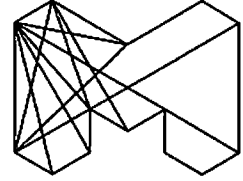


# NOTICE OF DECISION TO GRANT A PERMIT



CITY OF MELBOURNE

APPLICATION NO.

TP-2014-1084

PLANNING SCHEME

Melbourne Planning Scheme

RESPONSIBLE AUTHORITY

Melbourne City Council

For further reference contact:

Brendan Cousins

Telephone: 03 9658 9526

Email: [planning@melbourne.vic.gov.au](mailto:planning@melbourne.vic.gov.au)

Planning and Building Branch

Level 3, Council House 2

240 Little Collins Street, Melbourne

**The Responsible Authority has decided to grant a permit. The permit has NOT been issued.**

ADDRESS OF THE LAND

157-159 Domain Road, SOUTH YARRA VIC 3141

WHAT WILL THE PERMIT ALLOW?

Demolition of the existing building and the construction of a building and the construction and carrying out works, use the land for the sale and consumption of liquor (Restaurant and Café licence pursuant to the Liquor Control Reform Act 1998), reduction (to zero) of the car parking requirements and waiver of loading and unloading requirements in accordance with the endorsed plans.

## WHAT WILL THE CONDITIONS OF THE PERMIT BE?

1. Prior to the commencement of the use and development, the applicant must submit to the Responsible Authority three copies of plans drawn to scale generally in accordance with the plans TP-120 to TP-500 dated 3 December 2014 but amended to show:
  - a. An acoustic barrier (being a 10mm cement sheet with an absorption co-efficient of less than 0.1), with all joins sealed, along the shared title boundary wall between an RL of 22.77 and an RL of 25.77 of the subject land and the land at 112 Millswyn Street.
  - b. Acoustic attenuation materials with a 0.7 NRC rating lining the east, west and southern walls of the Courtyard, from the finished floor level of the basement to a height of 3.8 metres.
  - c. The installation of an attenuator to the top of the flues.
  - d. No physical connection between the shared title boundary wall (and footings) of the subject land and the land at 112 Millswyn Street and the basement wall and capping beams of the proposed development.
  - e. Minimise the depth of the recess at the residential entry while still ensuring that the entry door does not swing out beyond the property boundary.
  - f. Improved visual interest and articulation of the front section of the east elevation.
  - g. Width of the door for access to the residential waste storage area.
  - h. All external plant and equipment, including screening and noise attenuation devices.
  - i. Ventilation stack(s) associated with the exhaust systems of the development.

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Date Issued: 6 August 2015

Signature of the Responsible Authority

A handwritten signature in black ink, appearing to be 'B. Cousins', written over a horizontal line.

## **IMPORTANT INFORMATION ABOUT THIS NOTICE**

### **WHAT HAS BEEN DECIDED?**

The Responsible Authority has decided to grant a permit. The permit has not been issued.  
This notice sets out what the permit will allow and what conditions the permit will be subject to if issued.

### **WHAT ABOUT APPEALS?**

#### **For the Applicant—**

- \* The person who applied for the permit may apply for review of any condition in the notice of decision to grant a permit. The application for review must be lodged within 60 days of the giving of this notice.

#### **For an Objector—**

- \* An objector may apply for review of the decision of the Responsible Authority to grant a permit. The application for review must be lodged within 21 days of the giving of this notice.
- \* If there is no application for review, a permit will be issued after 21 days of the giving of this notice.

#### **For all applications for review—**

- \* An application for review is lodged with the Victorian Civil and Administrative Tribunal.
- \* An application for review must be made on the Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
- \* An application for review must state the grounds upon which it is based.
- \* An application for review must also be served on the Responsible Authority.
- \* Notice of the application for review must be given in writing to all other parties to the review as soon as practicable after an application for review is lodged. An objector who applies for a review must give notice to the person who applied for the permit.

An applicant who applies for review must give notice to all objectors.

- \* Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal

These amended plans must be to the satisfaction of the Responsible Authority when approved shall be the endorsed plans of this permit.

