



PLANNING COMMITTEE

AGENDA

25 JULY 2024



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Planning Committee

Welcome

Welcome to this Planning Committee Meeting of the Port Phillip City Council. The aim of this Committee is to consider, within the framework of the Planning and Environment Act, State and Local Planning Schemes, major planning applications or applications that will have a large impact on the local area. This Committee also allows you to be involved in the statutory and strategic planning decision making processes of Council.

About this meeting

There are a few things to know about tonight's meeting. The first page of tonight's Agenda itemises all the different parts to the meeting. Some of the items are administrative and are required by law. In the agenda you will also find a list of all the items to be discussed this evening. Each item has a report written by a Council officer outlining the purpose of the report, all relevant information and a recommendation. The Committee will consider the report and either accept the recommendation or make amendments to it. This Committee has delegated authority. A recommendation is carried if it receives majority support of the Councillors in attendance at the Committee meeting.

Public Question Time and Submissions

Public Question Time Provision is made at the beginning of the meeting for general question time from members of the public concerning planning matters.

Members of the public have the option to either participate in person or join the meeting virtually via Teams to ask their questions live during the meeting.

If you would like to address the Council and /or ask a question on any of the items being discussed, please submit a 'Request to Speak form' by 4pm on the day of the meeting via Council's website:

[Request to speak at a Council meeting - City of Port Phillip](#)





PORT PHILLIP CITY COUNCIL PLANNING COMMITTEE

To Councillors

Notice is hereby given that a Planning Committee Meeting of the Port Phillip City Council will be held in St Kilda Town Hall and **virtually via Teams** on Thursday, 25 July 2024 at 6:30pm. At their discretion, Councillors may suspend the meeting for short breaks as required.

AGENDA

- 1 **APOLOGIES**
- 2 **MINUTES OF PREVIOUS MEETINGS**
Minutes of the Planning Committee 23 May 2024.
- 3 **DECLARATIONS OF CONFLICTS OF INTEREST**
- 4 **PUBLIC QUESTION TIME AND SUBMISSIONS**
- 5 **COUNCILLOR QUESTION TIME**
- 6 **PRESENTATION OF REPORTS**
 - 6.1 *2 Alfred Place South Melbourne 646/2007/C..... 5*
 - 6.2 *34-36 St Kilda Road St Kilda 267/2018/A..... 54*
 - 6.3 *Statutory Planning Delegated Decisions - February, March, April, May and June 2024..... 155*
- 7 **URGENT BUSINESS**
- 8 **CONFIDENTIAL MATTERS**
Nil



1. APOLOGIES

2. MINUTES OF PREVIOUS MEETINGS

RECOMMENDATION:

That the minutes of the Planning Committee of the Port Phillip City Council held on 23 May 2024 be confirmed.

3. DECLARATIONS OF CONFLICTS OF INTEREST

4. PUBLIC QUESTION TIME AND SUBMISSIONS

5. COUNCILLOR QUESTION TIME

6. PRESENTATION OF REPORTS

6.1	<i>2 Alfred Place South Melbourne 646/2007/C.....</i>	<i>5</i>
6.2	<i>34-36 St Kilda Road St Kilda 267/2018/A.....</i>	<i>54</i>
6.3	<i>Statutory Planning Delegated Decisions - February, March, April, May and June 2024</i>	<i>155</i>



6.1 2 ALFRED PLACE SOUTH MELBOURNE 646/2007/C

LOCATION/ADDRESS: 2 ALFRED PLACE SOUTH MELBOURNE

EXECUTIVE MEMBER: BRIAN TEE, GENERAL MANAGER, CITY GROWTH AND DEVELOPMENT

PREPARED BY: MATTHEW SCHREUDER, PRINCIPAL PLANNER

1. PURPOSE

- 1.1 To consider and determine a Section 72 Amendment Application (646/2007/C) to amend an existing planning permit which includes a change in the land use from an Art Gallery and Function Centre to a Licensed Food and Drink Premises, including live music entertainment venue and an amendment to the licensed redline plan to include footpath trading.

2. EXECUTIVE SUMMARY

WARD:	Gateway
TRIGGER FOR DETERMINATION BY COMMITTEE:	More than 16 objections
APPLICATION NO:	646/2007/C
APPLICANT:	Alistair Kennedy
EXISTING USE:	Art Gallery and Function Centre with on premises liquor licence.
ABUTTING USES:	Commercial - Shops and offices
ZONING:	Commercial 1 Zone
OVERLAYS:	Design and Development Overlay – Schedule 8
STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL	Expired

- 2.1 Planning permit 646/2007 was issued on 27 March 2008 to “*Develop and use the land for the purpose of the change of use of the premises from a warehouse to an art gallery and associated limited liquor licence, parking dispensation and advertising signage*” at 2 Alfred Place South Melbourne.
- 2.2 The approved development included:
- Using the warehouse as an art gallery
 - A limited liquor licence
 - A parking dispensation
 - Advertising signage
- 2.3 An amendment to the permit (646/2007/A) was lodged on 22 July 2008. The amendment sought to modify the use of the site to add a function centre use and change the liquor licence to an On Premises liquor licence. The permit was amended at the direction of VCAT on 7 September 2008 (Section 79 Appeal) after request for



consent orders were made by Council and the permit applicant. The specific changes that were made were as follows:

- Amend the permit preamble to add Function Centre and On Premises Liquor Licence. The Permit Preamble to now read as follows:
“Use of the premises for an art gallery and function centre and associated on premises liquor licence, parking dispensation and advertising signage”
- Modify the conditions to specify the operating hours for the two different uses. A new condition (condition 5) was added which sets out that the Art Gallery to operate from 11am to 9pm, 7 days a week with no more than 30 people. A new condition (condition 6) which sets out that the Function Centre to operate from 6pm until midnight, Thursday to Saturday (and on the eve of any public holiday) with no more than 120 people.
- New conditions requiring a security management plan (condition 7) and a new condition (condition 9) setting out noise limits to comply with SEPP N-1 and N-2.
- A notation was added to the permit to clarify the use must only be as an art gallery and function centre and not become a bar, tavern or hotel without further permission from Council. The plans were also amended to show signage.

- 2.4 On 1 September 2022, an amendment application (646/2007/B) was lodged which sought to remove the Art Gallery use and modify condition 6 to allow the function centre to operate on a Sunday. The application lapsed as information was not provided to a further information request.
- 2.5 This new application is a Section 72 application to amend the approved permit preamble, permit conditions and plans. The proposal seeks to amend the application to delete reference to the art gallery and function centre as the site is now proposed to be used as a food and drink premises. Conditions are proposed to be deleted that are related to those uses. The plans are proposed to be amended to include an outdoor seating area within the redline plan.
- 2.6 Specifically, the amended application proposes the following changes:
- Use of the land as a food and drink premises (no permit required).
 - A change to the type of liquor licence from a On-Premises licence to a General licence.
 - Changes to the hours of operation. The changes include extending the opening hours of the premises from 12 midnight to 1.00am.
 - An increase in the redline plan to include outdoor seating area.
- 2.7 An On-Premises liquor licence allows the sale and consumption of alcohol at the licenced premises without the premises being required to also serve meals. These types of licences are typically used by bars and nightclubs. A General licence allows the sale of liquor for consumption both on and off the licenced premises. These licences are typically used by pubs, hotels and taverns.
- 2.8 The Victorian planning system recognises that a permit holder’s intentions may change over time. Rather than requiring a new permit application to be made every time a change is proposed, Section 72 of the *Planning and Environment Act 1987* (Act) allows applicants to apply to the Responsible Authority for an amendment to a permit and



associated plans. The assessment of this application is confined to the proposed changes only.

- 2.9 Following notice of the application, Council received 26 objections, 16 of which came from one individual in relation to 16 tenancies within the same building. Concerns raised predominately related to the impact on the amenity on residential properties within proximity of the site. This included noise, smoking, hours of operation and number of patrons, as well as the use of the lane for outdoor dining.
- 2.10 A Consultation Meeting was held on 7 May 2024. The meeting was attended by Ward Councillors, the applicant, objectors, and planning officers. The meeting did not result in any formal changes to the proposal.
- 2.11 Internal referrals were conducted with general support received. The application was not required to be externally referred.
- 2.12 The amendment will result in the proposed use as a food and drink premises which is as of right (does not require a permit) in the Commercial 1 Zone, from an Art Centre and Function Centre which are both uses that require a permit. Therefore, the use of the site as a food and drink premises is not being considered as part of the application, other than as how it relates to the sale and consumption of liquor.
- 2.13 The subject site currently has a liquor licence and therefore the considerations under Clause 52.27 (Licenced Premises) only relate to the following:
- A change in the type of licence from a On-Premises licence to a General licence.
 - An increase in the red line area to include an outdoor dining (footpath trading) area.
 - A change in the hours which liquor can be served.
- 2.14 There is planning policy support for changes, particularly given the strategic context of the site where it is located within the Commercial 1 Zone and within a Major Activity Centre. In a Commercial 1 Zone, licensed food and drinks premises are considered to align with the purpose of the zone to create vibrant mixed use commercial centres for retail, office, business, entertainment, and community uses.
- 2.15 Subject to a slight reduction to the footpath trading area and the retention of an On-Premises licence, the changes to the liquor licence (hours when liquor could be served and the extension to the redline plan area) would not adversely affect the amenity of the area.
- 2.16 A condition is recommended to require the licensed footpath trading area to be setback 3.4 metres from Alfred Lane. This would ensure the footpath trading area would be fully contained behind the premises with no direct line provided between the footpath trading area and any nearby dwellings. With the reduced area, limited hours (till 10pm) and the restriction for no external amplified music, the amenity of surrounding property would be adequately protected from the use of the footpath trading area. To further protect the amenity of the surrounding area, new conditions are recommended to ensure the main entrance door remains closed after 6.00pm, an amended security management plan is required, and noise limits are updated in line with the new legislation.



2.17 It is considered that the changes proposed in the amendment application are acceptable, subject to modifications to the conditions of the existing permit. It is therefore recommended that Council issues a Notice of Decision to Amend a Permit.

3. RECOMMENDATION A

- 3.1 That the Responsible Authority, having caused the application to be advertised and having received and noted the objections, issue a Notice of Decision to Grant an Amended Permit
- 3.2 The permit preamble and conditions will show changes including deletions as ~~strikeout~~ and new requirements in **bold (excluding headings which remain in bold)**
- 3.3 That a Notice of Decision to Grant an Amended Permit be issued as follows:

Amended Permit Preamble

~~Use of the premises for an art gallery and function centre and associated on premises liquor licence, parking dispensation and advertising signage~~

Planning Scheme Clause No.	Description of what is allowed
Clause 52.06	Reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5
Clause 52.27	Use the land to sell or consume liquor if a licence is required under the <i>Liquor Control Act 1998</i> (On Premises Liquor Licence)

Amended Conditions

- ~~1 The applicant must gain approval from Liquor Licencing Victoria, prior to the commencement of the use.~~

Amended Plans Required

- 1 Before the use starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and an electronic copy must be provided. The plans must be generally in accordance with the plans submitted with the application and date stamped as received by Council on 5 October 2023 but modified to show:**
 - a) The outdoor redline setback approximately 3.4 metres north of Alfred Lane so that it commences at the northern end of the splayed corner of the building.**
 - b) Removal of reference to a General Licence and with all reference to be to an On-Premises licence.**
- ~~2 The development and use as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.~~



- 3 ~~Deleted.~~ **The entrance doors must remain closed other than when patrons are entering or exiting the site, on any day after 6:00pm.**

Art Gallery

- 4 ~~The art gallery use to operate from 11am until 9pm, 7 days a week with no more than 30 people permitted on the premises at any one time.~~

Hours for the sale and consumption of liquor

- 5 **Without the further written consent of the Responsible Authority the sale and consumption of liquor must only occur between the hours of:**

Indoors

- **9:00am and 10:00pm Monday to Wednesday**
- **7:00am and 1:00am (the following morning) Thursday and Friday**
- **7:00am and 1:00am (the following morning) Saturday and on the eve of public holidays**
- **9:00am and 10:00pm Sunday**

Outdoor footpath trading area

- **9:00am and 9:00pm Monday to Wednesday**
- **9:00am and 10:00pm Thursday and Friday**
- **9:00am and 10:00pm Saturday and on the eve of public holidays**
- **9:00am and 9:00pm Sunday**

Function Centre

- 6 ~~The function centre use to operate from 6pm until midnight, Thursday until Saturday and the eve of public holidays, with no more than 120 people permitted on the premises at any given time, irrespective of the site being used for both an art gallery and function centre at one time.~~

Number of patrons

- 6 **Without the further written consent of the Responsible Authority no more than 120 patrons must occupy the premises during operating hours.**

Amended Security Management Plan

- 7 ~~Prior to the commencement of the use approved by this~~ **Within three months of the date of the issue of this amended permit, an amended security management plan must be prepared and submitted for approval to the Responsible Authority which must provide for the following to the satisfaction of the Responsible Authority:**
- a) **The measure to be taken by the management and staff to ensure patrons depart the premises and the surrounding area in an orderly manner.**
 - b) **The measures to be taken by management and staff to ensure that patron's queue to enter the premises in an orderly manner and maintain satisfactory clearance for other pedestrians on the footpath.**



- c) The measures to be taken by management and staff to ensure patrons do not cause nuisance or annoyance to persons beyond the land.
- d) Liaison with Victoria Police, the City of Port Phillip and local residents.
- e) A telephone number provided for residents to contact the premises and linked to the complaints register
- f) The maintenance of a complaints register.

Amenity

- 8 The amenity of the area must not be detrimentally affected by the use or development through the:
- a) Transport of materials, goods or commodities to or from the land.
 - b) Appearance of any building, works or materials.
 - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, steam, soot, ash, dust, waste water, waste products, grit or oil.
 - d) Presence of vermin.
 - e) In any other way.

SEPP N-1 and N-2 Noise Limits

- 9 ~~The use of the site shall not cause nuisance or be to the detriment to the amenity of the neighbourhood by the emission of noise. In this regard the emission of noise shall comply with the provisions of the Environment Protection Authority.~~

At all times noise emanating from the land must comply with the requirements of the Environment Protection Regulations 2021 (or as amended and in force at the time) as measured in accordance with the Noise Protocol to the satisfaction of the Responsible Authority.

Noise Protocol means Publication 1826 Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues, published by the Environment Protection Authority on its website (or as amended and in force at the time).

- 10 No external amplified equipment, loud speakers or public address system shall be used in conjunction with the use.
- 11 No goods are permitted to be stored or left exposed outside the building so as to be visible from any public road or thoroughfare.
- 12 ~~The signs as shown on the endorsed plans must not be altered without the written consent of the responsible Authority.~~ **Deleted**
- 13 ~~All signs must be constructed and maintained to the satisfaction of the Responsible Authority.~~ **Deleted**
- 14 ~~The signs must not be internally/externally illuminated except with the written consent of the Responsible Authority.~~ **Deleted**
- 15 ~~This permit as it relates to signage expires on 13 November 2022.~~ **Deleted**
- 16 This permit will expire if one of the following circumstances applies:



a) The use is not started within one (1) year of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.

RECOMMENDATION PART B

3.4 That the Planning Committee Authorise the Manager City Development to instruct Council’s Statutory Planners and/or Council’s solicitors on any VCAT Application for Review should one be lodged.

4. RELEVANT BACKGROUND

The following relevant applications have previously been considered for the subject site:

Application No.	Proposal	Decision	Date of Decision
646/2007	To develop and use the land for the purpose of the change of use of the premises from a warehouse to an art gallery and associated limited liquor licence, parking dispensation and advertising signage.	Approved	27 March 2008
646/2007/A	<p>Use of the premises for an art gallery and function centre and associated on premises liquor licence, parking dispensation and advertising signage.</p> <p>The amendment allowed the following changes to the original permit.</p> <ul style="list-style-type: none"> • Amend the permit preamble to include reference to a function centre and on premises liquor licence • Delete Condition 3 relating to operating hours and patron numbers for the daytime art gallery use. • Delete Condition 4 relating to operating hours and patron numbers for evening art gallery use. • Add a condition which allows the art gallery use to operate from 11am until 9pm, 7 days a week with no more than 30 people permitted on the premises at any one time. 	Approved	5 August 2009



	<ul style="list-style-type: none"> • Add a condition which allows the function centre use to operate from 6pm until midnight, Thursday until Saturday and eve of a public holiday with no more than 120 people permitted on the premises at any given time, irrespective of the site being used for both an art gallery and function centre at one time. • Add a notation to clarify that the use permitted under the amended planning permit must remain a function centre and art gallery as defined in the Port Phillip Planning Scheme, throughout the trading hours hereby permitted, and is not permitted to transform to a bar, tavern or hotel at any time except with the prior approval of Council. • Changes to the plans to show additional signs on the garage roller door • Add conditions to impose a security management plan, a standard condition relating to amenity and compliance with SEPP N-1 & N-2. 		
646/2007/B	An amendment application was lodged which sought to remove the Art Gallery use and modify conditions to allow the Function Centre to operate on a Sunday.	Lapsed as Further Information that was required was not provided.	20 December 2022

5. PROPOSAL

5.1 The application seeks approval for an amendment to the current permit at the subject site. The permit currently allows:

- Use of the premises for an Art Gallery and Function Centre and associated on premises liquor licence, parking dispensation and advertising signs.
- The current permit restricts the hours of operation and number of patrons in relation to each of the uses.



- The Art Gallery use can only operate from 11am until 9pm, 7 days a week with a maximum of 30 people permitted on the premises at any one time.
- The Function Centre use can operate from 6pm till midnight, Thursday till until Saturday and the eve of public holidays. No more than 120 people are permitted on the premises at any given time, irrespective of the site being used for both an art gallery and function centre at one time.

The permit is subject to 17 conditions, with some deleted from the first amendment. Conditions relate to matters such as security management, amenity protection and State and Environment Noise Protection Policy.

5.2 The amended permit application seeks to change the use of the site to a food and drink premises while deleting the use of the site as an art gallery and function centre. A key change to the current permit is to simplify the permit conditions which separates the two uses and provides separate hours and patron numbers for each. The amended permit would allow:

- The permit preamble changed to delete reference to the Art Gallery and Function Centre and to read:
Use of the site for a licenced food and drink premises including live music entertainment venue from 7am – 1 am daily (and 7am – 12 midnight footpath trading) under a general licence, parking dispensation and advertising signage.
- The conditions would be amended to delete any terms and condition which relate to art gallery and function centre use.
- The plans would be amended to modify the redline area to include footpath trading within the unnamed laneway on the northside of the site.

