



# PLANNING PERMIT

Application Number : 1146/2017

Planning Scheme : Port Phillip

Responsible Authority: City of Port Phillip

## ADDRESS OF THE LAND

**253-273 Normanby Road, SOUTH MELBOURNE VIC 3205**

## THE PERMIT ALLOWS

The staged subdivision of the site generally in accordance with the endorsed plans and subject to the following conditions.

## THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

### 1. Amended plans required

Before the plan of subdivision can be endorsed and prior to the certification of any stage of the subdivision, amended plans must be submitted, that, when approved by the Responsible Authority, form part of this permit. The plans must be generally in accordance with the plans submitted (PS 812023L stages 2-6, compiled, Version 1), but modified to show:

- (a) That the plan is consistent with the plans endorsed under Planning Permit PA170223 for the development of the site.
- (b) The creation of an easement of way in favour of the City of Port Phillip, along the eastern boundary over the area of common property shown as laneway. The easement is to be restricted in depth to be from the site level and above.
- (c) The staging of the subdivision to be in accordance with the staging approved under Planning Permit PA170223 for the development of the site.

### 2. No Alterations

The size, layout, level and location of the lots as shown on the endorsed plan of subdivision shall not be altered or modified without the consent of the Responsible Authority.

**3. Agreement under Section 173 of the Planning and Environment Act 1987. (Carparking)**

Prior to the issue of the statement of compliance for any stage of the subdivision, the applicant must enter into an agreement under Section 173 of the Planning and Environment Act 1987 with the Responsible Authority. The agreement must be in a form to the satisfaction of the Responsible Authority, and the applicant must be responsible for the expense of the preparation and registration of the agreement, including the Responsible Authority's reasonable costs and expense (including legal expenses) incidental to the preparation, registration and enforcement of the agreement. The agreement must contain covenants to be registered on the Title of the property so as to run with the land, and must provide for the following:-

- (a) The car park lots (appended with the letter C) must only be sold to the owner or purchaser of a lot containing a hotel room, retail space or a dwelling;
- (b) The store lots (appended with the letter S) must only be sold to the owner or purchaser of a lot containing a dwelling;
- (c) The car park lots must only be leased to the occupier of a lot containing a hotel room, retail space or a dwelling;
- (d) No more than one car park lot may be owned or leased in conjunction with any lot containing a dwelling unless a planning permit has issued to exceed the maximum car spaces set out in the Schedule 1 of the Parking Overlay;
- (e) No more than 1 car space per 100m2 of retail/commercial floor area (including the residential hotel) may be owned or leased in conjunction with such a lot; and
- (f) It shall pay the Responsible Authority's Solicitor/client costs in respect to the preparation and registration of the agreement.

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

**4. Agreement under Section 173 of the Planning and Environment Act 1987. (Environmental Audit requirements).**

Where a Statement of Environmental Audit is issued for the land, and any condition of that statement requires any maintenance or monitoring of an on-going nature, prior to certification for any stage of the subdivision, the applicant must enter into an agreement under Section 173 of the Planning and Environment Act 1987 with the Responsible Authority. The agreement must be in a form to the satisfaction of the Responsible Authority, and the applicant must be responsible for the expense of the preparation and registration of the agreement, including the Responsible Authority's reasonable costs and expense (including legal expenses) incidental to the preparation, registration and enforcement of the agreement. The agreement must contain covenants to be registered on the Title of the property so as to run with the land, and must provide for the following:-

- (a) The site must be maintained in accordance with the conditions of the Statement of Environmental Audit; and
- (b) It shall pay the Responsible Authority's Solicitor/client costs in respect to the preparation and registration of the agreement.

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

**5. Melbourne Water**

- (a) Prior to Certification, the Plan of Subdivision must be referred to Melbourne Water, in accordance with Section 8 of the Subdivision Act 1988.

