

PLANNING PERMIT (AMENDED)

PLN18/0173

Address of the land: 81 Latrobe Ave, Alphington VIC 3078

The permit allows: Use and development of the land for a mixed use development containing dwellings (no permit for use) and food and drink premises and a reduction in the car parking requirements generally in accordance with the Alphington Paper Mill Development Plan (Precinct 3B).

The following conditions apply to the permit:

1. Before the development commences, 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 this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the plans prepared by DKO Architects but modified to show:
 - (a) Details (height, material, location) of wind screens to the outdoor dining generally in accordance with the MEL Consultants sketch plan dated 31 October 2018.
 - (b) Notation that all habitable rooms will be fitted with an operable window.
 - (c) Greater detail, including batten sizes and minimum spacing, of the decorative metal screens.
 - (d) Details of the proposed tile insert to the substation gatic lid to match the surrounding paving.
 - (e) Balconies/terraces associated with two or more bedroom dwellings to achieve a minimum depth of 2m for a minimum area of 8sqm for two bedroom dwellings and 10sqm for three or more bedroom dwellings.
 - (f) ~~**deleted**~~
 - (g) Individual apartment layouts removing notation 'Not for Endorsement'.
 - (h) All exposed north, east and west facing glazing at Level 3 of Building A to be shaded from summer sun angles with external adjustable awnings, blinds, screens, shutters, louvers or similar.
 - (i) Provision for an additional five visitor bicycle spaces (i.e. total of 27 spaces) at ground level.
 - (j) The deep soil area within Basement 2 to be accurately depicted (i.e. not below concreted areas of Basement 1) and also identified on Basement 1.
 - (k) Remove notations suggesting flexibility to the external retail façade and alternative options.
 - (l) A schedule of external colours and materials, including samples.
 - (m) Any amendments as required by the endorsed acoustic report.
 - (n) Any amendment as required by the endorsed wind report
 - (o) Any amendments as required by the endorsed waste management report
 - (p) Any amendments as required by the endorsed sustainability management plan
 - (q) Any amendments as required by the endorsed landscaping plan

Staging

2. Before the development starts, a Staging plan must be submitted to and be approved to the satisfaction of the Responsible Authority. The Staging Plan must include, but not limited to, plans and information detailing any public realm works, proposed temporary treatment and use of vacant land. The development must proceed in order of the stages as shown on the endorsed plan(s), unless otherwise agreed to in writing by the Responsible Authority.

Layout not altered

3. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

Ongoing architect involvement

4. As part of the ongoing consultant team, DKO Architects or an architectural firm to the satisfaction of the Responsible Authority must be engaged to:
 - (a) oversee design and construction of the development; and
 - (b) ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.

Maintenance

5. Before the dwelling approved by this permit is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking relating to that dwelling as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority.
6. Before the buildings approved by any stage of this permit are occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls of the relevant stage must be cleaned and finished to the satisfaction of the Responsible Authority.
7. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
8. All pipes, fixtures and fittings servicing any building on the land must be concealed in service ducts or otherwise integrated with the development to the satisfaction of the Responsible Authority.

Use

9. Except with the prior written consent of the Responsible Authority, the food and drink uses authorised by this permit may only operate between the following hours:
 - (a) Monday to Sunday 6.00am to 10.00pm
10. Outdoor dining areas to be restricted to 7am and 6pm unless otherwise supported by the endorsed acoustic report pursuant to Condition 22.

11. The hub may only be used by residents (and their guests) except with the prior written consent of the Responsible Authority.
12. The provision of music and entertainment on the land must be at a background noise level excluding the community spaces unless with the prior written consent of the Responsible Authority.
13. The use and development must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
14. The use and development must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).
15. The amenity of the area must not be detrimentally affected by the development and uses including through:
 - (a) The transport of materials, goods or commodities to or from the land;
 - (b) The appearance of any buildings, works or materials;
 - (c) The emission of noise, artificial light, vibration, smell fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil or
 - (d) The presence of vermin,to the satisfaction of the Responsible Authority.

Landscaping Plan

16. Before the development commences, an amended Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Landscape Plan will be endorsed and will form part of this permit. The amended Landscape Plan must be generally in accordance with the Landscape Plan prepared by Aspect Studios and dated 16 October 2018, but modified to include (or show):
 - (a) Any changes as a consequence of Condition 1;
 - (b) Location, species, quality, mature height and spread of all proposed planting;
 - (c) Minimum of 600mm depth to all tree planters, to be depicted on sectional diagrams
 - (d) Details on the vertical green system
 - (e) Any street/public realm furniture such as seating or bins;
 - (f) Details of the heritage interpretation within Retail Eat Street;
 - (g) Diagram of the outdoor dining extents
 - (h) Details and location of any tactile indicators and handrails
 - (i) Maintenance details for the kitchen garden, including owners' corporation responsibilities, communication and funding
 - (j) Details of irrigation systems, including water reuseto the satisfaction of the Responsible Authority.