5.3 The below table details the changes between the current approval and the proposed amendment:

	Current	Proposed
Use	Art Gallery and Function Centre	Food and Drinks Premises
Type of Liquor Licence	On Premises Licence	General Licence
No of Patrons	<u>Art Gallery</u> 30 patrons <u>Function Centre</u> 120 patrons	<u>Food and Drinks Premises</u> 120 patrons
Operating hours	<u>Art Gallery</u> Monday 11am to 9pm Tuesday 11am to 9pm Wednesday 11am to 9pm Thursday 11am to 9pm Friday 11am to 9pm Saturday 11am to 9pm Sunday 11am to 9pm <u>Function Centre</u>	<u>Food and Drinks Premises</u> Monday 9.00am to 10.00pm Tuesday 9.00am to 10.00pm Wednesday 9.00am to 10.00pm Thursday 7.00am to 1.00am Friday 7.00am to 1.00am Saturday 7.00am to 1.00am Sunday 9.00am to 10.00pm Public holiday Eve 7.00am to 1.00am

	Thursday	6pm to Midnight	
	Friday	6pm to Midnight	
	Saturday	6pm to Midnight	
	Sunday	6pm to Midnight	
	Public Holiday Eve	6pm to Midnight	

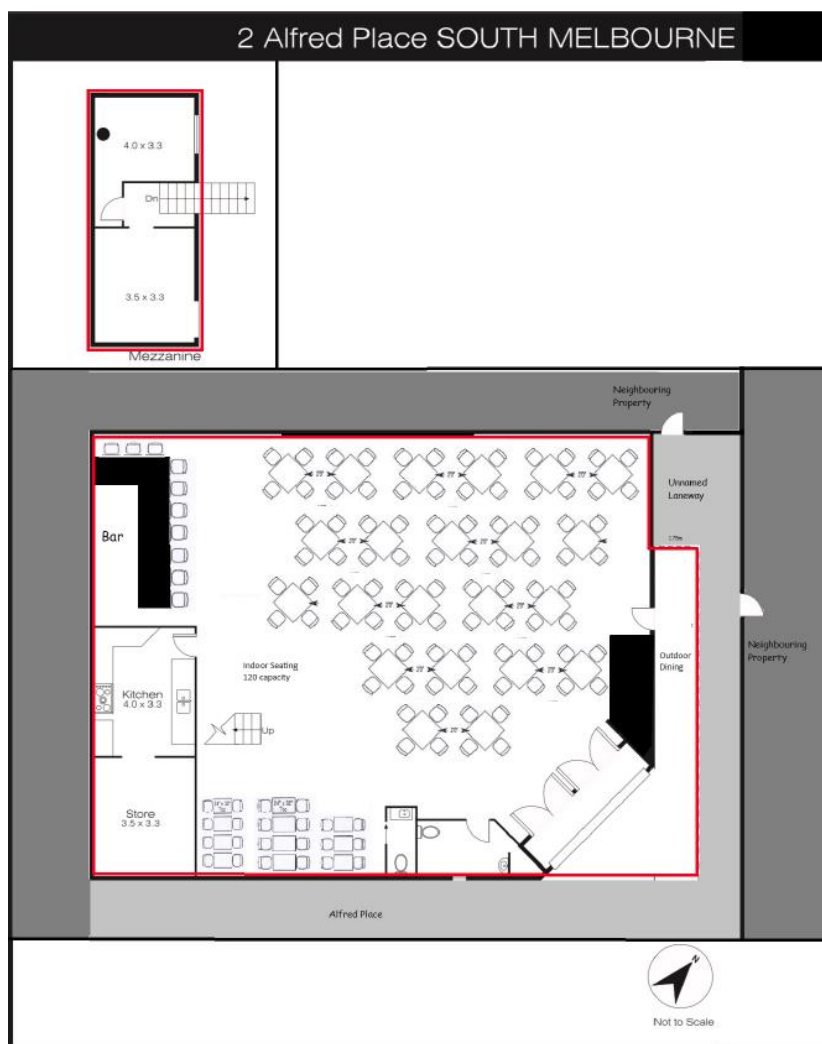


Figure 1 - site plan with proposed redline plan which includes the outdoor dining area.

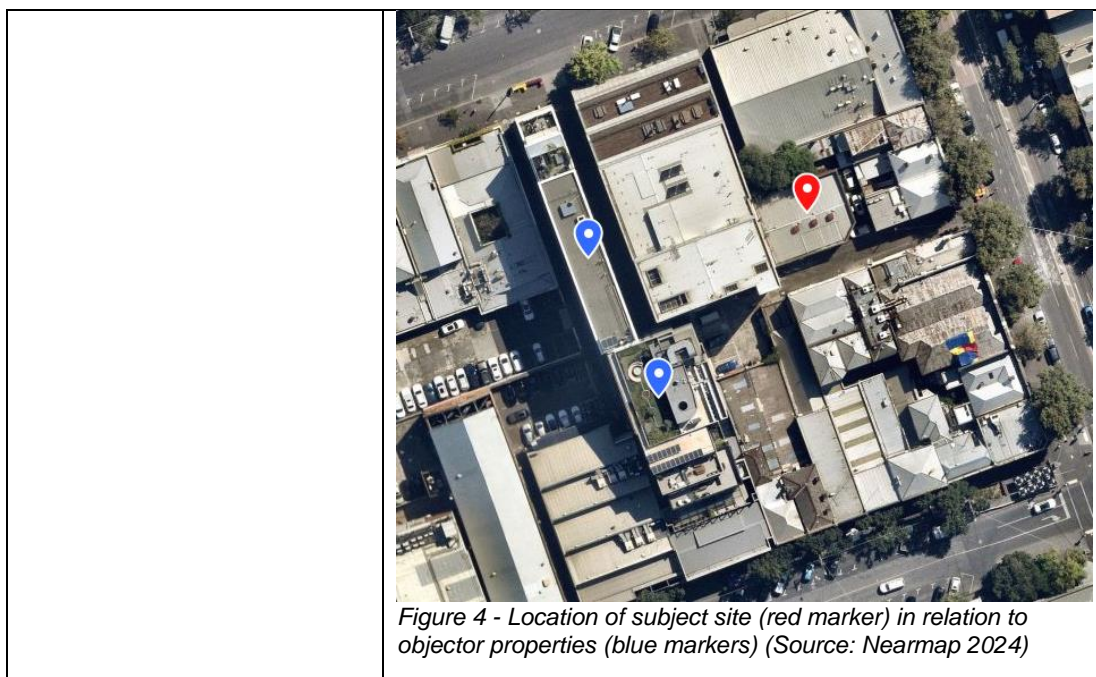
6. SUBJECT SITE AND SURROUNDS

Description of Site and Surrounds	
Site Area	The subject site is generally square with a frontage to Alfred Place of 18 metres and a side abuttal of 14.7 metres to lane R3215. The site has a total area of 272 square metres.

<p>Existing building & site conditions</p>	<p>The site is located approximately 22 metres down Alfred Place which is a short bluestone lane.</p> <p>The site current contains a single storey brick building with a slightly pitched corrugated iron roof. The building takes up the majority of the site with a small splay at the southeast corner of the site to allow sightlines. The building has an interior space of approximately 215sqm.</p>  <p><i>Figure 2 - Subject site with view down Alfred Place and residential building in the distance. (source: planning officer's photo)</i></p>  <p><i>Figure 3 - Subject site with proposed area of outdoor dining beyond parked car. (Source: planning officers' photo)</i></p>
<p>Surrounds/neighbourhood character</p>	<p>The subject site is located within the South Melbourne Central Activity Centre. It is located just behind the Clarendon Street retail strip within an area known as the Emerging Activity precinct within the South Melbourne Central Activity Centre. This area is described as a vibrant mixed-use area with York Street and Market Street emerging as attractive pedestrian spines connecting Clarendon Street to the Market. Land use in this area comprises a mix of commercial residential and community land uses within an established commercial setting There are several other food and drinks premises located within the nearby area.</p>



	<p>The site is well served by public transport with tram services located directly nearby including the light rail and tram services on Clarendon Street located within walking distance from the subject site.</p> <p>The subject site has two property abuttals to the north and west.</p> <p>To the north is No. 214-216 Clarendon Street which is a two storey commercial premises with an area of open space to the rear of the site.</p> <p>To the west of the site is No. 101-107 York Street which contains a 5-storey office building. The building has a 5-storey party wall abuttal with the subject site. There are no windows in the building facing the subject site.</p> <p>To the east of the subject site is a short public laneway which provides rear access to 2 double storey commercial buildings with a frontage to Clarendon Street.</p> <p>To the south of the subject site, on the opposite side of Alfred Place is No. 224-232 Clarendon Street which contains a large two storey commercial building with multiple tenancies fronting Clarendon Street and a number of additional buildings, up to three storeys, accessed off Alfred Place. A ground level car park is accessed off Alfred Place.</p> <p>The two properties from which the majority of objections were received are No. 109 York Street and No. 274 Coventry Street. The properties do not have a direct property abuttal with the subject site and No.109 York Street is located on the western side of No. 101-107 York Street which is a 5-storey building.</p>
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7. PERMIT TRIGGERS

- 7.1 Section 73(1) of the *Planning and Environment Act 1987* states that Sections 47 to 62 apply to an application to amend a permit as if the application were an application for a permit and any reference to a permit were a reference to the amendment to the permit.
- 7.2 Therefore, the amendments to the permit and plans are to be assessed against the relevant planning controls affecting the proposal.
- 7.3 As the decision maker, the Responsible Authority can only consider the changes to the approved proposal as part of this application for amendment.
- 7.4 The following controls set out the planning permission required for this proposal, or otherwise outline why no permission is required:

Relevant provisions	Why is a permit required?
52.27 Licenced Premises	<p>Pursuant to Clause 52.27 a permit is required to use the land to sell or consume liquor if any of the following apply:</p> <ul style="list-style-type: none"> • A licence is required under the Liquor Control Reform Act 1998. • A different licence or category of licence is required from that which is in force. • The hours of trading allowed under a licence are to be extended. • The number of patrons allowed under a licence is to be increased. • The area that liquor is allowed to be consumed or supplied under a licence is to be increased.



<p>Clause 53.06 Live Music Entertainment Venues</p>	<p>These provisions do not trigger the need for a permit but contain performance measures that are required to be achieved when assessing an application for the use of the land for a food and drink premises that includes live music entertainment.</p>
<p>52.07 Car Parking</p>	<p>Pursuant to Clause 52.06-3 a planning permit is not required for car parking when the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay for the new use is less than or equal to the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay for the existing use of the land.</p> <p>The existing use of the land is for function centre for a maximum 120 persons. A “Function Centre” is nested within a “Place of Assembly”. Pursuant to the table at Clause 52.06-5, a Place of assembly requires 0.3 spaces to each patron permitted. With the 120 maximum patrons permitted this results in a requirement for 36 car parking spaces.</p> <p>Pursuant to the table at Clause 52.06-5, a “Food and Drinks Premises” requires 3.5 spaces per 100sqm of leasable floor area. With a leasable floor area of 215sqm this equates to a requirement to provide 7 parking spaces.</p> <p>As the 7 spaces now required is less than the 36 spaces that are required for the existing use, a planning permit <u>is not</u> required for car parking for the change of use.</p>

8. PLANNING SCHEME PROVISIONS

8.1 Municipal Planning Strategy (MPS)

Clause 02: Municipal Planning Strategy

02.01- Context

02.02 – Vision

02.03 – Strategic Directions

02.04 – Strategic Framework Plans

8.2 Planning Policy Framework (PPF)

The following State Planning Policies are relevant to this application:

Clause 11 Settlement

11.03 planning for places

11.03-1S Activity centres

11.03-1R Activity centres – Metropolitan Melbourne



11.03- 1L-01 Activity centres

11.03-1L-05 South Melbourne Central Activity Centre – Precinct 1 (Clarendon Street Core retail strip)

Clause 13 Environmental risks and amenity

13.05-1S Noise Management

13.07-1L-03 Interfaces and Amenity

13.07-1L-04 Tourism, entertainment and licenced premises

Clause 17 Economic Development

17.01-1S Diversified economy

17.02-1S Business

17.04 Tourism

17.04-1S Facilitating Tourism

17.04-1R Tourism in Metropolitan Melbourne

Clause 19 Infrastructure

19.03-5L Waste and resource recovery

8.3 Particular Provisions

Clause 52.27 Licenced Premises

Clause

8.4 General Provisions

Clause 65 Decision Guidelines

8.5 Operational Provisions

Clause 71 Operation of this planning scheme

71.01 Operation of the Municipal Planning Strategy

71.02 Operation of the Planning Policy Framework

71.03 Operation of the Zones

71.05 Operation of Particular Provisions

8.6 Background Documents

- City of Port Phillip Activity Centres Strategy (City of Port Phillip, 2006)
- City of Port Phillip Activity Centres Strategy Implementation Plan 2007 (City of Port Phillip, 2007)

8.7 Relevant Planning Scheme Amendment/s

None

9. REFERRALS

9.1 Internal referrals



The application was referred to the Council's City Permits team who generally support the proposed footpath trading area subject to a reduction in the outdoor area as described in the report.

9.2 External referrals

The application was not required to be externally referred.

10. PUBLIC NOTIFICATION/OBJECTIONS

10.1 The proposal may result in material detriment therefore Council gave notice of the application by mail to the owners and occupiers of surrounding properties (144 letters) and by posting one notice on the site for a 14-day period.

10.2 The application has received 26 objections (including 12 separate objections from one individual). The key concerns raised are summarised below (officer comment will follow in italics where the concern will not be addressed in Section 11):

- Noise from outdoor seating area
- Noise from patrons coming to and leaving the site
- Noise from music
- Smoking
- Proposed hours of operation are too late
- Blocking car parking spaces
- Building not fit for purpose
- Rubbish placed in neighbouring properties bins

Any matters related to the current use of the site are not considerations under this application. Waste disposal is covered by the conditions on the current permit. Should the permit holder not comply with the requirements of the permit then the condition can be enforced.

- Number of toilets

The toilet facilities are not a matter for consideration under this application. Toilet facilities are controlled under the Building Regulations.

- Issues with the current use

The current use of the site is not a matter for consideration of this application. The current use of the site is controlled by the existing planning permit and any amenity issues can be directed to Councils Planning Compliance officers. It is noted that this application proposes to change the land use to a food and drink premises which is an as of right use.

- Fire safety

Fire safety is not a matter for consideration under this application. Fire safety is considered under the Building Regulations and requirements will need to be met.

10.3 A consultation meeting was held on 7 May 2024. The meeting was attended by Ward Councillors, applicants, objectors and Planning Officers. The meeting did not result in any formal changes to the proposal.



10.4 It is considered that the objectors do not raise any matters of significant social effect under Section 60 (1B) of the Planning and Environment Act 1987.

11. OFFICER'S ASSESSMENT

11.1 In considering the proposal, regard has been given to the MPS and PPF and the individual merits of the application. The assessment below provides a response to the relevant planning policy, in particular the decision guidelines of Clause 52.27 (Licence premises) and Clause 53.06 (Live Music Entertainment Venues).

11.2 This amendment seeks to make changes to the use of the site and the endorsed redline plan as described in Section 5 of this report. Because this is an application to amend the existing planning permit only the proposed changes can be assessed.

11.3 The key issues that require assessment are considered under the following headings

- Does the amended proposal remain consistent with the planning policy framework?
- Is the proposed change to the type of liquor licence acceptable?
- Is the change in the redline area to include an outdoor seating area appropriate?
- Are the hours of operation appropriate?
- Does the proposal meet the live music entertainment venues requirements?
- Are there any additional amenity impacts as a result of the change?
- Would the amendment alter any specific requirements of the original permit?

Does the amended proposal remain consistent with planning policy framework.

11.4 The use of the site for a licenced food and drink premises with live music is an appropriate use of the land. The subject site is located within a Major Activity Centre where similar uses exist and is a use that is consistent with the objective of Clause 11.03-1 'Activity Centres'. This clause encourages the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community. The use will add to the vibrancy of the South Melbourne area. The outdoor dining area provides the business with an additional attraction that will help support the viability of the business.

11.5 The amended proposal will continue to be an acceptable commercial land use that will not have an unreasonable amenity impact on residential development in accordance with the objectives of Clause 13.07-1L-03 'Interfaces and amenity'.

11.6 The amended proposal is consistent with Clause 13.07-1L-04 'Tourism, entertainment uses and licenced premises' in that the use will support the promotion of Port Phillip as a visitor and entertainment destination. The addition of the small outdoor dining area will enhance the business without having a significant impact on residential development and overall provide a positive outcome to the community.

Is the proposed change to the type of liquor licence acceptable?

11.7 The subject site currently benefits from an existing liquor licence which is associated with the existing use as an art gallery and function centre. Consideration of whether the site is appropriate for the sale and consumption of liquor are therefore limited to the changes proposed in the application. The current liquor licence is an On-Premises licence which is the typical category of licence for these uses. The application is



seeking to change the type of licence to a General licence. General licences are more commonly associated with bottle shops or wine bars where there is the opportunity to buy alcohol to take away for consumption off the premises. While the applicant has suggested that it is not the intention of the new use to be able to sell alcohol for offsite consumption, their request was to make that option available for the future should the permit holder wish to do so.

- 11.8 A concern with the site having a General licence is that patrons of the food and drink premises who have been drinking at the site would be able to purchase liquor and drink it within proximity of the site rather than at home. This could be more likely than someone purchasing alcohol from a bottle shop where it is more typical to take the liquor home or to a restaurant. The consumption of liquor on the street after drinking at a licenced premises has the potential to result in amenity impacts to surrounding businesses and residential properties.
- 11.9 Given that no reason has been provided why a General licence is required this space of the proposal is not supported. All the information submitted with the application details that the changes of use will be a Food and Drinks premises and would not involve any component of liquor to be sold to be consumed elsewhere. It is therefore recommended that the change to a General licence not be supported and the type of liquor licence to remain as an On-Premises Licence. This is included at Condition 1(b).

Is the change in the redline area to include an outdoor seating area appropriate?

- 11.10 As the subject site already has a liquor licence, it also has an approved redline plan. The plan currently includes the internal area of the building which covers the entire site apart from a very small area at the southeast corner of the site which has a corner splay for the two lanes. The application is seeking approval to extend the redline area to include part of the lane to the east. The plans indicate that up to 30 patrons would be seated in this area.
- 11.11 It is considered that the extent of the outdoor seating area is excessive and would result in an unacceptable amenity impact to the residential properties to the west. While the south east corner of the subject site does not have a direct line of sight to habitable room windows the tall and sheer nature of walls surrounding the site means that some noise would likely be reflected towards the windows.
- 11.12 As the site is located within an activity centre where commercial uses such as this are supported, some outdoor seating is reasonable. The officers recommendation includes a condition that requires amended plans to show the outdoor seating area reduced in size so that it commences at the northern edge of the corner splay in the eastern lane. While the planning permit does not control the numbers of patrons that can use the area, as a foot path trading permit will be required, it is considered that approximately 16 people will be able to be seated in this area. The reduced area and the subsequent reduction in patrons will result in an acceptable outcome. This is included at Condition 1(a).