**6. South East Water**

- (a) The owner of the subject land must enter into an agreement with South East Water for the provision of potable water supply and fulfil all requirements to its satisfaction.
- (b) The owner of the subject land must enter into an agreement with South East Water for the provision of recycled water supply and fulfil all requirements to its satisfaction.
- (c) All new buildings and major refurbishment of existing buildings within the Fisherman's Bend Precinct, must include the installation of a third pipe water supply system to supply non-potable water uses such as toilet flushing, clothes washing and irrigation within the development
- (d) The owner of the subject land must enter into an agreement with South East Water for the provision of sewerage and fulfil all requirements to its satisfaction.
- (e) The Plan of Subdivision must be accompanied by an Owners Corporation Schedule. All lots shown on the Plan of Subdivision must be included in the Owners Corporation Schedule.

or

The owner of the subject land can enter into an agreement with South East Water for the provision of separate services to each individual lot.

- (f) Prior to certification, the Plan of Subdivision must be referred to South East Water, in accordance with Section 8 of the Subdivision Act 1988.
- (g) The certified Plan of Subdivision will need to show sewerage supply easements over all existing and/or proposed South East Water sewer mains located within the land, to be in favour of South East Water Corporation pursuant to Section 12(1) of the Subdivision Act.

**7. Citipower**

- (a) The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act.
- (b) The applicant shall:-
  - o Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor.
  - o Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations.
  - o Any construction work must comply with Energy Safe Victoria’s “No Go Zone” rules.
  - o Set aside on the plan of subdivision for the use of CitiPower reserves and/or easements satisfactory to CitiPower where any electric substation (other than a pole mounted type) is required to service the subdivision. Alternatively, at the discretion of CitiPower a lease(s) of the site(s) and for easements for associated powerlines, cables and access ways shall be provided. Such a lease shall be for a period of 30 years at a nominal rental with a right to extend the lease for a further 30 years. CitiPower will register such leases on the title by way of a caveat prior to the registration of the plan of subdivision.
  - o Provide easements satisfactory to CitiPower, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new powerlines required to service the lots and adjoining land, save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan an easement(s) in favour of " CitiPower Pty" for “Power Line” pursuant to Section 88 of the Electricity Industry Act 2000.
  - o Obtain for the use of CitiPower any other easement external to the subdivision required to service the lots.
  - o Adjust the position of any existing easement(s) for powerlines to accord with the position of the line(s) as determined by survey.
  - o Obtain CitiPower’s approval for lot boundaries within any area affected by an easement for a powerline and for the construction of any works in such an area.
  - o Provide to CitiPower, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.

**SUBSTATION ABOLISHMENT**

- CitiPower’s records indicate that the property is supplied via an onsite substation. If the customer’s building works necessitate the removal of this substation, an application for abolishment should be made at least 32 weeks prior to the proposed abolishment date and cost may be incurred to remove this asset.

**8. Vic Roads**

Before the use approved by this permit commences the following must be completed at no cost to and to the satisfaction of the Roads Corporation:

- (a) install a "Left in only" sign from Normanby Road into the porte cochere;
- (b) install a "No Entry" sign from Woodgate Street into the porte cochere;
- (c) line marking for one way traffic flow (southbound) along internal eastern accessway.

**9. Telecommunications**

The owner of the land must enter into an agreement with:

- (a) A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
- (b) A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

**10. Telecommunications**

Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:

- (a) A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
- (b) A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

**11. Public Open Space Requirement**

The applicant or owner must make a financial contribution to open space of 8% of the site value in accordance with the schedule to Clause 52.01 of the Port Phillip Planning Scheme as follows:

- (a) Prior to the issue of the statement of compliance for stage 2 and stage 4 of the subdivision (being the podium stages), the applicant or owner must make a financial contribution of 4% of the site value of the whole of the site in accordance with the requirements of the Subdivision Act 1988. The payment shall be made no less than 7 days prior to the issue of a statement of compliance.