2. The use and development as shown on the endorsed plans must not be altered or modified without the prior consent of the Responsible Authority.
3. A schedule and samples of all external materials, colours and finishes must be submitted to the satisfaction of the Responsible Authority prior to the commencement of the development, excluding demolition. The schedule must show the materials, colours and finishes of all external walls, roof, fascias, window frames, glazing types, doors, balustrades, fences and paving and structures. When approved, the schedule will be endorsed and will then form part of the permit. All finishes and surfaces of all external buildings and works, including materials and colours, must be in conformity with the approved schedule to the satisfaction of the Responsible Authority.
4. Except with the prior written consent from the Responsible Authority, the maximum number of patrons on the basement and ground floor level must not exceed the following:
  - a. no more than 200 patrons prior to 5pm
  - b. no more than 245 after 5pm
5. Except with the prior written consent from the Responsible Authority, the maximum number of patrons in the external courtyard at the basement level must not exceed 25.
6. The sale and consumption of liquor is only permitted between the following hours:
  - a. Internal area: 10am to 11.30pm
  - b. External area (courtyard): 10am to 6pm
7. The predominant activity carried out on the basement and ground floor level during all trading hours must be the preparation and serving of meals for consumption on the premises at all times.
8. Prior to commencement of the use the recommendations contained within the *Acoustic Report* prepared by Marshall Day Acoustics (MDA) and dated 3 December 2014 must be implemented at no cost to the City of Melbourne and be to the satisfaction of the Responsible Authority.
9. No later than 14 days from the commencement of the use of the land for the sale and consumption of liquor, written confirmation of the date this use commenced must be provided to the Responsible Authority, to its satisfaction.
10. Within 6 months of the commencement of the use of the land for the sale and consumption of liquor, a post-occupancy Acoustic Report prepared by a suitably qualified acoustic engineer, to the satisfaction of the Responsible Authority, must be submitted to the Responsible Authority for written approval. The Acoustic Report must:
  - a. assess whether the allowable internal music noise levels specified in the approved *Acoustic Report* prepared by Marshall Day Acoustics (MDA) and dated 3 December 2014 (refer to Condition No. 8 of this permit) are exceeded. If any of those levels are exceeded, the Acoustic Report must specify what measures must be taken (and within what time frame) to ensure the allowable internal music noise levels are not exceeded, including any re-setting of any music noise limiting devices
  - b. assess whether patron noise from the premises (including from the basement level courtyard) exceeds 5dB(A) above background noise, to be measured from the following locations:
    - i. the centre of the closest and most exposed residential balconies on the northern and southern elevations of the adjoining building at 155 Domain Road (or, in the event that access to the balconies is not available, another location to the satisfaction of the Responsible Authority)
    - ii. the centre of the courtyard area of 5/112 Millswyn Street (or, in the event that access is not available, another location to the satisfaction of the Responsible Authority).If this noise level is exceeded, the Acoustic Report must specify what measures, including any management measures, must be taken (and within what time frame) to



ensure that patron noise from the premises does not exceed 5dB(A) above background noise when measured in these locations.

- c. assess whether noise emissions from any mechanical services equipment exceed State Environment Protection Policy (Noise from Commerce Industry and Trade) No. N-1 (SEPP N-1). If SEPP N-1 is exceeded, the Acoustic Report must specify what measures must be taken (and within what time frame) to ensure those levels are not exceeded
- d. assess whether music noise emissions exceed State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2 (SEPP N-2). If SEPP N-2 is exceeded, the Acoustic Report must specify what measures must be taken (and within what time frame) to ensure those levels are not exceeded.

The requirements/recommendations of the approved post-occupancy Acoustic Report must be implemented to the satisfaction of the Responsible Authority.

Any measures specified in the approved post-occupancy Acoustic Report which require a change to the operation of the premises must be included in the Operational Management Plan (refer to Condition No. 10 of this permit) to the satisfaction of the Responsible Authority

11. Before the development (excluding the residential uses) is occupied, an Operational Management Plan to the satisfaction of the Responsible Authority must be submitted to, and approved in writing by, the Responsible Authority. The Operational Management Plan must specify:

- a. that patrons will not be permitted to smoke anywhere on the subject land
- b. any management measures required by the approved *Acoustic Report* prepared by Marshall Day Acoustics (MDA) and dated 3 December 2014 (refer to Condition No. 8 of this permit)
- c. emergency management procedures for the evacuation of patrons and staff in the event of fire or other emergency
- d. the ways in which staff are to be made aware of the conditions of this permit
- e. a Restaurant and Café Licence pursuant to the Liquor Control Reform Act 1998 as the applicable liquor licence, and details of this licence

The use of the land for the sale and consumption of liquor must be in accordance with the approved Operational Management Plan, to the satisfaction of the Responsible Authority.

12. Prior to the commencement of the development (including any demolition, bulk excavation, construction or carrying out of works) on the subject land, a tree protection plan must be prepared by a suitably qualified and experienced arborist. The tree protection plan must include recommendations to ensure the viability of the jacaranda tree at 112 Millswyn Street before, during and after construction.

13. Prior to the commencement of the development (including demolition), the owner / applicant must provide evidence that the owner has applied to City Of Melbourne to remove the land from the from the City of Melbourne Resident Parking Scheme without the creation of a new area (the occupiers of the dwellings approved by this permit will not be eligible for Resident Priority Parking Permits), to the satisfaction of the Responsible Authority.

14. The performance outcomes specified in the *Environmentally Sustainable Design Statement* prepared by Ark Resources and dated 3 December 2014 or the development must be implemented prior to occupancy at no cost to the City of Melbourne and be to the satisfaction of the Responsible Authority.

Any change during detailed design, which affects the approach of the endorsed ESD Statement, must be assessed by an accredited professional. The revised statement must be endorsed by the Responsible Authority prior to the commencement of construction.

15. The performance outcomes specified in the *Environmentally Sustainable Design Statement* prepared by Ark Resources and dated 3 December 2014 for the development must be implemented prior to occupancy at no cost to the City of Melbourne and be to the satisfaction of the Responsible Authority.