17. Before the buildings are occupied within the relevant stage, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:

- (a) implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
- (b) not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
- (c) replacing any dead, diseased, dying or damaged plants,

to the satisfaction of the Responsible Authority.

Environmentally Sustainable Design

18. Before the development commences, an amended Sustainable Design Assessment to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Design Assessment will be endorsed and will form part of this permit. The amended Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by Cundall and dated 2018, but modified to include or show:

- (a) Provision for organic waste management system for both the residential and commercial components.
- (b) Reference to achieving certification in all elements (as relevant) of the UDIA EnviroDevelopment rating tool.

19. The provisions, recommendations and requirements of the endorsed Sustainable Design Assessment must be implemented and complied with to the satisfaction of the Responsible Authority.

Green Travel Plan

20. Before the development commences, an amended Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Green Travel Plan will be endorsed and will form part of this permit. The amended Green Travel Plan must be generally in accordance with the Green Travel Plan prepared by GTA consultants and dated 10 October 2018, but modified to include or show:

- (a) Bicycle parking consistent with the amended plans as required pursuant Condition 1 of this permit.

21. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Acoustic Report

22. Before the development commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Acoustic Logic and dated 3 April 2018, but modified to include (or show, or address):
- (a) Impact of noise transfer via the floor of the food and drink premises to adjacent apartments having regard to kitchen/back of house activity and movement of furniture.
 - (b) Details of any vibration isolation treatments as required by Condition 22(a).
 - (c) Impact of noise from the communal roof areas to the apartments below, including details of any sound insulation rating for floor ceiling separating the communal area from apartments, including options for achieving an appropriate target (e.g. $L_{n,w} = 50$ dB)
 - (d) A coordinated assessment of noise from mechanical plant serving the food and drink premises and the apartment common areas to demonstrate compliance with SEPP N-1
 - (e) Outdoor dining to be restricted to 7am to 6pm or otherwise demonstrate compliance with appropriate patron noise targets (either SEPP N-1 or 'background + 10 dB' during the day and evening periods, and 'background + 5 dB' at night) taking into consideration cumulative impacts from patron noise.
 - (f) Maximum number of patrons in the outdoor areas for relevant periods of operation/days of the week.
23. Within 3 months of the commencement of the food and drink premises and occupation of the development, an Acoustic Report to the satisfaction of the Responsible Authority must be prepared by a suitably qualified acoustic engineer and must be submitted to and approved by the Responsible Authority. When approved, the Acoustic Report will be endorsed and will form part of this permit. The acoustic report must assess the compliance of the use and, where necessary, make recommendations to limit the noise impacts in accordance with the State Environment Protection Policy (Control of noise from industry, commerce and trade) N-1 (SEPP N-1).
24. The provisions, recommendations and requirements of the endorsed Acoustic Reports must be implemented and complied with to the satisfaction of the Responsible Authority.

Waste Management

25. Before the development commences, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The amended Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by Irwin Consult and dated 10 August 2018, but modified to include:
- (a) Organic waste management for the residential component
 - (b) Green waste/composting opportunities for the communal landscaping areas.

26. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Construction Management Plan

27. Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:

- (a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
- (b) undertake and submit a drainage management plan outlining the risks, mitigation measures, monitoring regime. The plan is to be progressively reviewed based on surveillance results. The plan is to include but not be limited to:
 - (i) Management of stormwater to prevent infiltration into the ground water table.
 - (ii) The capture and containment of stormwater
 - (iii) Outline the testing regime of contained stormwater by a NATA registered testing laboratory
 - (iv) Methodology of disposal of contained stormwater, either into the existing underground stormwater system or into the sewer system via agreement from the relevant sewer authority
- (c) works necessary to protect road and other infrastructure;
- (d) remediation of any damage to road and other infrastructure;
- (e) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land,
- (f) facilities for vehicle washing, which must be located on the land;
- (g) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
- (h) site security;
- (i) management of any environmental hazards including, but not limited to, :
 - (i) contaminated soil;
 - (ii) materials and waste;
 - (iii) dust;
 - (iv) stormwater contamination from run-off and wash-waters;
 - (v) sediment from the land on roads;
 - (vi) washing of concrete trucks and other vehicles and machinery; and
 - (vii) spillage from refuelling cranes and other vehicles and machinery;
- (j) the construction program;
- (k) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
- (l) parking facilities for construction workers;
- (m) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;

- (n) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
- (o) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced;
- (p) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads.

During the construction:

- (q) any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines;
- (r) stormwater drainage system protection measures must be installed as required to ensure that no solid waste, sediment, sand, soil, clay or stones from the land enters the stormwater drainage system;
- (s) vehicle borne material must not accumulate on the roads abutting the land;
- (t) the cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads; and
- (u) all litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.