**12. Environmental Audit**

Prior to the issue of the Statement of Compliance for any stage of the subdivision, where a Statement of Environmental Audit has issued, a letter prepared by an Environmental Auditor appointed under Section 53S of the *Environment Protection Act 1970* must be submitted to the Responsible Authority to verify that the directions and conditions contained within the Statement of Environmental Audit have been satisfied.

**13. Development Contributions**

Prior to issue of the Statement of Compliance for each stage of the subdivision, evidence must be provided to Council that the full payment has been made to the Responsible Authority in accordance with condition 23 of Planning Permit PA170223 for the development of the site.

**14. Street Trees**

Prior to issue of the Statement of Compliance for the final stage of the subdivision, the additional street trees referred to in condition 29 of Planning Permit PA170223 have been provided or an agreement has been reached for their provision to the satisfaction of the City of Port Phillip.

**15. Time for starting and completion**

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

- (a) Any stage of the subdivision is not certified within six (6) years of the date of this permit.
- (b) The certified plan for each stage is not registered at Land Registry within five (5) years of the date of the relevant stage Plan of Subdivision being Certified by Council.

The Responsible Authority may extend the period referred to in (a) if a request is made in writing before the permit expires or within six (6) months afterwards

Notes:

- (a) The Council has made this decision having particular regard to Sections 58, 59, 60, and 62 of the Planning and Environment Act 1987.
- (b) The following South East Water agreement options are available:
  - i. Application to enter into a Development Agreement-Works – If South East Water reticulated sewer/water/recycled water (as applicable) is required to be extended to service lots within the development
  - ii. Application to enter into an agreement-Non Works – If South East Water reticulated sewer/water/recycled water (as applicable) is available to the development and the owner only requires Statement of Compliance to release the titles (i.e. subdivision prior to building)

- iii. Plumbing Industrial, Commercial, Units & Private Water application – If South East Water reticulated sewer/water/recycled water (as applicable) is available to the development and the owner wishes to commence construction of the building/s (i.e. building prior to subdivision).
- (c) If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on 9679 7517, quoting Melbourne Water's reference **283528**.
- (d) Prospective purchasers of lots in this subdivision should contact Powercor Australia Ltd to determine the availability of a supply of electricity. Financial contributions may be required.
- (e) The section 173 agreements referred to in this permit and within planning permit PA170223 may be combined within one or more agreements as required.

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## IMPORTANT INFORMATION ABOUT THIS PERMIT

### WHAT HAS BEEN DECIDED?

The Responsible Authority has issued a permit.

### WHEN DOES A PERMIT BEGIN?

A permit operates:

1. From the date specified in the permit, or
2. If no date is specified, from
  - (i) The date of the decision of the Administrative Appeals 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:
  - (i) the development or any stage of it does not start within the time specified in the permit, or
  - (ii) 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
  - (iii) 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: -
  - (i) 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
  - (ii) the use is discontinued for a period of two (2) years.
3. A permit for the development and use of land expires if: -
  - (i) the development or any stage of it does not start within the time in the permit; or
  - (ii) 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
  - (iii) 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
  - (iv) 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.
  - (i) the use or development of any stage is to be taken to have started when the plan is certified; and
  - (ii) 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?

- (i) The person who applied for the permit may appeal against any condition in the permit unless it was granted at the direction of the Administrative Appeals Tribunal where, in which case no right of appeal exists.
- (ii) 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, which case the appeal must be lodged within 60 days after the giving of that notice.
- (iii) An appeal is lodged with the Administrative Appeals Tribunal.
- (iv) An appeal must be made on a Notice of Appeal form which can be obtained from the Administrative Appeals Tribunal, and be accompanied by the prescribed fee.
- (v) An appeal must state the grounds upon which it is based.
- (vi) An appeal must also be served on the Responsible Authority.
- (vii) Details about appeals and the fees payable can be obtained from the Administrative Appeals Tribunal.