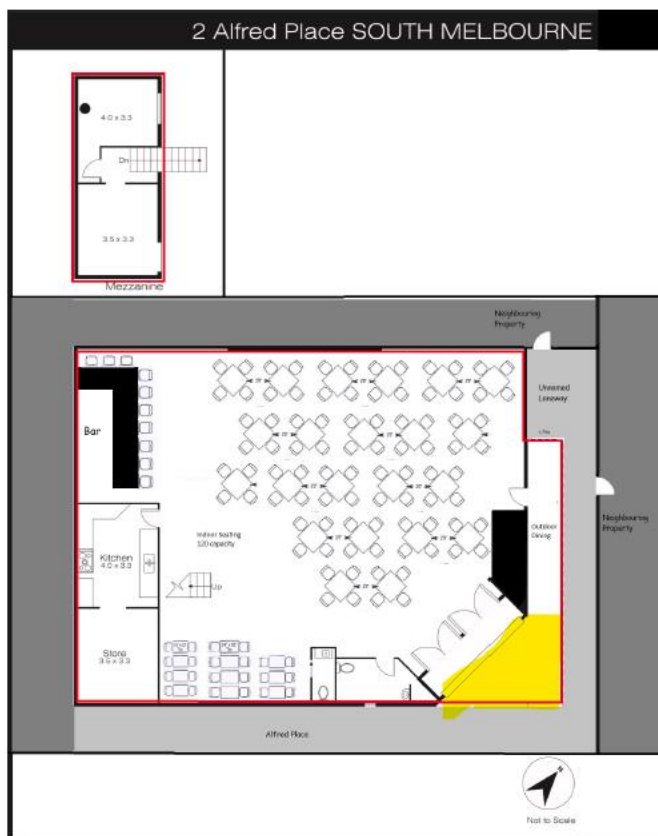


Figure 5 - Proposed redline area. yellow highlighted section the area to be removed by condition.

Are the hours of operation appropriate?

11.13 The application proposes that the hours of operation will be from 7am till 1am daily with the outdoor area from 7am till 12 midnight. The current permit includes permit conditions controlling the hours as both an Art Gallery and Function Centre are Section 2 uses, requiring planning permits. The Art Gallery can operate between 11am and 9pm 7 days a week, while the function centre is able to operate from 6pm till midnight, Thursday until Saturday and on the eve of public holidays.

11.14 The permit does not specify times during which liquor can be served as the definitions of both Art Gallery and Function Centre includes the service of liquor. Therefore, it can be considered that the current permit allows the sale and consumption of alcohol between the following hours regardless of the use:

- **Sunday – Wednesday 11am – 9pm**
- **Thursday – Saturday 11am – Midnight.**

11.15 As the use of the site as a Food and Drink Premises is an as-of-right use in the Commercial 1 Zone, conditions should not be imposed on that use. However as a permit is required to change the hours during which liquor is sold and consumed, it is appropriate to consider the hours for this purpose. The hours are considered for both the inside of the building and the outdoor seating area and each is discussed separately below:



Indoor hours for the sale and consumption of liquor.

- 11.16 As the current permit allows the sale and consumption of liquor till 9pm from Sunday – Wednesday and 12am Thursday – Saturday it is reasonable to maintain those hours. As the use of that land as a food and drink premises is as of right and as it is typical of food and drink premises to provide liquor with food for patrons, it is also considered reasonable to allow the hours to increase for the inside of the building. The building will provide an appropriate level of noise attenuation to not cause an unreasonable level of noise to nearby residences. The current permit contains conditions that relate to the control of noise from the site and the protection of the amenity of the areas. These conditions are proposed to be retained on the amended permit however the recommendation will include updated conditions to replace the conditions which are now outdated.
- 11.17 The subject site is located within precinct 1 of the South Melbourne Central Major Activity Centre. The use of the land is consistent with the strategies of the precinct which encourage activities that are consistent with the core retail function of Clarendon Street.
- 11.18 As the use as a food drink premises is as of right the hours of operation proposed are not under consideration. However, it is considered appropriate that the hours for the sale and consumption of liquor should be limited to ensure that any patrons leaving the site are less likely to cause any amenity impacts on the surrounding area. The proposed hours for the sale and consumption of liquor would be as follows:

Indoor hours for sale and consumption of liquor

- Sunday – Wednesday 9:00am – 10:00pm
- Thursday – Saturday (and the eve of Public Holidays) 7:00am – 1:00am of the following day.

Outdoor hours for the sale and consumption of liquor

- 11.19 The outdoor area is more likely to have amenity impacts on nearby residences than the indoor areas. While it is expected that amenity enjoyed by residential properties in a major activity centre, in the Commercial 1 Zone will not be the same as what is expected in residential zoned area, consideration must still be given to residents. In that regard it is considered that there may be times of the week when higher levels of activity can be expected and tolerated. A condition is therefore recommended which provides for different hours at different times of the week. The proposed hours would be as follows:

Outdoor hours for sale and consumption of liquor

- Sunday – Wednesday 9:00am - 9:00pm
- Thursday – Saturday (and the eve of public holidays) 9:00am - 10:00pm.

See new condition 5.

Does the proposal meet the live music entertainment venues requirements?

- 11.20 It is considered that the use of the site as a live music venue is appropriate and supported by State Government Planning Policy which recognises that live music is an important part of the State's culture and economy.



11.21 The use of the land as a live music entertainment venue requires that the venue be designed, constructed and managed to minimise noise emissions from the premises and provide acoustic attenuation measures that would protect a noise sensitive use within 50m of the venue. As the application does not propose any buildings and works no new noise attenuation works are included. Conditions on the existing permit related to noise control will be updated in the officer recommendation and are considered sufficient to ensure that the venue does not unreasonably impact on the amenity of the residential properties. *See amended condition 9.*

11.22 As the site was previously used as a function centre which provided music, it is considered that the use will not substantially change in terms of noise coming from within the building.

Are there any additional amenity impacts as a result of the change?

11.23 The objections received in relation to the amendment raised a number of concerns with the current use and the changes proposed under this amendment. As the site is currently operating under an existing permit any matters raised about the current use are not considerations of this amendment application. The consideration focuses on the proposed use of the site and in particular any changes that may come about as a result of the changes to the liquor licence. Key matters raised are addressed below.

Noise from the outdoor seating area.

11.24 Subject to the condition in the officer recommendation which limits the times the outdoor area can be used for the sale of alcohol, as well as the reduced area, it is considered that the outdoor space will not unreasonably impact on the amenity of the nearby residences. Recognition must be given to the site's location within a major activity centre and the commercial zoning when considering what is a reasonable level of noise. The outdoor area is to be used by diners of the food and drink premises and the level of noise would be typical of what could be expected from any other outdoor dining area across the activity centre. The outdoor area is approximately 40 and 50 metres from two residential buildings from where the majority of objections were received. Subject to a condition that requires the outdoor area to be setback 3.4 metres from Alfred Lane, there will not be a direct line of sight to the buildings. The majority of the building at No.109 York Street is located on the western side of No.101-107 York Street which is a multi-story building between the subject site and No. 109 York Street.

Noise from patrons coming to and leaving the site

11.25 It is acknowledged that there will be some noise from patrons arriving to and leaving the site and the existing condition on the permit which relates to the Security Management Plan has measures to ensure that patrons depart the premises in an orderly manner. This condition will be retained on the permit and the officer's recommendation amends the condition to require a new plan relevant to the new use.

Smoking

11.26 As the outdoor area will be used for dining patrons, smoking will not be allowed in that area. As smoking is not banned in public areas, council cannot impose conditions on permits that restrict people's use of the surrounding area. The existing permit does however have a condition which requires that the amenity of the area must not be detrimentally affected by the use through the emissions of noise, artificial light, vibrations, smell, fumes and smoke among other things. This condition will be retained on the permit.



Hours of operation are too late

11.27 As outlined in section 11.3, the hours of the use can only be limited in relation to the sale and consumption of alcohol as the use of the land as a food and drink premises does not require a permit. It is considered that subject to the conditions included in the officers recommendation that the hours are acceptable and consistent with food and drink premises within activity centres.

Blocking car parking spaces

11.28 The use of part of the laneway for the outdoor dining area is subject to separate approval by Councils City Permits team. While they have indicated that there is general support, the use of the lane is subject to the consent of the owners of properties who benefit from access to the lane.

Rubbish placed in objector's bins

11.29 While waste management is a relevant consideration for the site, nothing has been provided to substantiate that this occurs. The amenity condition on the existing permit also contains requirements relevant to waste.

Building not fit for purpose

11.30 As the application only concerns changes to the liquor licence and no buildings and works are proposed, the structural elements of the building are not relevant to this application. The building is currently being used for a use which is not unlike the proposed use and it is considered that the building will be able to be suitable for the purpose. Any building and health requirements will need to be met outside of the planning process.

Would the amendment alter any specific requirements of the original permit?

11.31 A full review of the existing conditions has been undertaken and all conditions that remain relevant are recommended to be retained or modified as necessary.

In summary, the following changes to the Permit preamble and conditions are recommended:

Permit preamble

The permit preamble is proposed to be amended as follows. The changes below to list the specific planning permissions are required following the Supreme Court decision *Myers v Southern Grampians Shire Council*.

Planning Scheme Clause No.	Description of what is allowed
Clause 52.06	Reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5
Clause 52.27	Use the land to sell or consume liquor if a licence is required under the <i>Liquor Control Act 1998</i> (On Premises Liquor Licence)



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Permit conditions – Proposed Amendments and Deletions and new conditions

Permit conditions are proposed to be amended and deleted to respond to the updated proposal. Including the following:

Condition 1: condition 1 to be deleted. It is not considered necessary to include a requirement to gain approval from Liquor Control Victoria as a condition on a Planning Permit as this is a requirement under other legislation.

Condition 1a Amended plans required: This condition would be added to require amended plans which show a reduced redline area which commences from the edge of the corner splay rather the intersection of the two lanes.

Condition 1b Amended plans required: This condition would be added to retain the exiting On-Premises licence.

Condition 2: This condition is amended to deleted reference to development as the proposal does not include any buildings and works.

Condition 4 Art Gallery: This condition will be deleted as the site will no longer be used as an art gallery. A new condition will be included that controls the hours of operation for the sale and consumption of alcohol both inside and outside the building.

Condition 6 Function Centre: This condition will be deleted as the site will not longer be used as a Function Centre. A new condition will be included which limits the number of patrons.

Condition 6 Security Management Plan: This condition will be updated to require an amended SMP relevant to the proposed use of the site.

Condition 9 SEPP N-1 and N-2: this condition will be amended to reflect the current Environment Protection Regulations. The new condition will read:

At all times noise emanating from the land must comply with the requirements of the Environment Protection Regulations 2021 (or as amended and in force at the time) as measured in accordance with the Noise Protocol to the satisfaction of the Responsible Authority.

Noise Protocol means Publication 1826 Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues, published by the Environment Protection Authority on its website (or as amended and in force at the time).

Conditions 12 - 15: these conditions which relate to signage will be deleted as no new signs are proposed as part of the application. Any new signs may require further permission from the responsible authority.

12. COVENANTS

12.1 The applicant has completed a restrictive covenant declaration form declaring that there is no restrictive covenant on the title for the subject site known as Lot 1 on Title Plan 67690L [Parent Title Volume 04521 Folio 118].

13. INTEGRATED DECISION MAKING

13.1 Clause 71.02 of the planning scheme requires the decision maker to integrate the range of policies relevant to the issues to be determined and balance the positive and



negative environmental, social, and economic impacts of the proposal in favour of net community benefit and sustainable development. When considering net community benefit, fair and orderly planning is key; the interests of present and future Victorians must be balanced; and the test is one of acceptability.

- 13.2 The proposal is considered to have strong strategic support as the application supports a business which has benefits to the local economy, employment and the activity centre. The use of the site is consistent with the purpose of the Commercial Zone which seeks to create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses. The proposal continues to be consistent with the purposes of Clause 52.27 Licenced Premises which seeks to ensure that licenced premises are located in appropriate locations and to ensure that the impact of a licenced premises on the amenity of the surrounding area is considered. The proposal can meet the requirements of Clause 53.06 Live Music Entertainment Venues through appropriate conditions being included on the permit.
- 13.3 It is considered that the proposed use will not be dissimilar to the existing use of the site. Existing and amended conditions on the permit will continue to control amenity impacts on the surrounding area.
- 13.4 The subject site, while within a major activity centre is within proximity of residential development. The application has received 26 objections, however it is considered that the proposed use of the site will not result in an unreasonable impact on the amenity of the dwellings.

14. OFFICER GENERAL OR MATERIAL INTEREST

- 14.1 No officers involved in the preparation of this report have general or material interest in the matter.




15. OPTIONS

- 15.1 Approve as recommended
- 15.2 Approve with changed or additional conditions
- 15.3 Refuse - on key issues





16. CONCLUSION

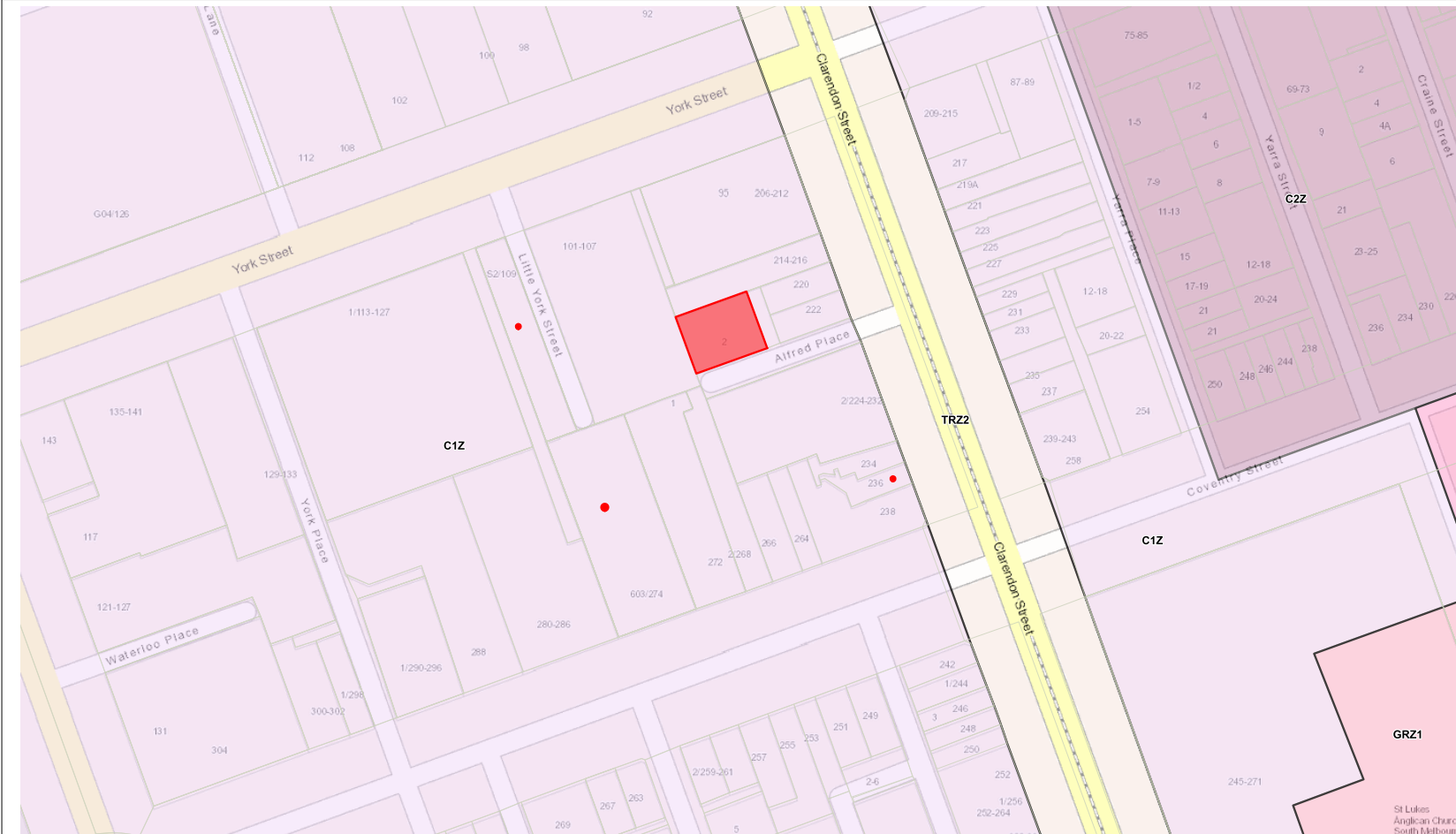
- 16.1 The proposed amendments to the existing permit are consistent with the objectives and decision guidelines of the relevant provision of the planning scheme. The proposal will continue to provide a commercial use in area zoned for commercial land uses.
- 16.2 The use will not result in an unreasonable impact on surrounding non-commercial uses.
- 16.3 Existing and amended conditions included in the officer's recommendation will be enforceable and will adequately manage any potential amenity impacts.
- 16.4 It is considered that the changes proposed in the amendment application are acceptable subject to conditions. It is recommended that Council issues a Notice of Decision to Amend a Planning Permit.

ATTACHMENTS

1. Attachment 1 - Objectors Map 
2. Attachment 2 - Red Line Plan 
3. Attachment 3 - Management Plan 



4. Attachment 4 - 646-2007 Permit  
5. Attachment 5 - 646-2007-A - Permit  



Objectors map - 2 Alfred Place, South Melbourne 646/2007/C

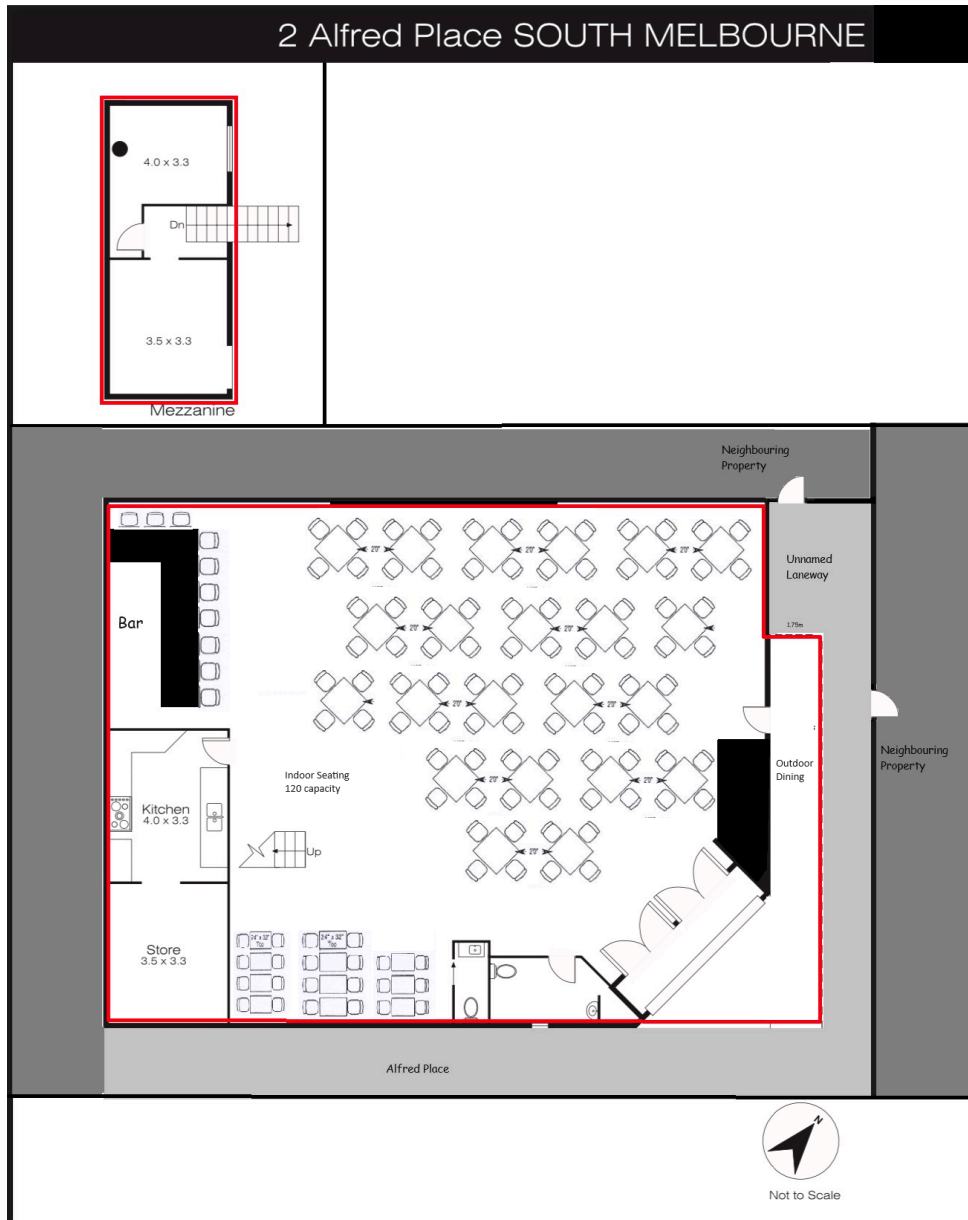
Date: 02/07/2024

Scale: 1:1189 at A3

Disclaimer:
This map contains Vicmap information collated from The State of Victoria, Department of Sustainability and Environment and the City of Port Phillip, 2024. This material may be of assistance to you but the state of Victoria and the City of Port Phillip do not guarantee that the publication is without flaw of any kind or is wholly appropriate for your particular purposes and therefore disclaims all liability for any error, loss or consequences which may arise from your relying on any information contained in this material.



