plans being endorsed under Condition 1 of this permit, ~~an amended~~ Sustainability Management Plan (SMP) must be submitted to and approved by the Responsible Authority. The ~~amended~~ SMP must be generally in accordance with the SMP by GIW21210 dated ~~16 March 2023~~ July 2024, but modified to show:
- ~~a) An average of 7 star NatHERS rating with a 48 M/Jm2 overall average heating load for the apartments.~~
 - ~~b) Availability of access to rainwater tanks~~
 - ~~c) An updated WSUD Site Layout Plan showing all surface treatments.~~
 - ~~d) Updated daylight modelling taking into account the requirements of Condition 1 a-e.~~
- ~~Where alternative ESD initiatives are proposed to those specified required in this condition, the Responsible Authority may vary the requirements of this condition at its discretion, subject to the development achieving equivalent (or greater) ESD outcomes.~~

When approved, the updated SMP will be endorsed and will then form part of this permit. The ESD initiatives in the endorsed SMP must be fully implemented and must be maintained throughout the operational life of the development to the satisfaction of the Responsible Authority.

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Implementation Report for Environmentally Sustainable Design (for all permits with SDA or SMP)

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

Implementation of Water Sensitive Urban Design Initiatives

12. The initiatives in the endorsed Water Sensitive Urban Design (WSUD) Response must be fully implemented. These initiatives must be maintained throughout the operational life of the development to the satisfaction of the Responsible Authority.

Construction Management Water Sensitive Urban Design

13. Throughout the construction of the building(s) and construction and carrying out of works allowed by this permit;
- No water containing oil, foam, grease, scum or litter will be discharged to the stormwater drainage system from the site;
 - All stored wastes are kept in designated areas or covered containers that prevent escape into the stormwater system;
 - 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.
 - No mud, dirt, sand, soil, clay or stones are washed into, or are allowed to enter the stormwater drainage system;
 - 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.

Vehicle Crossings

14. Prior to the issue of any Certificate of Occupation for 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.

Vehicle Crossings – Removal

15. Prior to the issue of any Certificate of Occupation for development allowed by this permit, all disused or redundant vehicle crossings must be removed and the area re-instated with footpath, nature strip and kerb and channel at the cost of the applicant/owner and to the satisfaction of the Responsible Authority.

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Applicant to Pay for Reinstatement

16. Before the issue of any Certificate of Occupation for the development allowed by this permit, the applicant/owner must do the following things to the satisfaction of the Responsible Authority:
- Pay the costs of all alterations/reinstatement of Council and Public Authority assets necessary, including crossover alterations, reinstatement of nature strip and planting of trees within the Alma Road frontage.
 - Obtain the prior written approval of the Council or other relevant Authority for such alterations/reinstatement.
 - Comply with conditions (if any) required by the Council or other relevant Authorities in respect of alterations/reinstatement.

Car Parking Space Allocation

17. A minimum of one car parking space must be provided on the land for the food and drink premises to the satisfaction of the Responsible Authority. The car parking space for the food and drink premises must be clearly marked for its use only to the satisfaction of the Responsible Authority.
18. No more than two car parking spaces are to be allocated to one dwelling.

Amended Landscape plan

19. Prior to the endorsement of plans under Condition 1 of this permit, ~~a an amended~~ landscape plan must be submitted to the satisfaction of the Responsible Authority. The ~~amended~~ landscape plan must be generally in accordance with the landscape plan by Myles Baldwin Design dated ~~31 May 2024. 24 July 2023~~ but modified to show:
- ~~A reduction in the number of Palm trees in deep soil locations and replacement with a tree species that provides increased shading and diversity of species.~~
 - ~~Provision of street trees within a nature strip along the Alma Road frontage to match existing street trees within the streetscape.~~
 - ~~Deletion of the three Betula Nigra trees adjacent to the south boundaries and replacement with a deciduous tree species of moderate mature height to minimise overshadowing impacts to properties to the south.~~
 - ~~Removal of the part of the garden bed west of Apartment G.04 within the Alma Road frontage to create a straight and direct pedestrian pathway.~~
 - ~~Greater detail of the roof top deck including dimensions to ensure the spatial layout is functional including the provision of an appropriately accessible width between the raised gardens and an appropriate width of the raised gardens/planters.~~
 - Accurate location of trees to be retained, consistent with the Tree Protection Management Plan required by Condition 224.
 - ~~Confirmation of level changes between landscape areas and built form.~~

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- ~~g) Paths and landscaping adjacent to Trees 6-8 as shown on the Arboricultural Report by Tree Response dated 15 March 2023 at or above existing grade.~~
- ~~h) Deletion of proposed landscaping on the road reserve to the east of the site.~~

Completion of Landscaping

20. The landscaping as shown on the endorsed Landscape Plan, including the provision of a nature strip and street trees within the Alma Road frontage in accordance with Condition 16 must be carried out and completed to the satisfaction of the Responsible Authority before the issue of any Certificate of Occupation for the development or at such later date as is approved by the Responsible Authority in writing.

Landscaping Maintenance

21. 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.

Tree Protection Management Plan (TPMP)

22. Prior to the endorsement of plans under Condition 1 of this permit, a TPMP must be submitted to the satisfaction of the Responsible Authority. The TPMP must:
- Show the exact location of all trees to be retained. Trees to be retained must be consistent with the recommendations of the Arboricultural Report by Tree Response dated 15 March 2023
 - Outline how trees to be retained will be protected
 - Outline what works require aborist supervision. This must include where works, including landscaping works encroach within the Tree Protection Zone.
 - Outline procedures to ensure contractor compliance
 - Require the suitable replacement of Tree 12 (English Elm) should further investigation mean that it cannot be retained.

Tree Protection

23. Before the development starts, a tree protection fence must be erected around the all trees nominated for retention to comply with AS 4970 - 2009 Tree protection on development sites to the satisfaction of the Responsible Authority.

Hours of Operation

24. Without the further written consent of the Responsible Authority the use of the food and drink premises must operate only between the hours of 6am to 11 pm.

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Ongoing Involvement of the Architect

25. The applicant must retain Kerstin Thompson 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

Time for Starting and Completion

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

- a) The development is not started within two (2) years of the date of this amended 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:

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

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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.



IMPORTANT INFORMATION ABOUT THIS NOTICE

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 –
 - 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

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