28. The provisions, recommendations and requirements of the endorsed Construction Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

29. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:

- (a) Monday-Friday (excluding public holidays) before 7 am or after 6 pm;
- (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm; or
- (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

Infrastructure

30. Before the buildings are occupied with the relevant stage, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:

- (a) at the permit holder's cost; and
- (b) to the satisfaction of the Responsible Authority.

31. Before the buildings are occupied within the relevant stage, or by such later date as approved in writing by the Responsible Authority, any new vehicle crossing must be constructed:

- (a) in accordance with any requirements or conditions imposed by Council;

- (b) at the permit holder's cost; and
- (c) to the satisfaction of the Responsible Authority.

32. Before the buildings are occupied within the relevant stage, or by such later date as approved in writing by the Responsible Authority, the area set aside on the endorsed plans for the car parking spaces, access lanes, driveways and associated works must be:

- (a) constructed and available for use in accordance with the endorsed plans;
- (b) formed to such levels and drained so that they can be used in accordance with the endorsed plans;
- (c) treated with an all-weather seal or some other durable surface; and
- (d) line-marked or provided with some adequate means of showing the car parking spaces;

to the satisfaction of the Responsible Authority.

33. Before the buildings are occupied within the relevant stage, the section of Mills Boulevard adjacent to the title boundaries is to be completed in accordance with the interim condition plans as agreed with the Responsible Authority. The remainder of works are to be bonded until substantially completed to the satisfaction of the Responsible Authority.

Car Park Management Plan

34. Before the buildings are occupied, a Car Park Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Car Park Management Plan will be endorsed and will form part of this permit. The Car Park Management Plan must address, but not be limited to, the following:

- (a) Provision of the following minimum onsite parking allocation rates:
 - i. 2 spaces for 3 or more bedroom dwellings
 - ii. 1 space per 1 and 2 bedroom dwelling;
 - iii. 0.12 spaces per dwelling for residential visitors;
 - iv. 3 spaces per 100sqm of for the food & drink premises
- (b) a schedule of all proposed signage including directional arrows and signage, informative signs indicating location of bicycle parking, exits, restrictions etc;
- (c) the management of the visitor car parking space and security arrangements for occupants of the development, including details on how residential visitors are to access car parking; and

35. The provisions, recommendations and requirements of the endorsed Car Park Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Lighting Design

36. Within three (3) months of the development commencing, or otherwise approved by the Responsible Authority, a Lighting Plan to the satisfaction of the Responsible Authority

must be submitted to and approved by the Responsible Authority. The Lighting Plan must address lighting within the internal streets and other publicly accessible areas and the entrances to the approved dwellings. When approved, the Lighting Plan will be endorsed and will form part of this permit. The Lighting Plan must provide for:

- (a) A lighting scheme designed for new open public roads within the curtilage of the property that complies with uniformity requirements as per standard AS1158.3.1;
- (b) The control of light spillage into the windows of existing and proposed residences to comply with the requirements of AS 4282 – 1997, "Control of the obtrusive effects of outdoor lighting";
- (c) The locations of any new light poles so as not to obstruct access into the development and off and on street parking spaces;
- (d) Lighting to all primary pedestrian access points to a residential property to satisfy at least level P4 as per AS 1158.3.1;
- (e) A maintenance regime for the lighting scheme within the curtilage of the property.
- (f) The use of energy efficient luminaires and/or solar lighting technologies to reduce carbon emission if possible.

37. The provisions, recommendations and requirements of the endorsed Lighting Plan must be implemented and complied with at no cost to Council and to the satisfaction of the Responsible Authority.

38. Before the buildings are occupied within the relevant stage, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating pedestrian walkways and dwelling entrances of that stage must be provided. Lighting must be:

- (a) located;
- (b) directed;
- (c) shielded; and
- (d) of limited intensity,

to the satisfaction of the Responsible Authority

Artisan Park

39. Within six (6) months of the development commencing, or otherwise approved by the Responsible Authority, a landscape concept plan must be submitted to and approved by the Responsible Authority. When approved, the Artisan Park Landscape Plan will be endorsed and will form part of this permit. The Artisan Park Landscape Plan to include or show:

- (a) Location, species, quantity, mature height and spread of all proposed planting
- (b) Details of any planters, including height, materials, depth of planting media, irrigation and drainage
- (c) Plan indicated where various paving treatments are proposed
- (d) Any park furniture and the like.