**City of Port Phillip
Advertised Plan
Planning Application No. 646/2007/C
No. of Pages: 1 of 1**



MANAGEMENT PLAN

2 ALFRED PLACE, SOUTH MELBOURNE

1 January, 2024.

INTRODUCTION

This document has been drafted in accordance with in accordance with City Of Port Phillip Planning Permit No. 646.2007 and subsequent amendments.

In addition to operation under a general licence as a bar and restaurant, Roxy's Events hosts a multitude of events including but to limited to creative art classes, corporate functions, fashion shows, conferences, seminars, wedding ceremonies, birthdays, children's art classes, comedy events, open mic nights and podcast recordings.

This Management Plan details ongoing initiatives to ensure the smooth running of the premises as well as the protection of the amenity.

City of Port Phillip
Advertised Document
Planning Application No. 646/2007/C
No. of Pages: 1 of 13

RESPONSIBLE SERVICE OF ALCOHOL

The Applicants are committed to Responsible Service of Alcohol (RSA) and all its implications regarding staff and patron behaviour.

The responsibilities of management and staff include, but are not limited to:

- - The presence of competent, experienced and qualified management who are available onsite at all times during trading hours.
- - All staff employed by the premises in the capacity of alcohol service are required to complete an RSA course prior to commencement of work unless they have completed an RSA course within the last 3 years.
- - Intoxicated, indecent or disorderly conduct and quarrelsome behaviour are not permitted and any person causing such a disturbance shall be refused entry or refused service and asked to leave the premises. Any patron considered to have behaved inappropriately at the premises may be barred from the premises for a period determined by management.
- - Staff to provide service in a responsible, friendly and professional manner to minimise the risk of intoxication and anti-social behaviour including property damage and causing personal injury.

- - Staff to monitor the venue and its patrons, recognising early signs of intoxication and intervening when deemed necessary.
- - Intoxicated and disorderly patrons will not be served.
- - The venue will not enter into any reckless promotion and will adhere to the 16 principles of responsible liquor advertising and promotions concerning the irresponsible consumption of liquor, such as:
 - Promoting or conduct encouraging minors to consume liquor
 - Promoting material or conduct encouraging rapid or excessive consumption of liquor
- - A strong food menu available to patrons, a low alcohol offering as well as a clear 'non-alcoholic' beverage offering. Free drinking water is available to patrons at all times.
- - No persons under the age of 18 years is permitted to consume alcohol on the premises.

SAFE ENVIRONMENT

The applicants will use best endeavours to provide a safe environment for patrons.

Staff will ensure that available telephone numbers for taxis, police, ambulance and fire brigade are readily available upon demand.

COMPLAINTS PROCEDURES

The Applicants will take all complaints by neighbours very seriously and endeavour to respond to any concerns in a timely and positive manner.

The management email and social media messaging contact details will regularly be available to them.

- - In the event of a complaint made about the venue, the complaint must be recorded in the Complaints Register.

The following details are to be lodged to ensure the appropriate action will be taken:

- Date;
- Time;
- Complaint or allegation;
- Contact details (will be advised that they remain confidential);
- Action plan signed by the manager;
- Outcome.

SIGNAGE

A current Liquor Licence will be displayed at all times in a conspicuous position that invites public attention.

The Liquor Licence is also included in staff inductions with key components of the licence highlighted and reiterated to ensure full understanding and compliance.

- - The mandatory Liquor compliance signs are displayed at all times in a conspicuous position that invites public attention.
- - Signs are located both inside and outside of the venue requesting patrons to respect the peace and quiet of the neighbourhood.

On patrons departing the venue, management/staff will request that they depart the venue quietly and with regard to the neighbours.

The signage includes:

- Requesting patrons to respect the proximity to local residents by keeping noise levels to a minimum. These signs are located at every exit/entry to the venue.
- Indication that the venue is under constant camera surveillance for the security and safety of both staff and patrons.
- Any signage requirements as stated in the Liquor Licence are also displayed.

LOCAL AMENITY

Management are committed to awareness of local amenity and endeavours to ensure that all legal obligations are followed.

Part of this commitment requires that all management and staff are aware of this plan that deals with a number of amenity issues.

The venue and its staff are dedicated to respecting the neighbours by minimising litter, noise and disturbance emanating from the premises.

Key responsibilities include, but are not limited to:

- - Ensuring staff remove all rubbish from the front and rear of the premises as well as any liquor related rubbish within the vicinity of the premises.
- - Promptly arrange taxis where requested by patrons to minimise any street noise.
- - At all times have regard to its neighbours in the surrounding area and use best practice to ensure that minimal disturbance is caused to those residents by the operation of the venue.

CROWD CONTROL

In the event that venue management engages crowd controllers for a specific event:

If there is an incident and there is recorded evidence of such, this will be copied and logged in case it is requested by VicPol by the Police or required for insurance purposes.

The manager of Roxy's Events will work cooperatively with the Victorian Police. Standing procedures are to be drawn up by manager, and staff briefed as to action to be taken in the event of any breach of security.

Staff will be trained in what to do with unexplained bags and boxes.

All Crowd Controllers will be qualified and licensed and will sign in and out of the Crowd Control Register every shift.

All Crowd Controllers will maintain a Certificate 3 Crowd Controlling Certificate and must also maintain a 1st Aid certificate.

All staff will be briefed on procedures, to advise and enforce that there is strictly no drinking outside of the approved licensed areas as shown on the Red Line Plan.

Management will ensure that the Security Company engaged maintains Public Liability Insurance and has proof of same.

The venue also holds Public Liability Insurance.

When required a Crowd Controller in the immediate area will ensure patrons queue and enter in an orderly manner and that there is no damage caused to the surrounding properties.

Queuing will be managed to ensure that people do not spill onto adjacent roads, or obstruct through passage on footpaths or any entrance/exit to or from the premises.

The immediate area surrounding the premises will be cleaned prior to closing, and management will ensure that the area outside the venue and in the surrounding streets is cleaned of rubbish and other equipment resulting if any from the use of the site.

The manager of the premises or his/her representative will be an active member of the Port Phillip Licensing Forum or its equivalent.

The manager will liaise with VicPol from time to time as required.

All EXIT signs will be clearly displayed and in operational condition.

All exits will be clear of obstructions.

The manager will maintain approved MFB Extinguishers.

All senior staff will be trained in the use of Extinguishers.

First Aid facilities shall be available on site.

An employee with accredited First Aid Training shall be on duty at all times when the venue is open.

WASTE MANAGEMENT

Waste collection shall be conducted in accordance with EPA Publication 1254 'Noise Control Guidelines' and shall not occur after 8pm, and before 7am weekdays or 9am all other days.

Deliveries shall be conducted in accordance with EPA Publication 1254 'Noise Control Guidelines' and shall not occur after 10pm, and before 7am weekdays or 9am all other days.

Emptying bottles into bins and glass crushing shall not occur after 10pm, and before 7am weekdays or 9am all other days.

Noise enclosures are required for any bottle crushers and shall be located away from dwellings (if bottle crushers are proposed).

ACOUSTIC CONTAINMENT

Outdoor Music:

No outdoor music is proposed.

Indoor Amplified Live & Recorded Music:

There is provision for amplified live music to be played in the venue.

Where amplified music is proposed to be played, speakers will not be located near windows and be as far as practical from the roof and ceiling.

Speakers will not be located within the ceiling cavity.

All external doors/windows to areas playing amplified music shall be kept closed after 10pm except to provide access or egress.

Amplified live and recorded music is recommended to be concentrated before 11pm.

Music after 11pm is recommended to be quieter in nature.

As a general guide, music noise levels 1m from speaker when amplified live music is played should be maintained at:

LCSlow 100 dB(C) during the day and evening period; and

LCSlow 95 dB(C) during the night period (i.e. after 11pm Monday-Saturday and after 10pm Sunday)

Levels will be monitored and maintained utilising a decibel meter and recorded in a dB Journal.

On the basis of the above, compliance with the relevant noise limits is expected.

Patron Noise:

Total patrons at proposed outdoor area: 30 patrons up to 11pm.

Patron noise is expected to conform with nominated criteria.

Mechanical Services Noise:

Noise from existing mechanical plant at the venue conforms with EPA Pub. 1826-P1 commercial noise limits at all times.

VENUE CONTACT:

Director Cindy Kay
0439832839
info@roxysvenue.com

PORT PHILLIP PLANNING DEPARTMENT Date Received: 28/12/2023

Enquiries: Allison Hawke
Telephone: 9209 6249
Facsimile: 9209 6275
Our Ref: 646/2007

27 March 2008

Sharon Dawson
40 Ardmillan Rd
MOONEE PONDS VIC 3039

Dear Sir/Madam,

Re: **Application for Planning Permit No. 646/2007**
Address: **2 ALFRED PLACE, SOUTH MELBOURNE VIC 3205**

I refer to your application for a Planning Permit change of use from a warehouse to an art gallery and associated limited liquor licence, parking dispensation and advertising signage.

It has been decided that it is appropriate that a Planning Permit be issued by delegation. I attach a copy of this Planning Permit, which contains certain conditions. You should make sure that you are familiar with these conditions before you act on this permit.

If you are aggrieved by any condition on this permit you may appeal to the Victorian Civil and Administrative Tribunal (VCAT) to have that matter discussed. The last page of the Planning Permit form has some details regarding this process.

You may also need building or other approvals from the Council, so you should ensure that these matters are also attended to prior to acting on this Planning Permit.

Note: any variation from the Planning Permit and Approved Plans will require prior written consent from the Responsible Authority, this may require you to submit a new application for a planning permit from Planning & Building Services at the City of Port Phillip. An Enforcement Notice will be issued to a building surveyor who fails to comply with the Building Regulations as they relate to Planning consent. Enforcement action under the Planning & Environment Act 1987 may also involve the owner where they have shown disregard for the conditions of this Planning Permit issued under the Port Phillip Planning Scheme.

PLEASE READ AND CONSIDER THE CONDITIONS CAREFULLY.

I am pleased to advise that Council's Planning Department actively aims to reduce the delays generally associated with the planning process for minor proposals, such as house painting, swimming pools, fences, air conditioners and some business signs. Council has dedicated "fast track" planner who assesses minor applications that are able to be processed without advertising or the need for external referrals. Please contact Council if you require more information regarding this service or wish to lodge a "fast track" planning application.

Yours faithfully,

Allison Hawke
Urban Planner

Planning & Building Services *Located at:-*
South Melbourne Office
208 -220 Bank Street, South Melbourne



PLANNING PERMIT

Application Number: **646/2007**
Planning Scheme: **Port Phillip**
Responsible Authority: **City of Port Phillip**

ADDRESS OF THE LAND:

2 ALFRED PLACE, SOUTH MELBOURNE VIC 3205

THE PERMIT ALLOWS:

To develop and use the land for the purpose of the change of use of the premises from a warehouse to an art gallery and associated limited liquor licence, parking dispensation and advertising signage.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. The applicant must gain approval from Liquor Licensing Victoria, prior to the commencement of the use.
2. The development and use as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. The use may operate only between the hours of Wednesday to Sunday, 12pm-6pm; with no more than 30 people permitted on the premises at one time
4. The use may operate on Wednesday and Thursday from 7pm-9pm with no more than 50 people permitted on the premises at one time, for the purpose of hosting exhibition events.
5. The use of the site shall not cause nuisance or be detrimental to the amenity of the neighbourhood by the emission of noise. In this regard the emission of noise shall comply with the provisions of the Environment Protection Authority.
6. No external amplified equipment, loud speakers or public address system shall be used in conjunction with the use.
7. No goods are permitted to be stored or left exposed outside the building so as to be visible from any public road or thoroughfare.
8. The signs as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
9. All signs must be constructed and maintained to the satisfaction of the Responsible Authority.
10. The signs must not be internally/externally illuminated except with the written consent of the Responsible Authority.
11. This permit, as it relates to signage expires on 13 November, 2022.
12. This permit will expire if one of the following circumstances applies:
 - a) The use is not started within one (1) year of the date of this permit.
The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.

PERMIT NOTES:

Due Care: The developer must show due care in the development of the proposed extensions so as to ensure that no damage is incurred to any adjoining building and property.

Approval Required for Signs: Unless no permit is required under the planning scheme, other signs must not be constructed or displayed without a planning permit.

DATE

Signature for Responsible Authority

IMPORTANT INFORMATION ABOUT THIS NOTICE

WHAT HAS BEEN DECIDED?

The Responsible Authority has issued a permit.

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 (5) 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 (2) years after the issue of the permit, or
 - * the use is discontinued for a period of two (2) 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 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 (2) 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 (2) years after the completion of the development or
 - * the use is discontinued for a period of two (2) 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 difference 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 (2) 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 APPEALS?

- * The person who applied for the permit may appeal against any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal where, in which case no right of appeal exists.
- * An appeal 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 appeal must be lodged within 60 days after the giving of that notice.
- * An appeal is lodged with the Victorian Civil and Administrative Tribunal.
- * An appeal must be made on a Notice of Appeal form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the prescribed fee.
- * An appeal must state the grounds upon which it is based.
- * An appeal must also be served on the Responsible Authority.
- * Details about appeals and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.
- * The address of the Victorian Civil and Administrative Tribunal is 55 King Street, Melbourne. The telephone number is (03) 9628 9777.

Planning and Environment Regulations 1988 Form 4.4

Enquiries: Allison Hawke
Telephone: 9209 6424
Facsimile: 9536 2740
Our Ref: 646/2007/A

5 August 2009

Sharon Dawson
40 Ardmillan Rd
MOONEE PONDS VIC 3039

Dear Sir/Madam,

Re: **Application to amend Planning Permit No. 646/2007/A**
Address: **2 ALFRED PLACE, SOUTH MELBOURNE VIC 3205**

I refer to the above matter and associated hearing for application for review to the Victorian Civil and Administrative Tribunal (VCAT) held on 24-Jul-2009 and advise that the Tribunal have now advised of their decision to grant an amended permit.

Accordingly, please find attached a copy of the amended Planning Permit No646/2007/A as per the direction of the Tribunal. You should make sure that you are familiar with these conditions before you act on this permit.

You may also need building or other approvals from the Council, so you should ensure that these matters are also attended to prior to acting on this Planning Permit.

Note: **any variation** from the Planning Permit and Approved Plans will require prior written consent from the Responsible Authority, this may require you to submit a new application for a planning permit from Planning & Building Services at the City of Port Phillip. An Enforcement Notice will be issued to a building surveyor who fails to comply with the Building Regulations as they relate to Planning consent. Enforcement action under the Planning & Environment Act 1987 may also involve the owner where they have shown disregard for the conditions of this Planning Permit issued under the Port Phillip Planning Scheme.

PLEASE READ AND CONSIDER THE CONDITIONS CAREFULLY.

I am pleased to advise that Council's Planning Department actively aims to reduce the delays generally associated with the planning process for minor proposals, such as house painting, swimming pools, fences, air conditioners and some business signs. Council has dedicated "fast track" planner who assesses minor applications that are able to be processed without advertising or the need for external referrals. Please contact Council if you require more information regarding this service or wish to lodge a "fast track" planning application.

Yours faithfully,

Allison Hawke
Urban Planner

Planning & Building Services *Located at:-*
St Kilda Office
99A Carlisle Street, St Kilda



PLANNING PERMIT

Application Number: **646/2007/A**
Planning Scheme: **Port Phillip**
Responsible Authority: **City of Port Phillip**

ADDRESS OF THE LAND:

2 ALFRED PLACE, SOUTH MELBOURNE VIC 3205

THE PERMIT ALLOWS:

Use of the premises for an art gallery and function centre and associated on premises liquor licence, parking dispensation and advertising signage.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. The applicant must gain approval from Liquor Licensing Victoria, prior to the commencement of the use.
2. The development and use as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. Deleted.
4. Deleted.
5. **Art Gallery**
The art gallery use to operate from 11am until 9pm, 7 days a week with no more than 30 people permitted on the premises at any one time
6. **Function Centre**
The function centre use to operate from 6pm until midnight, Thursday until Saturday and the eve of public holidays, with no more than 120 people permitted on the premises at any given time, irrespective of the site being used for both an art gallery and function centre at one time.
7. **Security Management Plan**
Within three months of the date of the issue of this permit, a Security Management Plan must be prepared and submitted for approval to the Responsible Authority which must provide for the following to the satisfaction of the Responsible Authority:
 - (a) The measures to be taken by management and staff to ensure patrons depart the premises and the surrounding area in an orderly manner.
 - (b) The measures to be taken by management and staff to ensure that patrons queue to enter the premises in an orderly manner and maintain satisfactory clearance for other pedestrians on the footpath.
 - (c) The measures to be taken by management and staff to ensure that patrons do not cause nuisance or annoyance to persons beyond the land.
 - (d) Liaison with Victoria Police, the City of Port Phillip and local residents.
 - (e) A telephone number provided for residents to contact the premises and linked to the complaints register;
 - (f) The maintenance of a complaints register.
8. **Amenity**
The amenity of the area must not be detrimentally affected by the use or development through the:

Date Issued: 27 March 2008

Date Amended: 7 September 2009

Planning and Environment Regulations 1998 Form 4

Signature for Responsible Authority

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

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

9. SEPP N-1 and N-2

Noise levels must not exceed the permissible noise levels stipulated in State and Environment Protection Policy N-1 (Control of Noise from Industrial Commercial and Trade Premises within the Melbourne Metropolitan Area) and State Environment Protection Policy.

