

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P1011/2024
PERMIT APPLICATION NO. TPA/51770/B

APPLICANT 253 Wellington Rd Pty Ltd
RESPONSIBLE AUTHORITY Monash City Council
SUBJECT LAND 253-269 Wellington Road
MULGRAVE VIC 3170
DATE OF ORDER 20 December 2024

ORDER

Conditions changed

- 1 In application P1011/2024 the decision of the responsible authority is varied.
- 2 The Tribunal directs that planning permit TPA/51770/B must contain the conditions set out in Appendix A.
- 3 The responsible authority is directed to issue a modified planning permit in accordance with this order.

Hearings vacated

- 4 The compulsory conference scheduled at 10.00am on 29 January 2025 is **vacated**. No attendance is required.
- 5 The hearing scheduled at 10.00am on 30 April 2025 is **vacated**. No attendance is required.

Costs

- 6 No order as to costs.

Seuna Byrne
Member



REMARKS

- 1 Pursuant to s 93(1) of the *Victorian Civil and Administrative Tribunal Act 1998* (Vic), this order is made at the request of the parties and with their consent.
- 2 The Tribunal regards the consent of the responsible authority to be a confirmation to the Tribunal that:
 - a the responsible authority is of the opinion that the permit or amended permit is appropriate having regard to the matters it is required to consider under s 60 of the Act, including the balanced application of the strategies and policies of the relevant planning scheme and is otherwise in conformity with the provisions of the planning scheme and the *Planning and Environment Act 1987* (Vic);
 - b the proposed orders will not result in any change to the proposed use or development which would materially affect any person other than the parties to the proceeding.
- 3 Based on the information available to the Tribunal, I consider it is appropriate to make these orders.

Seuna Byrne
Member



APPENDIX A – PERMIT DESCRIPTION AND CONDITIONS

PERMIT NO.	TPA/51770/B
PLANNING SCHEME	Monash Planning Scheme
RESPONSIBLE AUTHORITY	Monash City Council
ADDRESS OF THE LAND	253-269 Wellington Road MULGRAVE VIC 3170

THE PERMIT ALLOWS:

Planning scheme clause	Matter for which the permit has been granted
Clause 37.01-1 (Special Use Zone)	Use of land for a Residential Hotel.
Clause 37.01-4 (Special Use Zone)	Construct a building or construct or carry out works.
Clause 43.02-2 (Design and Development Overlay)	Construct a building or construct or carry out works.
Clause 43.01-1 (Heritage Overlay)	Construct a building or construct or carry out works.
Clause 52.05-13 (Signs)	Display internally illuminated business identification high wall and panel signage.
Clause 52.27 (Licensed Premises)	Use of land to sell and consume liquor.
Clause 52.29-2 (Land Adjacent to the Principal Road Network)	Alteration of access to a road in a Transport Zone 2.

CONDITIONS TO APPLY TO THE PERMIT:

Amended plans required

- 1 Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale and dimensioned. When the plans are endorsed they will then form part of the Permit. The plans must be generally in accordance with the decision plans prepared by WMK Architecture, dated 16 September 2020 but modified to show:
 - a) Reduction in the building footprint within the north-west corner and northern side of the building at the ground floor, and within the north-west corner at all other levels to improve sight lines to the existing 1969 Building, to the satisfaction of the Responsible Authority.