Any change during detailed design, which affects the approach of the endorsed WSUD Statement, must be assessed by an accredited professional. The revised statement must be endorsed by the Responsible Authority prior to the commencement of construction.

16. Prior to the commencement of the development, a stormwater drainage system, incorporating the performance outcomes specified in the *Environmentally Sustainable Design Statement* prepared by Ark Resources and dated 3 December 2014, must be submitted to and approved by the Responsible Authority – Engineering Services. This system must be constructed prior to the occupation of the development and provision made to connect this system to the City of Melbourne's underground stormwater drainage system.
17. The waste storage and collection arrangements must be in accordance with the Waste Management Plan prepared by Leigh Design dated 3 December 2014.
18. All garbage and waste material must be stored in the waste storage area. No goods, garbage, packing material or similar material must be left outside the building on adjoining footpaths or roads. Bins must be returned to the waste storage area immediately after garbage collection.
19. The waste storage and collection arrangements must not be altered or modified without the prior consent of the Responsible Authority – Engineering Services.
20. Except with the prior written consent from the Responsible Authority, waste and recyclables collection from the development must not occur outside the hours of 7.00am to 6.00pm Monday to Saturday
21. Except with the prior written consent from the Responsible Authority, deliveries to the development must not occur outside the hours of 7am to 10pm Monday to Saturday, and 9am to 10pm on Sundays and public holidays.
22. Noise emissions from the premises must comply with State Environment Protection Policy (Noise from Commerce Industry and Trade) No. N-1 (SEPP N-1) and State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2 (SEPP N-2), as applicable.
23. No live or recorded music is permitted in the restaurant including the basement level courtyard, apart from background music.
24. The courtyard must be a non-smoking area.
25. No loudspeaker, amplifier, relay or other audio equipment may be installed or used outside the building at any time, apart from background music in the basement level courtyard.
26. Use of the development must not detrimentally affect the amenity of the neighbourhood, including through the:
  - a. transport of materials, goods or commodities to or from the land;
  - b. appearance of any building, works or materials; and
  - c. emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.to the satisfaction of the Responsible Authority.
27. A clear sign must be attached to an internal wall in a prominent position adjacent to the entry/exit point on the ground floor level to advise patrons to leave in a quiet and orderly fashion, to the satisfaction of the Responsible Authority.
28. Glazing materials used on all external walls must be of a type that does not reflect more than 15% of visible light when measured at an angle of 90 degrees to the glass surface, to the satisfaction of the Responsible Authority.
29. All building plant and equipment on the roofs are to be concealed to the satisfaction of the Responsible Authority. The construction of any additional plant machinery equipment, including but not limited to air-conditioning equipment, ducts, flues, all exhausts including car parking and communications equipment, must be to the satisfaction of the Responsible Authority.



30. Any ventilation, air conditioning and kitchen and basement exhausts required for the development must be designed, installed and maintained in accordance with AS1668.2 - 2012, to the satisfaction of the Responsible Authority.
31. Prior to the commencement of the development, including demolition or bulk excavation, a detailed Construction and Demolition Management Plan must be submitted to and be approved by the Responsible Authority. This construction management plan is to be prepared in accordance with the City of Melbourne - Construction Management Plan Guidelines and is to consider the following:
- a. public safety, amenity and site security
  - b. operating hours, noise and vibration control
  - c. air and dust management
  - d. stormwater and sediment control
  - e. waste and materials reuse
  - f. traffic management
32. All projections over the street alignment must be drained to a legal point of discharge in accordance with plans and specifications first approved by the Responsible Authority - Engineering Services.
33. The minimum clearance to the underside of the awning over the footpath surface in Domain Road must be a minimum of 2.7 metres. The awning must be set back a minimum distance of 750mm from face of the footpath kerb.
34. Existing street levels in Domain Road must not be altered for the purpose of constructing new vehicle crossings or pedestrian entrances without first obtaining approval from the Responsible Authority – Engineering Services.
35. All pedestrian ramps must be designed and constructed in accordance with AS 1428:2009 Design for Access and Mobility and be fitted with Tactile Ground Surface Indicators. The design of Tactile Ground Surface Indicators must be approved by the Responsible Authority prior to installation.
36. No advertising signs must be erected, painted or displayed on the land without the written permission of the Responsible Authority, unless in accordance with the exemption provisions of the Melbourne Planning Scheme.
37. This permit will expire if one or more of the following circumstances apply:
- a. The development is not started within two years of the date of this permit
  - b. The development is not completed, or the use is not started, within four years of the date of this permit

The Responsible Authority may extend the date upon which the permit expires. A request for an extension of time must be in writing and be received before the permit expires, or within three months afterwards.

**Notes:**

Any requirement to temporarily relocate and/or remove street furniture must be first approved by the City of Melbourne – Manager Engineering Services Branch.

All necessary approvals and permits are to be first obtained from the City of Melbourne and the works performed to the satisfaction of the responsible authority – Manager Engineering Services Branch.

The occupiers of the dwellings approved by this permit will not be eligible for Resident Priority Parking Permits.