- 10. The use of the site shall not cause nuisance or be detrimental to the amenity of the neighbourhood by the emission of noise. In this regard the emission of noise shall comply with the provisions of the Environment Protection Authority.
- 11. No external amplified equipment, loud speakers or public address system shall be used in conjunction with the use.
- 12. No goods are permitted to be stored or left exposed outside the building so as to be visible from any public road or thoroughfare.
- 13. The signs as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
- 14. All signs must be constructed and maintained to the satisfaction of the Responsible Authority.
- 15. The signs must not be internally/externally illuminated except with the written consent of the Responsible Authority.
- 16. This permit, as it relates to signage expires on 13 November, 2022.
- 17. This permit will expire if one of the following circumstances applies:
 - a) The use is not started within one (1) year of the date of this permit.
The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.

PERMIT NOTES:

Due Care: The developer must show due care in the development of the proposed extensions so as to ensure that no damage is incurred to any adjoining building and property.

Approval Required for Signs: Unless no permit is required under the planning scheme, other signs must not be constructed or displayed without a planning permit.

Expiry Date: The words "date of this permit" in condition 17) refers to 27 March 2008 being the date of planning permit 646/2007.

THIS PERMIT HAS BEEN AMENDED AS FOLLOWS:

Date of Amendment	Brief Description of Amendment
5 August, 2009	<ul style="list-style-type: none"> • Amend the permit preamble to include reference to a function centre and on premises liquor licence • Delete Condition 3 relating to operating hours and patron numbers for the daytime art gallery use. • Delete Condition 4 relating to operating hours and patron numbers for evening art gallery use. • Add a condition which allows the art gallery use to operate from 11am until 9pm, 7 days a week with no more than 30 people permitted on the

Date Issued: 27 March 2008

Signature for Responsible Authority

Date Amended: 7 September 2009

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

premises at any one time.

- Add a condition which allows the function centre use to operate from 6pm until midnight, Thursday until Saturday and eve of a public holiday with no more than 120 people permitted on the premises at any given time, irrespective of the site being used for both an art gallery and function centre at one time.
- Add a notation to clarify that the use permitted under the amended planning permit must remain a function centre and art gallery as defined in the Port Phillip Planning Scheme, throughout the trading hours hereby permitted, and is not permitted to transform to a bar, tavern or hotel at any time except with the prior approval of Council.
- Changes to the plans to show additional signs on the garage roller door
- Add conditions to impose a security management plan, a standard condition relating to amenity and compliance with SEPP N-1 & N-2.

7 September 2009

- Permit preamble corrected to be consistent with the VCAT order dated 30 July 2009, pursuant to Section 71 of the *Planning & Environment Act 1987*.
-

Date Issued: 27 March 2008

Date Amended: 7 September 2009

Planning and Environment Regulations 1998 Form 4

Signature for Responsible Authority

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

IMPORTANT INFORMATION ABOUT THIS NOTICE

WHAT HAS BEEN DECIDED?

The Responsible Authority has issued a permit.

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 (5) 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 (2) years after the issue of the permit, or
 - * the use is discontinued for a period of two (2) 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 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 (2) years after the issue of the permit; or
 - * the use does not start within the time specified in the permit, or if not time is specified, within two (2) years after the completion of the development or
 - * the use is discontinued for a period of two (2) 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 difference 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 (2) 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 APPEALS?

- * The person who applied for the permit may appeal against any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal where, in which case no right of appeal exists.
- * An appeal 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 appeal must be lodged within 60 days after the giving of that notice.
- * An appeal is lodged with the Victorian Civil and Administrative Tribunal.
- * An appeal must be made on a Notice of Appeal form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the prescribed fee.
- * An appeal must state the grounds upon which it is based.
- * An appeal must also be served on the Responsible Authority.
- * Details about appeals and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.
- * The address of the Victorian Civil and Administrative Tribunal is 55 King Street, Melbourne. The telephone number is (03) 9628 9777.

Planning and Environment Regulations 1988 Form 4.4



6.2 [34-36 ST KILDA ROAD ST KILDA 267/2018/A](#)

LOCATION/ADDRESS: 34-36 ST KILDA ROAD ST KILDA

EXECUTIVE MEMBER: BRIAN TEE, GENERAL MANAGER, CITY GROWTH AND DEVELOPMENT

PREPARED BY: MATTHEW SCHREUDER, PRINCIPAL PLANNER

1. PURPOSE

- 1.1 To consider and determine a Section 72 Amendment Application (267/2018/A) to amend an existing planning permit which includes an increase in the scale of the development due to the site now including an adjoining lot, an increase in the number of levels and apartments and revision of the car parking arrangement.
- 1.2 The application is before Council due to the reduction in the residential car parking requirements of Clause 52.06 Car Parking.

2. EXECUTIVE SUMMARY

WARD:	Lake
TRIGGER FOR DETERMINATION BY COMMITTEE:	Residential car parking reduction
APPLICATION NO:	267/2018/A
APPLICANT:	(Planning Property Partners on behalf of) CLP Electrics Pty Ltd
EXISTING USE:	Two commercial buildings
ABUTTING USES:	Commercial buildings
ZONING:	Commercial 1 Zone (C1Z)
OVERLAYS:	Design and Development Overlay Schedule 34 (Area 2E) (DDO34-2E)
STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL	Expired

- 2.1 Planning permit 267/2018 issued on 2 May 2019 authorises “Construction of an eight-storey mixed use building comprising 13 dwellings and a reduction in car parking” at 36 St Kilda Road, St Kilda.
- 2.2 The permit was issued after no appeals were lodged by objectors during the Notice of Decision period after Councillors approved the application at the Planning Committee meeting on 27 March 2019.
- 2.3 The approved development includes:
 - 60 sqm of ground floor retail space with 13 two-bedroom dwellings above.
 - All dwellings with 2 bedrooms with balconies orientated either east or west.
 - Car parking accessed off rear lane consisting of 4 car share spaces, in addition to 14 motorcycle spaces and 13 bicycle spaces.



- Car parking provided in a 4-space stacker which had a pit going down to basement level.
 - A maximum building height of 27 metres.
 - Demolition of the existing building on the site (no permit required for demolition)
- 2.4 This is a Section 72 application to amend the approved permit, conditions and plans. The application seeks to amend the permit preamble to delete reference to the number of levels and dwellings to allow for the increased scale of the proposal. Conditions are also proposed to be deleted or amended relevant to the amended development.
- 2.5 The amended proposal seeks to acquire 34 St Kilda Road as part of the subject site and add an additional ten storey section of building to the approved built form, subsequently increasing the number of dwellings from 13 to 32.
- 2.6 The application also proposes to increase the number of car parking spaces at the site from 4 to 12, increase the ground level commercial floor space to and include 33 bike parking spaces.
- 2.7 The application is brought to this Planning committee due to the increased car parking reduction which requires a total car parking reduction of 25 spaces.
- 2.8 Acquiring 34 St Kilda Road as part of the application site, increases the subject site from 235 sqm to 475 sqm.
- 2.9 Section 72 of the planning and Environment Act 1987 allows an application to the Responsible Authority to amend a permit and associated plans. The assessment of this application is confined to the proposed amendments to the current permit.
- 2.10 Following notice of this amended application 7 objections were received. The concerns raised relate to a range of issues including the scale of the building, non-compliance with the design and development overlay, amenity impacts, waste management and inadequate car parking.
- 2.11 Internal referrals were conducted with general support received. No external referrals were required for the proposal.
- 2.12 While the amended proposal is larger than the approved develop, due to the increased site area, the amendments would not constitute a transformation of the proposal. Importantly the amendment would not trigger any new planning permit requirements and would maintain the level of strategic support and compliance with the applicable zone, overlay and particular provisions when compared to the approved development.
- 2.13 The proposed amended development would provide an appropriate level of street activation, an acceptable mix of dwelling types, appropriate car parking rates, would improve the approved level of internal amenity, and would not result in an unreasonable level of external amenity impacts.
- 2.14 The changes proposed in the amendment application are considered acceptable, subject to conditions. It is recommended that Council issues a Notice of Decision to Amend a Planning Permit.



3. RECOMMENDATION A

- 3.1 That the Responsible Authority, having caused the application to be advertised and having received and noted the objections, issue a Notice of Decision to Grant an Amended Permit.
- 3.2 The permit preamble and conditions will show changes including deletions as strikeout and new requirements in **bold** (excluding headings which remain bold).
- 3.3 That a Notice of Decision to Grant an Amended Permit be issued at 34-36 St Kilda Road, St Kilda subject to the following:

Amended permit preamble:

Planning Scheme Clause No.	Description of what is allowed
Clause 34.01-1	Use of the land for dwellings (accommodation) in a Commercial Zone
Clause 34.01-4	To construct a building or construct or carry out works in a Commercial Zone
Clause 43.02-2	Construct a building or construct or carry out works in a Design and Development Overlay
Clause 52.06-3	Reduce(including to zero) the number of car spaces required under Clause 52.06-5

Amended Plans

- 1 Before the 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 generally in accordance with the **advertised plans prepared by CHT Architects comprising TP0.000, TP0.001, TP0.002, TP0.003, TP1.000 – TP1.008, TP2.001, TP2.002, TP2.003, TP3.000, TP3.001, TP3.002, TP4.000 and TP4.001 received by Council on 16 October 2023 forming part of the application** but modified to show the following:
 - a) ~~The entire building including rear balconies setback at least 9m from the nearest building on the adjoining property to the east, whilst maintaining the balcony screening at all levels facing the rear boundary.~~
 - b) ~~The ground floor frontage to St Kilda Road showing:~~
 - ~~The commercial tenancy frontage abutting the front title boundary for it's full width and having at least 80% of it's frontage as clear glass.~~
 - ~~The recess for the ground level dwelling entry reduced (door moved closer to the front boundary) by 1m.~~
 - c) ~~Reference to and notations to include details of the updated Sustainable Management Plan required under condition 7, most specifically being:~~
 - ~~Notations for rainwater tank reuse e.g. "connected to toilets and irrigation".~~
 - ~~The location, capacity and reuse of the fire test water tank.~~
 - ~~Location of the clothes drying lines.~~



- External shading to light well windows.
 - Notation that double glazing will be used on both main facades.
 - Location of external plant including the location and capacity of any solar panels.
 - An elevation of the light well windows including details of window operability for natural ventilation.
 - A notation on balconies and roof terrace that an external tap and drain is provided.
 - The extent of any vegetation to roofs (main roof, roof terrace and light well roof).
- d) Provision of a ground level weather protection canopy above the entrances to both the shop and the apartment access.
- e) Detail of acoustic measures (including the use of double glazing) to the building facades.
- f) The car stacker platform as a minimum of 5.4m in length together with a charging point for electric vehicles and accommodating four cars
- g) The vehicle access ramp to the car stacker shown as meeting the relevant gradient requirements of Clause 52.06
- h) Deletion of the mezzanine level from the commercial tenancy
- i) Suitable planting and landscaping for the rooftop terrace
- j) A notation that the ground level party wall shared with abutting No. 38, is not to be altered, dismantled or changed in any way together with any consequent reduction in the size of the ground floor retail being depicted accordingly.
- a) **All changes to the plans as shown on the 'Information Plans' submitted to Council on 5 June 2024 prepared by CHT Architects comprising TP0.000, TP0.001, TP0.002, TP0.003, TP1.000 – TP1.008, TP2.001, TP2.002, TP2.003, TP3.000, TP3.001, TP3.002, TP4.000 and TP4.001 including but not limited to the following:**
- i. **Provision of separate commercial and residential waste bin storage areas;**
 - ii. **Disability access to all waste and resource recovery facilities and services;**
 - iii. **spare bins within the chute termination room for when bins are out form collection;**
 - iv. **provision of an E-waste bin within the bin room:**
 - v. **The ground floor northwest corner of the building provided with a splay for improved pedestrian sightlines;**
 - vi. **Doors to the bike store shown as sliding doors;**



vii. **Access doors to the services cabinetry able to be opened to 180 degrees and be pinned back to the building when in use.**

- b) **A mirror mounted on the building at the entrance of the car lift off Phoenix Lane;**
- c) **Any applicable amendments consistent with the updated landscape Plan (Condition 15) and Waste management plan.**
- d) **Any applicable amendments consistent with the updated Waste management plan (Condition 16).**

No Layout Change

- 2 The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

External colours and Finishes

- 3 All external materials, finishes and paint colours are to be to the satisfaction of the responsible authority and must not be altered without the written consent of the Responsible Authority

Equipment and Services above roof level

- 4 No equipment, services and architectural features other than those shown on the endorsed plans shall be permitted above the roof level of the building unless otherwise agreed to in writing by the Responsible Authority.

Plant and Equipment

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

Outdoor lighting

- 6 Outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.

~~**Updated sustainable management plan Deleted**~~

- ~~7 Before the permitted development begins, an updated Sustainable Management Plan must be submitted to the responsible authority. The document must be generally in accordance with that originally submitted, but modified so as to include reference to the following:~~

~~–The provision of better and improved natural daylight provision to the ground floor lift lobby via a rooflight/solar tube arrangement.~~

Incorporation of water sensitive design and Sustainable Design Initiatives

- 8 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 and the sustainable design initiatives listed in the Sustainable management Plan to the satisfaction of the



Responsible Authority, and thereafter maintained to the satisfaction of the Responsible Authority.

~~Maintenance Manual for Water Sensitive Urban Design Initiatives~~

Construction Management Water Sensitive Urban Design

- ~~9~~ Before the development starts (other than demolition or works to remediate contaminated land) a Maintenance Manual for Water Sensitive Urban Design Initiatives must be submitted to and approved by the Responsible Authority. The manual must set out future operational and maintenance arrangements for all WSUD (stormwater management) measures. The program must include, but is not limited to:
- ~~• inspection frequency~~
 - ~~• cleanout procedures~~
 - ~~• as installed design details/diagrams including a sketch of how the system operates~~
 - ~~• The WSUD Maintenance Manual may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Builder's User's Guide or a Building Maintenance Guide.~~
- 9 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.**

Implementation of Sustainable Design Initiatives

- 10** Before the occupation of the development approved under this permit, a report from the author of the Sustainable Design Assessment/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 Ecologically Sustainable Design report have been implemented and/or incorporated in accordance with the approved report to the satisfaction of the Responsible Authority.



Walls on or facing a boundary

- 11 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.

Share Car Allocation/Operation by Owners' Corporation

- 12 Before the occupation of the development approved under this permit, ~~four~~ two cars must be purchased, owned, maintained and operated as a car share arrangement by or on behalf of the Owners' Corporation and must be made available for residents of the building at all times. A Share Car Management Plan to the satisfaction of the Responsible Authority is to be submitted to the Responsible Authority setting out how the share cars are to be made available at all times to residents of the dwellings and the methods of reservation, management, maintenance and replacement of vehicles as necessary. When satisfactory to the Responsible Authority, the Share Car Management Plan will be endorsed and form part of this permit. The operation of the car share scheme must be in accordance with the Share Car Management Plan.

Car Stacker and ~~Bicycle~~ Lift Maintenance and Provision

- 13 The mechanical car stacker and the ~~bicycle/motorcycle~~ lift are to be maintained in a good working order and be permanently available for the parking of vehicles and the moving of ~~bicycles/motorcycles~~ **vehicles** in accordance with their purpose, to the satisfaction of the Responsible Authority.

Car parking Areas must be Available

- 14 Car and bicycle parking 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.

Landscaping Plan for Roof

- 15 ~~Prior to the endorsement of plans under condition 1 of this permit, Before the permitted building is occupied,~~ **an amended** landscape plan for the roof terrace is to be submitted to the responsible authority. If suitable, this plan will be endorsed and will form part of this permit with all landscaping shown on the plan to be completed ~~within 6 months~~ of prior to the building's completion. The plan must include:
- a) **Raised planter details including dimensions, construction, drainage, and materiality;**
 - b) **A materials palette;**
 - c) **Improvements to the representation of the planting including lines connecting the individual plant species;**
 - d) **The canopy tree relocated from the centre of the roof terrace to improve useability of the space;**



- e) **Improved rooftop functionality through including BBQ facilities, seating and dining opportunities.**

Waste Management Plan

- 16 Before the development starts (other than demolition or works to remediate contaminated land), a Waste Management Plan based on the City of Port Phillip's Waste Management Plan Guidelines for Developments must be prepared by a Waste Management Engineer or Waste Management Planner to the satisfaction of the Responsible Authority and endorsed as part of this permit. The Plan must include reference to the following:
- The estimated garbage and recycling volumes for the whole development.
 - Bin quantity, size and colour.
 - The garbage and recycling equipment to be used.
 - Collection frequency.
 - The location and space allocated to the garbage and recycling bin storage area and collection point.
 - The waste services collection point for vehicles.
 - Waste collection provider.
 - How tenants will be regularly informed of the waste management arrangements.
 - Scaled waste management drawings.
 - Signage.
 - **Hours of collection limited to between 6:00 am and 10:00 am.**
 - **Scaled waste management drawings including;**
 - **Bin room sizes;**
 - **Each type of waste stream colour coded;**
 - **Bin locations;**
 - **Number of bins;**
 - **Size of bins;**
 - **Bin wash area;**
 - **Hard waste storage area; and**
 - **E-waste bin.**

Once submitted and approved, the waste management plan must be carried out to the satisfaction of the Responsible Authority.

Construction management plan

- 17 **Before the development starts, a construction management plan (CMP) must be submitted to an approved by the Responsible Authority. When approved the plan will be endorsed and form part of the permit. The**



information must be drawn to scale with dimensions. The Plan is to include details of the following:

- a) **Collection Numbers of responsible owner/contractor including emergency contact details.**
- b) **Location of sediment control devices on/off site.**
- c) **Location of fencing for the protection of street trees as necessary.**
- d) **Location of storage of building materials.**
- e) **Hours during which the construction will take place.**
- f) **Any site sheds external to the site to be provided over a gantry on the St Kilda Road frontage allowing passage below.**
- g) **Any static crane/s to be installed within the curtilage of the of the site to avoid positioning a crane on the road reserve for any extended period after the initial set up and removal.**
- h) **Ensure access is readily available to properties within Phoenix Lane.**

Urban Art Plan

- 18** Prior to the issue of any Certificate of Occupancy or Certificate of Final Inspection for the development approved by this permit, an urban art plan in accordance with Council's Urban Art Strategy must be submitted to, be of 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.

Time limits

- 19** This permit will expire if one of the following circumstances applies:
- a) The development is not started within 3 years of the date of this permit.
 - b) The development is not completed within 2 years of the date of commencement.

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.

Permit Notes

- This permit does not authorise the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.
- The applicant/owner would provide a copy of this planning permit to any appointed Building Surveyor. It is the responsibility of the applicant/owner and



Building Surveyor to ensure that all building development works approved by any building permit is consistent with this planning permit.