- b) The application of a rust paint on the existing 1969 building to restore the rusted appearance of the weathered Core-Ten steel.
- c) Deleted
- d) The proposed pavilion structure to utilise a rust paint finish for the supporting columns, and be designed to be more in keeping with the 1969 building.
- e) Where possible all services and screen walls to be set back a minimum of 20 metres from Wellington Road. Locations of services and screen walls within 20 metres from Wellington Road are to be to the satisfaction of the Responsible Authority.
- f) The pedestrian pathways to Wellington Road to be identified as being permeable, and located at natural ground level (no excavation or fill permitted) within the tree protection zones identified.
- g) Deleted
- h) A plan clearly showing the area of liquor to be sold and consumed (with correlating legend). The sale and consumption of liquor at the ground floor within the front setback of the site is not permitted.
- i) A total of 69 car spaces to be clearly allocated to the proposed residential hotel use, and 99 car spaces to the office use.
- j) Proposed bicycle spaces for staff and hotel visitors to be relocated to the ground floor of the building, or alternate accessible location.
- k) The provision of a minimum of four (4) visitor bicycle parking spaces external to the buildings within the site.
- l) A Landscape Plan in accordance with Condition 9 of this Permit.
- m) A Tree Management Plan in accordance with Condition 12 of this Permit.
- n) The provision of organics / food waste recycling in accordance with Condition 15.
- o) A Sustainable Management Plan in accordance with Condition 20 of this Permit.
- p) An amended Acoustic Report in accordance with Condition 22 of this Permit.
- q) An amended Car Parking Management Plan in accordance with Condition 23 of this Permit.

Layout not to be altered

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



Satisfactory Continuation

- 3 Once the development and use has started it must be continued and completed to the satisfaction of the Responsible Authority.

Heritage Conservation

- 4 Before the works commence (including demolition), a detailed account of conservation and restoration works must be submitted to and approved by the Responsible Authority. When approved, the Conservation Management Plan will be include, but not be limited to, the following:
 - a) Fully dimensioned and accurately measured plans at a scale of no less than 1:50 prepared by a suitably qualified heritage practitioner/ architect, detailing:
 - i. The existing external walls and roofing, including sections and the thickness of architectural elements of the heritage building;
 - ii. The proposed reconstruction, restoration or works to the existing façade, with notations clearly outlining any changes from existing conditions or use of new materials; and
 - iii. External detailing of the new hotel as responsive to the heritage precedent.

A written description of the demolition and construction methods to be used. The report is to be peer reviewed prior to endorsement, at the cost of the applicant.

- 5 The provisions, recommendations and requirements of the endorsed Conservation Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
- 6 Prior to the commencement of the development, including any demolition works, an audit must be prepared which details the condition of heritage fabric on the heritage building and further detail provided regarding elements that are to be retained, demolished or altered. The report must be prepared by a suitably qualified heritage practitioner / architect. The recommendations contained within this report must be implemented and be to the satisfaction of the Responsible Authority.
- 7 Prior to any demolition works commencing on the site, an annotated photographic heritage record of any elements to be demolished or altered of the building or sunken courtyard area must be prepared to the satisfaction of the Responsible Authority. A copy of the study must be submitted to the Responsible Authority. The study must include:
 - a) Views of each elevation of the building;
 - b) Two diagonally opposed views of each internal space in the building; and
 - c) Architectural design detailing of the building.



Images must be presented to a high quality and resolution to the satisfaction of the Responsible Authority.

- 8 The works associated with the existing heritage building on the site are to be undertaken in parallel with the construction with the new building on the land, and are to be completed prior to the use of the new building on the land.

Landscape Plan

- 9 Concurrent with the endorsement of any plans pursuant to Condition 1, a landscape plan prepared by a Landscape Architect or a suitably qualified or experienced landscape designer, drawn to scale and dimensioned must be submitted to and approved by the Responsible Authority. When endorsed, the plan will form part of the Permit. The Landscape Plan must be generally in accordance with the Landscape Plan prepared by John Patrick Pty Ltd, Revision I, Dated 7 May 2024 except that the plan must show:
 - a) An additional 7 trees, with minimum mature heights of 15 metres, and 2 metre height at planting.
 - b) Additional understorey planting within the front setback on the east and west sides.
 - c) Nominate trees to be planted in accordance with Condition 52 and location of tree protection measures for during construction as per the Tree Management Plan prepared in accordance with Condition 12, to the satisfaction of the responsible authority.
- 10 Before the occupation of the buildings allowed by this permit, landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority and then maintained to the satisfaction of the Responsible Authority.
- 11 All landscaping works shown on the endorsed landscape plan(s) must be maintained and any dead, diseased or damaged plants replaced, all to the satisfaction of the Responsible Authority.