Section 173 Agreement

40. Unless otherwise agreed by the Responsible Authority, within three (3) months of the development authorised by this permit commencing, the owner (or another person in

anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the *Planning and Environment Act 1987*, which provides for the following:

- (a) Before the occupation of the development approved by this permit, or at a later date to the satisfaction of the Responsible Authority, Artisan Park must be substantial completed to the satisfaction of the Responsible Authority;
- (b) Prior to the occupation of the development approved by this permit, or at a later date to the satisfaction of the Responsible Authority, Artisan Park is to be vested with Council;
- (c) The cost of the design and construction of Artisan Park, including all landscape works, any park furniture/equipment and drainage is to be borne by the permit applicant;
- (d) Unfettered 24 hours public access through the to be maintained within Retail Eat Street and the north-south accessway/car court to the west of the development approved by this permit;

The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the Responsible Authority's costs and expenses (including legal expenses) incidental to the preparation, registration and enforcement of the agreement.

Expiry

41. This permit will expire if:

- (a) the development is not commenced within two years of the date of this permit;
- (b) the development is not completed within four years of the date of this permit; or
- (c) The use is not commenced within six years 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 six months afterwards for commencement or within twelve months afterwards for completion.

Notes:

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5095 to confirm.

Provision must be made for drainage of the site to a legal point of discharge. Please contact Council's Building Services on 9205 5095 for further information.

All future residents residing within the development approved under this permit will not be permitted to obtain resident, employee or visitor parking permits.

A local law permit (e.g. Asset Protection Permit, Road Occupation Permit) may be required before development is commenced. Please contact Council's Construction Management Branch on Ph. 9205 5585 to confirm.

Areas must be provided inside the property line and adjacent to the footpath to accommodate pits and meters. No private pits, valves or meters on Council property will be accepted.

The applicant must apply for a Legal Point of Discharge under Regulation 610 – Stormwater Drainage of the Building Regulations 2006 from Yarra Building Services unit. Any storm water drainage within the property must be provided and be connected to the nearest Council pit of adequate depth and capacity (legal point of discharge), or to Council's satisfaction under Section 200 of the Local Government Act 1989 and Regulation 610.

Prior of the commencement of the development, the permit holder must provide Council with the location of all future assets within the road reserve. Offsets, depths and gaps in between services must comply with the requirements of new 2016 version of the Code of Practice – Management of Infrastructure in Road Reserves.

THIS PERMIT HAS BEEN AMENDED AS FOLLOWS:

Date of amendment	Brief description of amendment
13 December 2019	Pursuant to Section 73 and 74, delete condition 1(f) and amend conditions 36, 39 and 40 of the planning permit to allow these conditions to be satisfied post commencement.
21 September 2022	Pursuant to Section 73 and 74 of the Planning and Environment Act 1987, amend Condition 33 to defer streetscape works post-occupation, amend the expiry condition 41 for the commencement of the use and to amend the internal layout of Apartment A110.

PLANNING PERMIT

IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?

The responsible authority has issued a permit. Note: This is not a permit granted under Division 5 or 6 of Part 4 of the *Planning and Environment Act 1987*.

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 Administration Tribunal, if the permit was issued at the direction of the Tribunal; or
 - (ii) The date on which it was issued, in any other case.

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if:
 - the development or any stage of it does not start within the time specified in the permit; or
 - the development requires the certification of a plan of subdivision or consolidation under the *Subdivision Act 1988* and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision; or
 - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within five years of the certification of the plan of subdivision or consolidation under the *Subdivision Act 1988*.
2. A permit for the use of land expires if:
 - the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
 - the use is discontinued for a period of two years.
3. A permit for the development and use of land expires if:
 - the development or any stage of it does not start within the time specified in the permit; or
 - the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
 - the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
 - the use is discontinued for a period of two years.
4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the *Planning and Environment Act 1987*, or to any combination of use, development or any of those circumstances requires the certification of a plan under the *Subdivision Act 1988*, unless the permit contains a different provision:
 - the use or development of any stage is to be taken to have started when the plan is certified; and
 - the permit expires if the plan is not certified within two years of the issue of the permit.

5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT REVIEWS?

- The person who applied for the permit may apply for a review of any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of review exists.
- An application for review must be lodged within 60 days after the permit was issued, unless a notice of decision to grant a permit has been issued previously, in which case the application for review must be lodged within 60 days after the giving of that notice.
- An application for review must be lodged with the [Victorian Civil and Administrative Tribunal \(VCAT\)](#).
- An application for review must be made on the relevant form which can be obtained from [Victorian Civil and Administrative Tribunal \(VCAT\)](#), and must be accompanied by the applicable fee.
- An application for review must state the grounds upon which it is based.
- A copy of an application for review must also be served on the responsible authority.

Information about the VCAT process, applications for review and the fees payable to the Victorian Civil and Administrative Tribunal you can look at Council's website <https://www.yarracity.vic.gov.au/services/planning-and-development/decisions-and-appeals>, [download the Planning proceedings at VCAT factsheet](#) (PDF) or visit the [VCAT website](#).