- The developer shall show due care in the development of the proposed works so as to ensure that no damage is incurred to any adjoining properties.
- Except in the case of an emergency, a builder must not carry out building works outside the following times, without first obtaining a permit from Council's Local Laws Section:
 - Monday to Friday: 7.00am to 6.00pm; or
 - Saturdays: 9.00am to 3.00pm.

An after hours building works permit cannot be granted for an appointed public holiday under the *Public Holidays Act 1993*.

RECOMMENDATION PART B

- 3.4 That the Planning Committee Authorise the Manager City Development to instruct Council's Statutory Planners and/or Council's solicitors on any VCAT Application for Review should one be lodged.

4. RELEVANT BACKGROUND

4.1 The following relevant applications have previously been considered for the subject site:

Application No.	Proposal	Decision	Date of Decision
267/2018	Construction of a part seven and part nine storey building (26.7m) comprising 13 dwellings, 60m ² of commercial space (ground level only, not including the mezzanine) and a reduction in car parking provisions.	Approved	Council meeting on 27 March 2019 supported the application and a Notice of Decision to Grant a Planning Permit was issued on 27 March 2019. <i>No appeals were received and a planning permit was issued on 2 May 2019.</i> <i>The permit required the submission of amended plans and was subject to 18 conditions.</i>
Extension of time			Approved on 24 May



PDPX/00074/2024			The permit will now expire if the development is not commenced by 2 May 2026.
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5. PROPOSAL

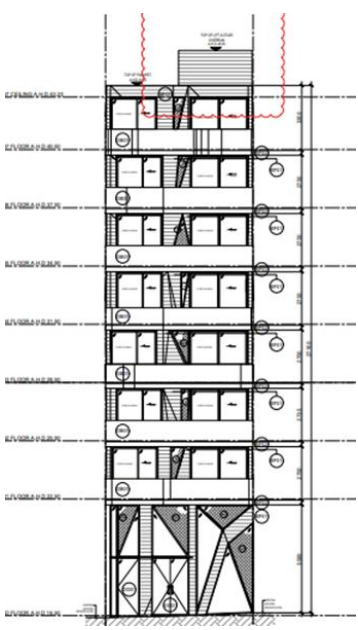

5.1 The proposal seeks to amend the permit preamble to add an additional section of built form to the building and increase the number of dwellings and storeys. Conditions are proposed to be amended and deleted in line with the amended development.

5.2 Specifically, the section 72 amendment application seeks the following changes the endorsed plans:

- The subject site amended to include No.34 St Kilda Road to the north of the existing site resulting in a combine site area increased from 235 sqm to 475 sqm.
- The building is increased in height to ten storeys and the design and layout of the building would be modified to incorporate a ten-storey section of built adjoining the approved built form immediately to the north.
- The car parking arrangement to provide 2 basement levels with 12 car spaces (2 of which are car share) and two motorcycle spaces.
- The retail space at ground floor is increased from 60 sqm to 93 sqm and the bicycle storage area would be relocated to ground level from the basement.
- The number of apartments is increased from 13 to 32.

5.3 The below table compares the key elements of the proposal with the approved development:

	Approved	Proposed
Type of development	Construction of an eight-storey mixed use building comprising 13 dwellings and a reduction in car parking	The use and development of a multi storey building comprising a retail premises and dwellings and a reduction in the car parking requirements
Demolition Proposed	Yes	Yes
Overall height	27 metres/ 8 storeys	34.9 metres/ 10 storeys

<p>St Kilda Road Elevation</p>				
<p>No. of dwellings</p>	<p>Dwelling type</p>	<p>Approved</p>	<p>Proposed</p>	<p>Difference</p>
	<p>1 bedroom</p>	<p>0</p>	<p>7 (21.8%)</p>	<p>+7</p>
	<p>2 bedroom</p>	<p>13 (100%)</p>	<p>23 (71.8%)</p>	<p>+8</p>
	<p>3 bedroom</p>	<p>0</p>	<p>2 (6.2%)</p>	<p>+2</p>
	<p>Total</p>	<p>13</p>	<p>32</p>	<p>+19</p>
<p>Commercial use floor area</p>	<p>60 square metre retail shop</p>		<p>93 square metre retail shop</p>	
<p>Communal areas</p>	<p>None</p>		<p>97 square metre roof terrace</p>	
<p>Setbacks</p>	<p>9 metres from east site boundary. Constructed to north and south boundary.</p>		<p>4.92 metres – 9.17metres from eastern boundary Constructed to north and south boundary.</p>	
<p>Dwelling access</p>	<p>Via St Kilda Road entrance and foyer</p>		<p>Via St Kilda Road entrance and foyer</p>	



Commercial access	Via St Kilda Road, separate entrance.		Via St Kilda Road, separate entrance.	
Crossovers	Single crossover off rear right of way accessed from Phoenix Lane.		Single crossover off Phoenix Lane.	
Loading bay	None		None	
Car parking	Component	Approved No. spaces	Proposed spaces/Rate	Difference in rate/provision
	1 bedroom dwelling 2 bedroom 3 bedroom (Dwellings)	4 spaces (proposed as car share)	12 spaces (including 2 car share)	8 extra spaces
	Retail	None	None	0
Motorcycle parking	13 spaces		2 spaces in basement	
Bicycle spaces	15 Bicycle spaces		33 spaces in a bike storeroom at ground floor level accessed off Phoenix Lane.	

5.4 The following permit conditions are proposed to be amended and deleted as noted:

- Permit conditions 1 amended plans, amended to reflect current proposal,
- Conditions 7, 8, 9 and 17 (Waste Management and Sustainability Management Plan updated).
- Condition 13 (provision of car share spaces).
- Condition 14 (proposed to be updated to remove reference to the bicycle lift)

6. SUBJECT SITE AND SURROUNDS

Description of Site and Surrounds	
Site Area	Approximately 475 sqm
Existing building & site conditions	<p>The subject site is located on the east side of St Kilda Road, approximately 100m south of St Kilda junction and approximately 350m north of Alma Road.</p> <p>The site comprises two parcels of land being 34 St Kilda Road and 36 St Kilda Road. No. 34 is currently</p>



	<p>used as a food and drink premises and No.36 a place of assembly.</p>
<p>Surrounds/neighbourhood character</p>	<p>On the opposite side of Phoenix Lane to the north is No.30 St Kilda Road which contains a three-storey commercial building with under croft parking accessed from Phoenix Lane and a right of way to the rear.</p> <p>To the south of the site is No.38 St Kilda Road which contains a single storey commercial building (retail premises). It is at zero setback to all boundaries and occupies 100% of its site. The site benefits from access to a rear right of way.</p> <p>Behind and to the east is a group of public housing units. The closest of these is double storey and is setback approximately 4.7m from the subject site's rear boundary. Including the subject site's easement, the neighbour to the east is approximately 6.9m from the current building's rear wall. There are some windows that appear to relate to habitable rooms facing the subject site. The rear setback on the neighbouring site occupies a courtyard/open space.</p> <p>Properties further afield in St. Kilda Road are varied in scale and era. Many are converted residential buildings now used for commercial purposes.</p> <p>Built form is generally two to three storeys in height.</p> <p>Buildings closer to St. Kilda junction are similar in scale and appearance aside from a recent and highly contemporary multilevel apartment building on the corner of Wellington Street and St Kilda Road (2-4 St Kilda Road).</p> <p>Other four to five storey rear additions are visible in this location.</p> <p>Building stock opposite the subject site is distant, being separated by a 60m wide road reserve. They are, nonetheless, taller at generally four to eight storeys in height.</p>



	A 28 storey building is currently under construction at 2-7 Wellington Street.
	The subject site is located within the Principal Public Transport Network and is located within proximity of various public transport facilities. Various tram and bus routes run along St Kilda Road and tram stops are located in the central road reserve opposite the site.

7. PERMIT TRIGGERS

- 7.1 Section 73(1) of the *Planning and Environment Act 1987* states that Sections 47 to 62 apply to an application to amend a permit as if the application were an application for a permit and any reference to a permit were a reference to the amendment to the permit.
- 7.2 Therefore the amendments to the permit and plans are to be assessed against the relevant planning controls affecting the proposal
- 7.3 Only the changes to the approved proposal are considered as part of this application for amendment. The following zone and overlay controls apply to the site, with planning permission required as described.

Zone or Overlay	Why is a permit required?	New permit trigger?
Clause 34.01 Commercial 1 Zone	<p>Pursuant to Clause 34.01-1 a permit <i>is required</i> for the use of land for the purpose of Accommodation (including dwellings and residential hotel) where the frontage at ground level exceeds 2 metres. As the residential frontage exceeds 2 metres at ground level, a permit is required for the use.</p> <p>Pursuant to Clause 34.01-4 a permit <i>is required</i> for buildings and works within the Commercial 1 Zone.</p> <p>An apartment development must meet the requirements of Clause 58.</p>	No
Clause 43.02-2 Design and Development Overlay	Pursuant to Clause 43.02-2 a permit <i>is required</i> to construct a building or construct or carry out works.	No
Clause 52.06 Car Parking	A permit <i>is required</i> to reduce (including to zero) the number of car parking spaces required under Clause 52.06-5 or in a schedule to the parking overlay.	No



	<i>The application requires the provision of 37 Car spaces for the 32 apartments. 12 are provided on the site, therefore the proposal seeks a reduction in 25 spaces.</i>	
<i>Clause 52.34 Bicycle Facilities</i>	<i>The proposed development would provide the required number of bicycle spaces under Clause 52.34. A permit is not required to reduce the number of required bicycle spaces under Clause 52.34.</i>	<i>N/A</i>
<i>Clause 58 Apartment developments</i>	<i>Clause 58 applies to apartment developments within Commercial Zones.</i> <i>A development:</i> <ul style="list-style-type: none"> • <i>Must meet all of the objectives of this clause.</i> • <i>Should meet all of the standards of this clause.</i> 	<i>N/A</i>

8. PLANNING SCHEME PROVISIONS

8.1 Planning Policy Frameworks (PPF)

The following provisions of the PPF are relevant to this application:

Clause 02: Municipal Planning Strategy

02.01 – Context

02.02 – Vision

02.03 – Strategic Directions

02.04 – Strategic Framework Plans

Clause 11: Settlement

11.03-6L-03 – St Kilda Road South Precinct

Clause 13: Environment Risks and Amenity

12.01-1L – Interfaces and amenity

Clause 15: Built Environment and Heritage

15.01-1L-02 Urban Design

15.01- 2L-01 Building Design

15.01-2L-02 Environmentally Sustainable Development

15.01-2L-03 Urban Art Clause

Clause 16: Housing

16.01-1L-01 Housing Diversity

16.01-1L-02 Location of Residential Development

Clause 18: Transport



18.01-1L-01 – Land use and transport integration

18.02-4L-01 – Car Parking

18.02-4L-02 – Loading Facilities

Clause 19: Infrastructure

19.03-3L – Stormwater Management (Water Sensitive Urban Design)

19.03-5L – Waste Resource Recovery

8.2 Other relevant provisions

Clause 52.06 Car Parking

Clause 52.29 Land Adjacent to the Principal Road Network

Clause 52.34 Bicycle Facilities

Clause 58 Apartment Developments

Clause 65 Decision Guidelines

Clause 71.02 Integrated Decision Making

8.3 Relevant Planning Scheme Amendment/s

Amendment C203port was approved with changes by the Minister for Planning and was gazetted on 14 April 2023. There are no transitional arrangements in the adoption of C203port. The Planning Scheme Amendment is policy neutral in respect to the majority of the policy changes where it does not alter the meaning of policy previously in the Port Phillip Planning Scheme. Where it is not policy neutral, it introduces and gives effect to adopted Council strategies and plans, augments policy by filling a known policy gap and/or responds to a recommendation of the Port Phillip Planning Scheme Audit 2018.

9. REFERRALS

Internal referrals

9.1 The application was referred to the following areas of Council for comment. The comments are discussed in detail in Section 9.

Internal Department	Referral comments (summarised)
Urban Design	<p>The application is generally supported with all issues raised (what issues were raised?) having being responded to apart from the location of the fire hydrant booster which is located along the St Kilda Road frontage. It is recommended that the fire hydrant is relocated along the Phoenix Lane elevation.</p> <p>Planner note: the applicant has advised that the fire hydrant is required to be located in the current position to meet the fire authority requirements. A public art installation will be provided at the front of the site over the fire booster cabinet doors to assist with the integration of the services. It is considered that this is an acceptable outcome.</p>



	<p>An additional condition will be included within the officers recommendation which requires the submission of a public art plan to the satisfaction of the responsible authority. See Condition 18.</p>
<p>Landscape Architect</p>	<p>Councils landscape architect reviewed the plans and suggested that the proposal required additional information to gain support. Areas of concern included the following:</p> <ul style="list-style-type: none"> • Insufficient detail regarding the raised planters • Material palette required. • Better detail on landscape plans required • Deep soil plan required in accordance with ‘ Apartment Design Guidelines for Victoria • No contributions to the public realm • More facilities on the rooftop including <ul style="list-style-type: none"> ○ BBQ facilities ○ Seating and dining opportunities ○ Pergola • Relocation of the tree from the centre of the roof top to make the space more functional. <p>Planner note: The above matters were discussed with the applicant who was satisfied that the matters could be resolved by way of condition on any permit issued. A condition will be included in the officers recommendation or an updated landscape plan which responds to the above matters (refer to recommended condition 15).</p>
<p>Waste management</p>	<p>The proposal was generally supported from a waste management perspective subject to the resolution of the following matters:</p> <p>Bin storage room</p> <ul style="list-style-type: none"> • Commercial and residential areas to be separate • Minimum 1.5 m wide access corridors and doors required <p>Waste systems</p> <ul style="list-style-type: none"> • Bin tugs recommended for moving bins • Disability access to all waste areas to be considered.



	<ul style="list-style-type: none"> • Spare bins provided at the waste chute termination room <p>Additional waste requirements/services</p> <ul style="list-style-type: none"> • Provision of a e-waste recycling bin <p>The matters outlined above are to be shown in the WMP.</p> <p>Planner note: The above matters were forwarded to the applicant who provided information plans demonstrating that all of the issues above that required amendment to the plans can be achieved. A condition will be included within the officer recommendation which requires changes to the plans in accordance with the information plans.</p> <p>Condition 16 of the permit will also be revised to require an amended waste management plan that responses to other matters highlighted above.</p>
<p>Development engineers</p>	<p>Councils development engineers support the proposal subject to the following:</p> <p>Access doors (to services) must:</p> <ul style="list-style-type: none"> • Provide adequate signage on the doors • Be self-closing • Be able to be fully opened, and held against the walls while in use. • When fully opened, not encroach more than 100 mm into the road reserve. • Have a minimum clearance of 150 mm from the foot path level. <p>The Bike room doors must not swing outwards beyond the title boundary.</p> <p>Planner note: The above matters were forwarded to the applicant who was satisfied that these matters could be readily incorporated into the development. The information plans provided by the applicant show these requirements on the plans and a condition will be included in the officer recommendation requiring plans to be amended in accordance with the above requirements. (Refer to Condition 1.)</p>



<p>Sustainable Design Advisor</p>	<p>The application is generally supported and subject to conditions to be included in the officers recommendation, demonstrates an acceptable ESD outcome.</p> <p>Planner note: Conditions are included on the existing permit which require the implementation of the ESD and water sensitive urban design reports as well as construction management. An additional condition is included in the officer recommendation in relation to Construction Management Water Sensitive Urban Design. See condition 9.</p>
<p>Traffic Engineers</p>	<p>Councils traffic engineers generally support the proposal. The following matters were raised with the applicant and have been adequately addressed:</p> <ul style="list-style-type: none"> • The provision of the car share space on site rather than in the public realm. • The building at ground floor level, despite being constructed to the title boundary will not allow for an appropriate footpath at the corner of Phoenix Lane and St Kilda Road. A Splay is required at the corner. • Does the queuing for the basement consider the two motorbike spaces on site. • The car lift at the title boundary to Phoenix Lane will not allow adequate sightlines to pedestrians. A mirror mounted on the building is required. • The bike room doors are not to open into the public realm. • The services doors should not open to the public realm. <p>Planner note: As with the current approval the cars for the car share spaces will be owned and managed by the owners corporation for exclusive use of the building occupants.</p> <p>The applicant has provided draft plans which show the ground floor plan provided with an appropriate splay to allow the widening of the foot path. A condition will be included in the officer’s recommendation which requiring changes in accordance with draft plans. A condition will also require the provision of an appropriate mirror mounted on the building for pedestrian safety.</p> <p>Draft plans provided by the applicant show the bike room doors as sliding doors and the service doors being able to open 180 degrees and able to be lock against the wall while in use. This is considered an acceptable outcome.</p>



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External referrals

9.2 The application was not required to be externally referred.

10. PUBLIC NOTIFICATION/OBJECTIONS

10.1 The proposal may result in material detriment therefore Council gave notice of the proposal by mail to the owners and occupiers of surrounding properties (280 letters) and by posting two notices on the site for a 14 day period.

10.2 The application has received 7 objections. The key concerns raised are summarised below (officer comment will follow in italics where the concern will not be addressed in Section 11):

- Inadequate car parking provision
- Building height
- Overshadowing
- Overlooking
- Does not meet design outcomes of the Design and Development Overlay
- Development will set precedent.

The proposed amended development will not set a precedent as all planning applications are assessed on their individual merit.

10.3 It is considered that the objectors do not raise any matters of significant social effect under Section 60 (1B) of the *Planning and Environment Act 1987*.

11. OFFICER'S ASSESSMENT

11.1 This amendment seeks to make significant changes to the approved development, as outlined in section 5.1 of this report. Because this is an application to amend the existing planning permit, only the proposed changes can be assessed.

11.2 The key issues that require assessment are considered under the following headings:

- Would the amended proposal remain consistent with the planning policy framework?
- Would the amended building comply with the relevant built form policy requirements?
- Would there be any additional off-site amenity impacts?
- Would the amended dwelling layouts provide the same level of internal amenity?
- Would sufficient car parking and bicycle parking be provided and is its layout appropriate?
- Would the amendment alter any specific requirements of the original permit?

11.3 These questions are considered below.

Would the amendment proposal remain consistent with the planning policy framework?



- 11.4 The Council report for the original application identified that there was strong state and local policy support for moderate residential growth at the subject site. The site is located within the Commercial Zone and has excellent access to transport and services and is capable of accommodating the increased density in accordance with strategies of Clause 11.03-6L-03 'St Kilda Road South Precinct' and 16.01-1R 'Housing Supply-Metropolitan Melbourne'. The site is within the Design and Development Overlay – Schedule 34 and is area 2E which has a preferred building height of 8 storeys and 28.5 metres. The increased height would support the increased density advocated in this location. Area 2E allows consideration of up to 10 storeys subject to compliance with specific built form outcomes.
- 11.5 While the amended proposed represents an increase in the scale of the development, including the number of apartments, this is primarily a result of the consolidation of the original site at number No. 36 St Kilda Road with the adjoining property to the north, No. 34 St Kilda Road. The combined site more than doubles the site area and significantly increased the development potential. The proposal continues to give consideration to the amenity of the area through orientating the increased height of the building towards the north of the site which is furthest from the sensitive residential properties to the west.
- 11.6 The proposal will continue to provide well designed housing that provides a high level of internal and external amenity and incorporates universal design and adaptable internal dwelling design consistent with the strategies of Clause 16.01-1S Housing Supply. While the original development only provided 2 bedroom dwellings, the amended proposal provides a range of 1, 2 and 3 bedroom apartments which is supported by the strategies of Clause 16.01-1L-01 Housing Diversity. The proposal also includes apartments that are accessible and adaptable for people of all abilities and for older persons.

Would the amended building comply with the relevant built form policy requirements?

- 11.7 The subject site is located within the St Kilda Road South Precinct – 'St Kilda Junction and eastern side', of the Design and Development Overlay - Schedule 34. The DDO contains a range of design objectives to be considered when assessing development applications. The original proposal was assessed against these the same DDO controls which, at the time of the approval, had only recently been introduced. It was found that the proposal provided an appropriate response to the DDO. In assessing this amended application it is necessary to determine whether the new proposal still meets the relevant objectives. The relevant objectives are discussed below:

Building Heights

- 11.8 The existing approval allowed an eight-storey building with a maximum height of 27 metres. Table 1: Discretionary maximum building heights, identifies that area 2 E allows a height of 28.5 metres (8 storeys). In areas where the discretionary height is up to 8 storeys, an additional two storeys can be considered.
- 11.9 The table lists the following built form outcomes that are required to be achieved.
- Provide a transition in scale from higher development at St Kilda Junction to lower scale heritage buildings in Area 2D.
 - Avoid building heights which detract from the higher scale clusters at St Kilda Hill and St Kilda Junction.

- Ensure the amenity of adjoining and nearby residential development is not unreasonably impacted in terms of visual bulk, access to daylight, outlook and overshadowing. Provide a transition in scale from higher development at St Kilda Junction to lower scale heritage buildings in Area 2D.

11.10 In addition to meeting the above requirements, where a discretionary maximum height storeys or greater is specified the development must:

- moderate the height of buildings on adjoining sites, including the site on the opposite street or laneway for corner sites;
- transition down in height to adjacent areas that have a lower height limit, so as not to visually dominate, overwhelm or compromise the character of adjacent existing lower scale development areas;
- provide a visual distinction between upper and lower levels to create 'human scale' visual interest, activity for pedestrians at the street edge, ameliorate wind effects and provide access to sunlight and sky views;
- not overwhelm adjoining and / or adjacent residential dwellings in terms of building scale or bulk, access to daylight, outlook and overshadowing;
- be of a high architectural standard in terms of form, scale, massing, vertical articulation, use of materials and provide a positive address to all street frontages; and
- support high levels of pedestrian amenity through street definition, the retention of sky views and the minimisation of the impacts of overshadowing and wind tunnelling.

11.11 It is considered that the proposed amended development achieves the above built form outcomes. Streetscape plans provided with the application demonstrate that the addition of two storeys above the approved height will still provide an appropriate transition in height from the significantly higher development to the north at St Kilda Junction. The additional height proposed does not result in a built form which detracts from the higher scale clusters at St Kilda junction and St Kilda Hill.



Figure 1 - The proposed amended development showing in the context of the existing streetscape.

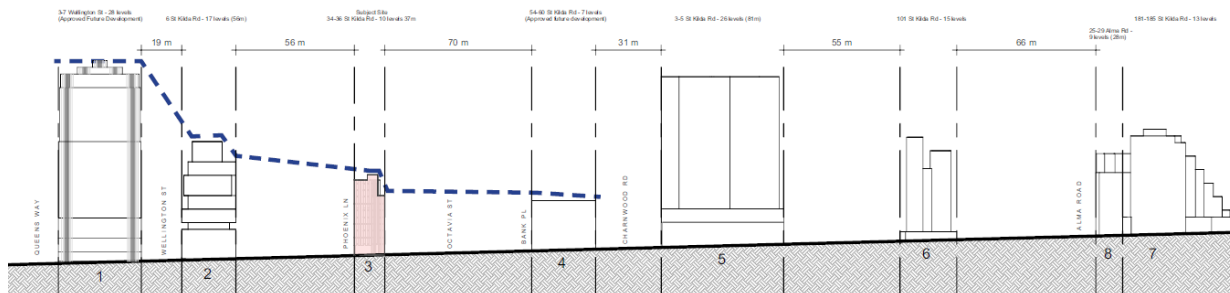


Figure 2 - The proposed amended development within the broader streetscape context, with existing an recently approved, yet to be constructed development.

11.12 While the amended proposal increases the height of the building above the discretionary maximum height of 8 storeys, the additional height is considered acceptable in the context. The two additional storeys can be considered under schedule to the overlay. The additional storeys do not take up the entire floor plan with the built form orientated towards the north of the site where it is furthest from the residential properties to the east. The subject site is located at the northern edge of Area 2E. On the opposite side of Phoenix Lane, the land is within Area 2F where the preferred maximum height is 10 storeys with an additional 2 storeys able to be considered.

11.13 In considering the original proposal it was recognised that the development was substantially higher than the residential development to the east as well as the commercial properties to the north and south. It was reasoned that as this is one of the few properties proposing development within this section of St Kilda Road, greater weight should be given to the built form outcomes that are expected and supported by the DDO, than to the existing conditions on neighbouring lots. In that regard the eight-storey built form was considered appropriate. The additional built form, which is within the discretionary height limit is an acceptable outcome at the site.

Street Wall heights and Upper-level setbacks

11.14 The amended proposal does not propose any setback of any levels of the development along the St Kilda Road frontage and the Phoenix Lane Abuttal. This is consistent with the approved development as well as the DDO which does not require a specific street wall height for Area 2e. As there are no requirements for a maximum street wall height, there is also no requirement for upper-level setbacks to the street. The building can therefore be constructed with zero setbacks along these boundaries and the amended proposal meets these requirements. The zero setback elevations on the north and west are well articulated through varied materials and finishes as well as the provision of balconies along the western façade.

Building separation/side and rear setbacks

11.15 The amended proposal continues to comply with the side and rear setbacks and provides a rear setback of more than 4.5 metres from the rear shared boundary above ground level in accordance with the DDO and the previous approval. The majority of the built form of the sections of the building on No.34 (to be incorporated into the subject site) is provided with a splayed rear setback ranging from 4.9 m to 9.1 metres, increasing to the north. The building is also setback a minimum of 9 metres from any habitable room windows on the western side of the townhouses.

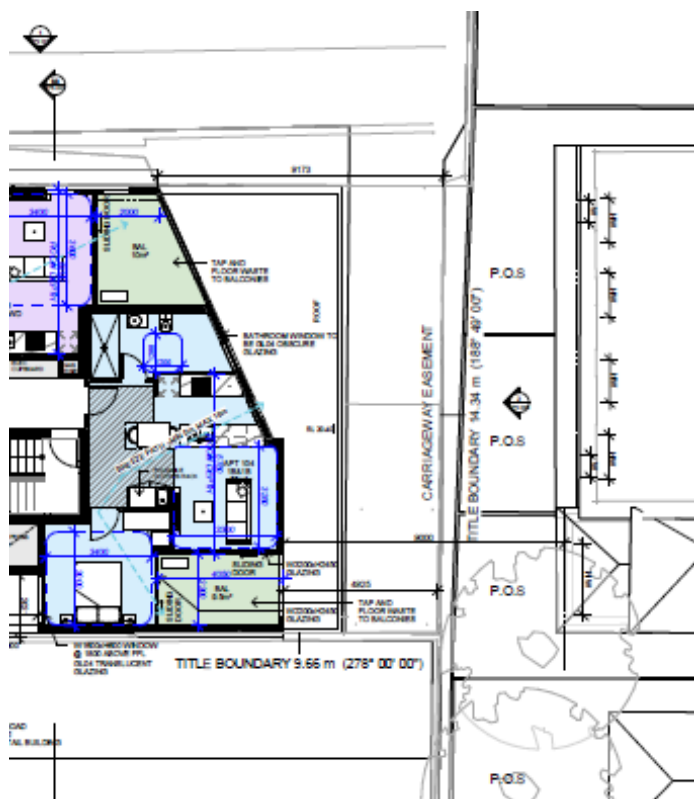


Figure 3 - proposed setbacks at first floor to rear boundary and habitable room windows of adjoining dwellings.

Overshadowing

11.16 The amended development will not cast any shadows onto any of the footpaths of Alma Road and Inkerman Street in accordance with this Design objective. Alma Road is located approximately 350 metres to the south of the subject site.

Active Frontages

11.17 The larger consolidated site has enabled the amended proposal to provide an improved commercial frontage to St Kilda Road as well as to Phoenix Lane. The majority of the frontage to St Kilda Road is provided with clear glazing, giving the commercial tenancy excellent activation of the street. As the current approval did not include No. 34 on the corner of St Kilda Road and Phoenix Lane there was no interaction with the lane. The amended proposal now wraps the commercial tenancy around the site and greatly improves the activation. The commercial tenancy and the residential entrance are both directly accessed off St Kilda Road with each having a separate and distinct entrance. Where it has not been possible to relocate services such as the fire booster to Phoenix Lane, a public art installation is proposed to limit the visibility of the space while adding visual interest to the building.

11.18 While the glazing of the retail space along the frontage to St Kilda Road is less than 80 percent of the site, with the additional glazing to Phoenix Lane, the site provides an excellent activation of the corner site and is an acceptable outcome.

11.19 The ground floor ceiling heights are greater than 4 metres and entries are provided at street level, in accordance with the built form outcomes for this site.



Figure 4 - Streetscape presentation to the corner of St Kilda Road and Phoenix Lane.

Architectural quality and design details

11.20 The proposed amended development has provided a greatly improved architectural outcome that is responsive to the now consolidated corner lot. The development provides materials and finishes to the building facades which successfully creates a clear distinction between the ground commercial element, the mid storeys and the upper levels. The colours proposed give the impression of a mid-level street wall with a recessive upper portion above despite the sheer built form. Balconies of the apartments are well integrated into the front and Phoenix Lane facades of the building. An appropriate awning is provided at street level which wraps around the front of the site and runs along Phoenix Lane providing weather protection to the residential and commercial entrances as well as to the entrance to the services and bike store accessed off Phoenix Lane.



Figure 5 - Architectural impression of the proposal.

Would there be any additional amenity impacts?

11.21 The additional built form will not result in an unreasonable amenity impact to residential properties in the area. With the additional height orientated to the north area west side of the site and the majority of the new built form on the new property included in the subject site, the off-site amenity impacts are limited.

Overshadowing residential properties

11.22 Shadows cast by the additional built form will mostly fall on St Kilda Road in the morning, the rooftops of commercial buildings to the south and in the afternoon to the residential properties to the east. There are 3 town houses to the east that will receive some additional shadowing. Each of these properties are overshadowed by the existing approved development in the afternoon.

11.23 At No 1. Octavia Crescent there will be some additional overshadowing between 1:30 and 2pm. However, by 2 pm the shadows cast by the amended proposal fall onto the roof of the townhouse and within areas that are already shadowed by the existing approved development.

11.24 At No 2. Octavia Crescent, there will be minor additional shadows (7.3m²) at 2pm. By 3pm the shadows secluded private open space is overshadowed by the approved development.

11.25 At No. 3 Octavia Crescent there will be some minor additional overshadowing (1.6m²) at 3 pm.

11.26 While there have been objections received in relation to overshadowing, none of these have come from the three properties that will received some additional impact. It is considered that the extent of overshadowing is not unreasonable.

Overlooking

11.27 The proposed amended development does not result in any additional overlooking compared to the existing approved development. The same properties assessed above in relation to overshadowing are within 9 m of the subject site. Overlooking is required



to be considered and managed in accordance with the DDO regarding residential amenity and interfaces with residential zones.

- 11.28 The amended proposal maintains setbacks from the residential properties to the east and is setback more than 9 metres from any habitable room windows. The balcony of apartment 104 at level 1 of the building is within 9 metres of the secluded private open space of the townhouses however the existing fences along the townhouse and rear lane boundaries block any views into the secluded private open space within the 9-metre area protected by Standard D14 of the Building Setback objective of Clause 58.04-1.
- 11.29 The setbacks along the western side of the amended proposal results in an outcome which protects the amenity of the residential properties to the west of the site whilst providing outlook for the future residents of the development.

Visual Bulk

- 11.30 The additional built form proposed in the amended design does not create an unreasonable level of increased bulk when viewed from the residential properties to the east and in the context of what is expected from development along this section of St Kilda Road. While the building will be two storeys taller than the discretionary maximum height limit identified under the DDO, the additional height is located towards the north and west of the site where it is furthest from the residential properties located at Octavia Crescent. Other properties within Octavia Crescent generally have their private open space facing either north or east, away from the subject site. While there will be views of the development from the public realm, within Octavia Crescent itself, there is sufficient separation between the site and the street to ensure that the additional height of the building does not overwhelm or dominate the streetscape.
- 11.31 The interface between the residential zoned land to the east and the commercial land along St Kilda Road, where significantly increased built form is supported by policy, presents a situation where there will be some impact expected to facilitate the change. The opportunities allowed by the consolidated sites such as the increased scale of the development, improved internal amenity for the apartments, improved Environmentally Sustainable Development outcomes and an overall better urban design outcome are all factors that need to be considered when determining what is an acceptable amenity impact. On balance it is considered that the additional built form is acceptable.
- 11.32 Overall, it is considered that the proposed development achieves all of the relevant design objectives and built form outcomes of the Design and Development Overlay.

Would the amended dwelling layouts provide the same level of internal amenity?

- 11.33 The amended proposal provides an improved internal amenity outcome as compared to the existing development. The increased site area has become a corner lot and does not have a property abuttal to the north. The amended site is now less constrained with three of the four boundaries having a road abuttal.
- 11.34 The increased scale of the development with increased floor areas across the site has resulted in improved internal amenity outcomes for each of the apartments. Each of the apartments have bedrooms and living rooms which have areas that comply with or exceed the minimum internal room dimensions of the functional layout objective, Standard D26.
- 11.35 All apartments comply with or exceed the room depth objective under standard D26. The majority of habitable rooms are dual aspect, however those which have only a



single aspect do not exceed the maximum room depths. Kitchens and living room areas are combined and kitchens are located furthest from the windows of the rooms as the standard requires.

- 11.36 Windows to all habitable rooms are located to an external wall of the building in accordance with Standard D28, of Clause 58.07-3 (Windows Objective). While some windows are within a balcony area, the high ceiling heights (2.7 metres) will ensure that sufficient light will be available. 7 of the 55 Bedrooms across the development gain light from a light court on the southern elevation. The light court has an area of 2.02m x 3.52m. The light court is of an appropriate area to provide sufficient light to these bedrooms.
- 11.37 All of the apartments have been designed to comply with Standard D27, of Clause 58.07-4 Natural Ventilation objective. With the additional elevation to the north to Phoenix Lane, the development has been able to provide more openable windows to each apartment improving the outcome from the existing approval which was constrained by potential development to the north and south.
- 11.38 Overall, it is considered that the proposal provides compliance with the internal amenity standard of Clause 58 and exceeds Standards in certain aspects. The apartments would enjoy excellent internal amenity that exceeds that contained in the existing approval.

Would sufficient car parking and bicycle parking be provided and is its layout appropriate?

- 11.39 The amended proposal provides an appropriate number of car spaces for the purposes of the future residents of the building. The proposal is consistent with Clause 02.03-7 'Transport', of the Municipal Planning Strategy (MPS) which seeks to reduce car based travel through the promotion of walking, bicycle riding and public transport. The MPS identifies that Council supports:
- Creating 10-minute walkable neighbourhoods by integrating land use and transport planning to direct housing and employment growth close to high quality pedestrian routes and public transport services.
 - Prioritising and facilitating sustainable transport modes, including active transport and public transport, over private vehicle use.
 - Facilitating an integrated, safe and accessible walking and bicycle network that encourages more people to walk or cycle more often.
 - Alternative transport options and technology that makes it more convenient for the community to move around.
- 11.40 The reduction proposed in the amended application is consistent with these strategies.
- 11.41 The existing approval benefits from a reduction in the statutory car parking rates of Clause 52.06 Car Parking of the Planning Scheme. The existing development provides four car spaces that are located within a car stacker arrangement accessed off the right of way at the rear (west) of the site. The development also provides 14 motorcycle spaces and 13 bicycle spaces. The existing development has 13 two-bedroom apartments and would have required the provision of 13 car spaces, one per dwelling and two bicycle spaces, 1 per five dwellings rounded down.



- 11.42 The car spaces provided in the existing development were provided as car share spaces for the exclusive use of tenants of the building. The cars were to be purchased and maintained by the body corporate. The provision of the car share spaces was supported by Councils 2018-2021 Car Share policy which identifies that each of the car share spaces were considered to be the equivalent of 10 personally owned spaces.
- 11.43 The amended proposal with the mix of one, two and three bedroom dwellings requires the provision of 37 space pursuant to Clause 52.06 Car Parking, of the planning scheme. 30 spaces are required for the 30 one and two bedroom dwellings, 4 spaces are required for the 2 three bedroom dwellings and 3 spaces are required for the shop. The amended proposal provides 12 onsite car spaces within two basement levels accessed via a car lift off Phoenix Lane. The application is therefore seeking a reduction of 25 spaces. Two motorcycle spaces are also provided as well as 33 Bicycle spaces located within a bike store at ground level, accessed from Phoenix Lane.
- 11.44 Of the 12 car spaces proposed, two will be car share spaces with two cars owned and maintained by the body corporate in the same manner as the existing development. With the same consideration given to car share spaces for the amended proposal, it is reasonable to suggest that the development provides 10 private spaces and the two shared spaces which would be the equivalent of 20 extra spaces. It is considered that this provides an adequate number of spaces for the increased number of dwellings.
- 11.45 The addition of the bicycle spaces, with one per dwelling also supports the proposed reduction. With the increase prevalence of electric bicycles, this mode of transportation is considered a more viable option. The subject site is very well located with regard to bicycle paths and is with easy reach of the City, Albert Park Lake and a number of major and local activity centres.
- 11.46 The subject site is very well serviced by public transport and is a short tram journey to the Melbourne central business district. The site is located within the Principal Public Transport Network.
- 11.47 In Summary, taking into account the factors identified above, it is considered that the proposal has an acceptable provision of car spaces for the number of dwellings proposed under the amended scheme.

Would the amendment alter any specific requirements of the original permit?

- 11.48 A full review of the existing conditions has been undertaken and all conditions that remain relevant are recommended to be retained or modified as necessary.
- 11.49 In summary the following changes to the permit preamble and conditions are recommended:

Permit preamble

- 11.50 The preamble is proposed to be amended as follows:

Existing

“Construction of an eight-storey mixed use building comprising 13 dwellings and a reduction in car parking”

Proposed

The permit preamble is proposed to be amended as follows. The changes below to list the specific planning permissions are required following the Supreme Court decision *Myers v Southern Grampians Shire Council*.



Planning Scheme Clause No.	Description of what is allowed
Clause 34.01-1	Use of the land for dwellings (accommodation) in a Commercial Zone
Clause 34.01-4	To construct a building or construct or carry out works in a Commercial Zone
Clause 43.02-2	Construct a building or construct or carry out works in a Design and Development Overlay
Clause 52.06-3	Reduce(including to zero) the number of car spaces required under Clause 52.06-5

Permit conditions – Proposed amendments, additions and deletions

11.51 Permit conditions are proposed to be amended, added and deleted to respond to the updated proposal and associated reports. Including the following

Condition 1 (amended plans): The condition would be amended to include reference to the plans provided with the application and remove reference to the previous approval. Existing condition 1 requirements would be deleted and replaced with new requirements for amended plans to be provided in accordance with discussion plans which response to waste management, traffic matters and other minor changes to the plans as identified in the report. Changes would be required in accordance with the amended landscape plan.

Condition 7 (Updated sustainable management plan): This condition will be deleted as the Sustainable management plan provided with the application is supported and will be endorsed to form part of the endorsed plans.

Condition 9 (Maintenance Manual for Water Sensitive Urban Design Initiatives): this condition is deleted as the maintenance plan provided is acceptable and the condition is replaced with new condition 9 Construction Management Water Sensitive Urban Design

Condition 12 (Share Car Allocation/Operation by Owners' Corporation): This condition is amended to change the number of share cars from four to two.

Condition 13 (Car Stacker and Bicycle Lift Maintenance and Provision): This condition is amended to remove reference to the bicycle/motorcycle lift which is no longer part of the proposal. The condition continues to refer to the vehicle lift.

Condition 15 (Landscaping Plan for Roof): This condition is amended to change the time in which the plan is required from prior to occupation to prior to the endorsement of plans, and for the works to be complete prior to the buildings completion rather than within 6 months prior to completion.

Condition 16 (Waste Management Plan): this condition is amended to include hours of collection of waste.



Condition 17 (Construction management plan): This is new condition added to the permit to ensure access to Phoenix Lane is not unreasonably interrupted.

Condition 18 (Urban Art Plan): This new condition will be added to the permit to facilitate the proposed urban art along the St Kilda Road frontage.

12. COVENANTS

12.1 The applicant has completed a restrictive covenant declaration form declaring that there is no restrictive covenant on the titles for the subject site known as Lot 1 of Title Plan 224175B [Parent Title Volume 04756 Folio 120] and Lot 1 of Title Plan 837370K [Parent Title Volume 04885 Folio 819]

13. OFFICER DIRECT OR INDIRECT INTEREST

13.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.

14. OPTIONS

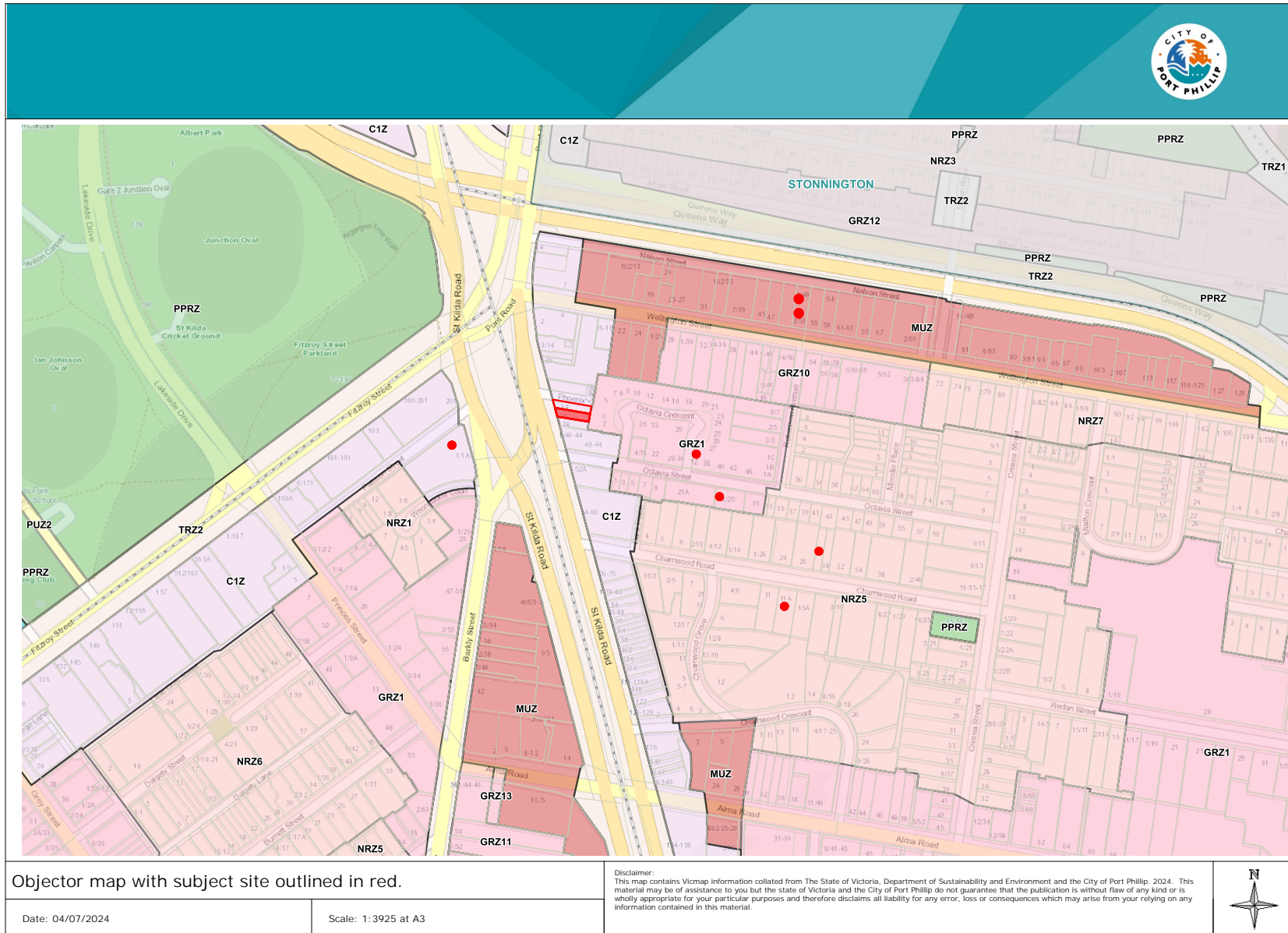
- 14.1 Approve as recommended
- 14.2 Approve with changed or additional conditions
- 14.3 Refuse - on key issues

15. CONCLUSION

- 15.1 The proposed amendment to the approved development would be consistent with the strategic direction outlined within the planning scheme. The proposal would continue to provide a medium density residential development with a commercial component in an appropriate location. The apartments would provide an improved level of internal amenity compared to the approved development.
- 15.2 The amendments provide an acceptable level of compliance with the built form requirements of the Design and Development Overlay Schedule 34 (area 2E) and while the building height is increased it is within the height able to be considered within area 2E. Appropriate setbacks are maintained from the residential properties to the east and offsite amenity impacts are limited compared to the approved development. The ground level provides an improved street activation with the site now including No. 34 and being a corner lot with activation to St Kilda Road and Phoenix Lane.
- 15.3 The car parking rate is appropriate for the location being very well serviced by public transport and within proximity of Activity Centres and services. The mix of private car spaces and 2 exclusive car share spaces, along with bike spaces for each apartment is appropriate.
- 15.4 Outstanding items required to be clarified such as the waste management area, the building splay and footpath width are able to be addressed through conditions. (Refer to conditions 1 and 15)
- 15.5 It is considered that the changes proposed in the amendment application are acceptable subject to conditions. It is recommended that Council issues a Notice of Decision to Amend a Planning Permit.

ATTACHMENTS

- 1. Objector map  
- 2. Architectural Plans  
- 3. Current endorsed plans  
- 4. Current Permit - 267-2018  



Objector map with subject site outlined in red.

Date: 04/07/2024

Scale: 1:3925 at A3

City of Port Phillip
 Advised Plan
 Planning Application No. 267/2018/A
 No. of Pages: 1 of 21



PRELIMINARY | NOT FOR CONSTRUCTION

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NO.	SHEET NAME
TP0.000	COVER PAGE
TP0.001	DEVELOPMENT SUMMARY
TP0.002	EXISTING & DEMOLITION SITE PLAN
TP0.003	PROPOSED SITE PLAN
TP1.000	BASEMENT 2 PLAN
TP1.001	BASEMENT 1 PLAN
TP1.002	GROUND FLOOR PLAN
TP1.003	LEVEL 01 PLAN
TP1.004	LEVEL 02-03, 07
TP1.005	LEVEL 04-06
TP1.006	LEVEL 08 PLAN
TP1.007	LEVEL 09 PLAN
TP1.008	ROOF PLAN
TP2.001	NORTH ELEVATION
TP2.002	SOUTH ELEVATION
TP2.003	ELEVATIONS
TP3.000	SECTION AA
TP3.001	SECTIONS
TP3.002	STREETSCAPE ELEVATION
TP4.000	SHADOW DIAGRAMS - Shadow Study 09PM - 12PM
TP4.001	SHADOW DIAGRAMS - Shadow Study 1PM - 3PM

City of Port Phillip
 Advertised Plan
 Planning Application No. 267/2018/A
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SITE COVERAGE			
TOTAL SITE AREA	475m ²	100%	
SITE COVERAGE	430m ²	90.5%	
PERMEABLE AREA	0m ²	0%	
DEEP SOIL PLANTING	0m ²	0%	

TP - GFA (EXCLUDING BALCONIES)	
LEVEL	AREA
BASEMENT LEVEL 2	386 m ²
BASEMENT LEVEL 1	312 m ²
GROUND FLOOR	398 m ²
LEVEL 1	279 m ²
LEVEL 2	279 m ²
LEVEL 3	279 m ²
LEVEL 4	279 m ²
LEVEL 5	279 m ²
LEVEL 6	279 m ²
LEVEL 7	279 m ²
LEVEL 8	188 m ²
LEVEL 9	188 m ²
ROOF LEVEL	20 m ²
TOTAL GFA	3423 m ²

* BALCONIES, STAIRS AND LIFT ONLY COUNTED ONCE ON THE LOWEST FLOOR

TP - NSA (EXCLUDING BALCONIES)	
LEVEL	AREA
LEVEL 1	258 m ²
LEVEL 2	258 m ²
LEVEL 3	258 m ²
LEVEL 4	258 m ²
LEVEL 5	258 m ²
LEVEL 6	258 m ²
LEVEL 7	258 m ²
LEVEL 8	167 m ²
LEVEL 9	167 m ²
TOTAL NSA	2138 m ²

TP - NLA (RETAIL)	
USE	AREA
GROUND FLOOR	
RETAIL	97.7 m ²
TOTAL NLA	97.7 m ²

TP - COMMUNAL AREA		
LEVEL	AREA	MIN. AREA
ROOF LEVEL	97.2 m ²	77.5m ²
TOTAL COMMUNAL	97.2 m ²	

TP - PARKING SCHEDULE	
USE	NUMBER
BASEMENT LEVEL 1	
Resident	2
Share Car	2
BASEMENT LEVEL 2	
Resident (Car Stackers)	8
TOTAL PARKING	12

TP - PARKING SCHEDULE MOTORBIKES	
USE	NUMBER
BASEMENT LEVEL 2	
Motorcycle	2
TOTAL PARKING	2

TP - PARKING SCHEDULE BIKES	
USE	NUMBER
GROUND FLOOR	
Bike Parking	37
TOTAL PARKING	37

TP - APARTMENT BREAKDOWN			EXTERNAL STORAGE		STORAGE		
NUMBER	UNIT TYPE	AREA	EX. STORAGE	APT NUMBER	APT NUMBER	INT. STORAGE	MIN. INT. + EXT.
LEVEL 1							
01							
APT 101	2 BED & 1 BATH	68.2 m ²	4.2 m ²	APT 101	APT 101	11.0 m ³	14m ³
APT 102	2 BED & 1 BATH	65.4 m ²	4.9 m ²	APT 102	APT 102	9.2 m ³	14m ³
APT 103	2 BED & 1 BATH	69.2 m ²	4.2 m ²	APT 103	APT 103	9.8 m ³	14m ³
APT 104	1 BED & 1 BATH	54.9 m ²	4.4 m ²	APT 104	APT 104	6.3 m ³	10m ³
LEVEL 2							
02							
APT 201	2 BED & 1 BATH	68.2 m ²	4.2 m ²	APT 201	APT 201	11.0 m ³	14m ³
APT 202	2 BED & 1 BATH	65.4 m ²	4.9 m ²	APT 202	APT 202	9.2 m ³	14m ³
APT 203	2 BED & 1 BATH	69.2 m ²	4.2 m ²	APT 203	APT 203	9.8 m ³	14m ³
APT 204	1 BED & 1 BATH	54.9 m ²	4.2 m ²	APT 204	APT 204	6.3 m ³	10m ³
LEVEL 3							
03							
APT 301	2 BED & 1 BATH	68.2 m ²	4.2 m ²	APT 301	APT 301	11.0 m ³	14m ³
APT 302	2 BED & 1 BATH	65.4 m ²	4.9 m ²	APT 302	APT 302	9.2 m ³	14m ³
APT 303	2 BED & 1 BATH	69.2 m ²	4.2 m ²	APT 303	APT 303	9.8 m ³	14m ³
APT 304	1 BED & 1 BATH	54.9 m ²	4.2 m ²	APT 304	APT 304	6.3 m ³	10m ³
LEVEL 4							
04							
APT 401	2 BED & 1 BATH	68.2 m ²	4.2 m ²	APT 401	APT 401	11.0 m ³	14m ³
APT 402	2 BED & 1 BATH	65.4 m ²	4.9 m ²	APT 402	APT 402	9.2 m ³	14m ³
APT 403	2 BED & 1 BATH	69.2 m ²	4.2 m ²	APT 403	APT 403	9.8 m ³	14m ³
APT 404	1 BED & 1 BATH	54.9 m ²	4.2 m ²	APT 404	APT 404	6.3 m ³	10m ³
LEVEL 5							
05							
APT 501	2 BED & 1 BATH	68.2 m ²	4.2 m ²	APT 501	APT 501	11.0 m ³	14m ³
APT 502	2 BED & 1 BATH	65.4 m ²	4.9 m ²	APT 502	APT 502	9.2 m ³	14m ³
APT 503	2 BED & 1 BATH	69.2 m ²	4.2 m ²	APT 503	APT 503	9.8 m ³	14m ³
APT 504	1 BED & 1 BATH	54.9 m ²	4.2 m ²	APT 504	APT 504	6.3 m ³	10m ³
LEVEL 6							
06							
APT 601	2 BED & 1 BATH	68.2 m ²	4.2 m ²	APT 601	APT 601	11.0 m ³	14m ³
APT 602	2 BED & 1 BATH	65.4 m ²	4.9 m ²	APT 602	APT 602	9.2 m ³	14m ³
APT 603	2 BED & 1 BATH	69.2 m ²	5.2 m ²	APT 603	APT 603	9.8 m ³	14m ³
APT 604	1 BED & 1 BATH	54.9 m ²	5.2 m ²	APT 604	APT 604	6.3 m ³	10m ³
LEVEL 7							
07							
APT 701	2 BED & 1 BATH	68.2 m ²	5.2 m ²	APT 701	APT 701	11.0 m ³	14m ³
APT 702	2 BED & 1 BATH	65.4 m ²	4.9 m ²	APT 702	APT 702	9.2 m ³	14m ³
APT 703	2 BED & 1 BATH	69.2 m ²	4.2 m ²	APT 703	APT 703	9.8 m ³	14m ³
APT 704	1 BED & 1 BATH	54.9 m ²	4.2 m ²	APT 704	APT 704	6.3 m ³	10m ³
LEVEL 8							
08							
APT 801	3 BED & 2 BATH	93.6 m ²	7.5 m ²	APT 801	APT 801	11.3 m ³	18m ³
APT 802	2 BED & 2 BATH	73.6 m ²	9.4 m ²	APT 802	APT 802	9.7 m ³	14m ³
LEVEL 9							
09							
APT 901	3 BED & 2 BATH	93.6 m ²	8.4 m ²	APT 901	APT 901	11.3 m ³	18m ³
APT 902	2 BED & 2 BATH	73.6 m ²	6.9 m ²	APT 902	APT 902	9.7 m ³	14m ³

TP - APARTMENT MIX		
UNIT TYPE	NUMBER	MIX %
1 BED & 1 BATH	7	22%
2 BED & 1 BATH	21	66%
2 BED & 2 BATH	2	6%
3 BED & 2 BATH	2	6%
TOTAL UNITS	32	100%

ACCESSIBLE APARTMENTS		
TOTAL NO. APARTMENTS	32	100%
ACCESSIBLE APARTMENTS	16	50%

CROSS VENTILATION		
TOTAL NO. APARTMENTS	32	100%
CROSS VENTILATED APARTMENTS	32	100%

LANDSCAPING						
TREE TYPE CATEGORY	PROPOSED PLANTER SOIL VOLUM / PLANT	MIN. REQ. PLANTER SOIL VOLUM / PLANT	PROPOSED NO. OF TREES IN PLANTER	MIN. NO. OF TREES	PROPOSED CANOPY DIAMETER	MIN. CANOPY DIAMETER
A	23.9m ³	12m ³	1	1	4-6m ²	4m ²

PRELIMINARY | NOT FOR CONSTRUCTION

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**6.3 STATUTORY PLANNING DELEGATED DECISIONS -
FEBRUARY, MARCH, APRIL, MAY AND JUNE 2024**

**EXECUTIVE MEMBER: BRIAN TEE, GENERAL MANAGER, CITY GROWTH AND
DEVELOPMENT**

PREPARED BY: PAUL WOOD, MANAGER CITY DEVELOPMENT

1. PURPOSE

1.1 To present a summary of all Planning Permits issued in accordance with the Schedule of Delegation made under the Local Government Act 2020 and Section 188 of the *Planning & Environment Act 1987* adopted by Council on 24 July 1996 and as amended, for the Port Phillip Planning Scheme.

2. EXECUTIVE SUMMARY

2.1 This report presents a summary of all Planning Permits issued in accordance with the Schedule of Delegation made under the Local Government Act 2020 and Section 188 of the *Planning & Environment Act 1987* adopted by Council on 24 July 1996 and as amended, for the Port Phillip Planning Scheme.

3. RECOMMENDATION

That Council:

3.1 Receives and notes the February, March, April, May and June 2024 (Attachment 1) summary of all Planning Decisions issued in accordance with the Schedule of Delegation made under the Local Government Act 2020 and Section 188 of the *Planning & Environment Act 1987* adopted by Council on 24 July 1996 and as amended, for the Port Phillip Planning Scheme.

4. KEY POINTS/ISSUES

4.1 The attached list (Attachment 1) of delegated decisions is for the period February, March, April, May and June 2024.

5. OFFICER GENERAL OR MATERIAL INTEREST

5.1 No officers involved in the preparation of this report have any material or general interest in the matter.

ATTACHMENTS 1. Delegated decisions - February to June 2024 



7. URGENT BUSINESS

Nil

8. CONFIDENTIAL MATTERS

Nil