Tree Management Plan

- 12 Concurrent with the submission of amended plans required by Condition 1 and prior to any demolition or site works, a Tree Management Plan (TMP) must be submitted to and approved by the Responsible Authority. The TMP must be prepared by a suitably qualified and experienced Arborist and must set out recommendations and requirements in relation to retention of the replacement trees as shown in the endorsed landscape plans.

The TMP must be approved by the Responsible Authority prior to the commencement of any works, including demolition and/or levelling of the site. The TMP must make specific recommendations in accordance with the Australian Standard AS4970: 2009 - Protection of Trees on Development Sites and detail the following to the satisfaction of the Responsible



Authority ensuring the trees to be retained remain healthy and viable during construction:

- a) A Tree Protection Plan drawn to scale that shows:
 - i. Tree protection zones and structural root zones of all trees to be retained,
 - ii. All tree protection fenced off areas and areas where ground protection systems will be used;
 - iii. The type of footings within any tree protection zones;
 - iv. Any services to be located within the tree protection zone and a notation stating all services will either be located outside of the tree protection zone, bored under the tree protection zone, or installed using hydro excavation under the supervision of the Project Arborist; and
 - v. A notation to refer to the Tree Management Plan for specific detail on what actions are required within the tree protection zones.
 - b) Details of how the root system of any tree to be retained will be managed. This must detail any initial non-destructive trenching and pruning of any roots required to be undertaken by the Project Arborist.
 - c) Supervision timetable and certification of tree management activities required by the Project Arborist to the satisfaction of the responsible authority; and
 - d) Any remedial pruning works required to be performed on tree canopies located within subject site. The pruning comments must reference Australian Standards 4373:2007, Pruning of Amenity Trees and a detailed photographic diagram specifying what pruning will occur.
- 13 All trees specified in the endorsed Tree Management Plan are to be protected and maintained in accordance with the recommendations set out in the report, to the satisfaction of the Responsible Authority.
- 14 Any in-ground, automatic watering system linked to rainwater tanks on the land must be installed and maintained to the common garden areas to the satisfaction of the Responsible Authority.

Waste Management Plan

- 15 Concurrent with the endorsement of any plans pursuant to Condition 1, a Waste Management Plan must be submitted and approved by the Responsible Authority. The plan must be generally in accordance with the plan prepared by MGA dated 15 July 2020, but showing to the satisfaction of the Responsible Authority:



- a) Purpose as stated in the City of Monash MUD and Commercial Developments WMP Guide for Applicants;
 - b) Application number added to introductory section of WMP;
 - c) Allowance for organics / food waste recycling service;
 - d) Allowance for separated glass recycling as per 2020 State Government Recycling Victoria Policy released in April 2020.;
 - e) Detail of internal bin strategy; and
 - f) Scale drawing to demonstrate bin manoeuvrability, access routes for occupants and cleaners and the provision of all waste stream storage.
- 16 The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
- 17 No bin or receptacle or any form of rubbish or refuse shall be allowed to remain in view of the public and no odour shall be emitted from any receptacle so as to cause offence to persons outside the land.

Construction Management Plan

- 18 Prior to the commencement of any site works (including demolition and excavation), a Construction Management Plan must be submitted and approved by the Responsible Authority. No works are permitted to occur until the Plan has been endorsed by the Responsible Authority. Once endorsed, the Construction Management Plan will form part of the permit and must be implemented to the satisfaction of the Responsible Authority. The plan must address the following issues:
- a) Hours for construction activity in accordance with any other condition of this permit;
 - b) Measures to control noise, dust and water and sediment laden runoff;
 - c) Prevention of silt or other pollutants from entering into the Council's underground drainage system or road network;
 - d) Measures relating to removal of hazardous or dangerous material from the site, where applicable;
 - e) A plan showing the location and design of a vehicle wash-down bay for construction vehicles on the site;
 - f) Cleaning and maintaining surrounding road surfaces;
 - g) A site plan showing the location of any site sheds, on-site amenities, building waste storage and the like, noting that Council does not support the siting of site sheds within Council road reserves;
 - h) Public Safety and site security;
 - i) A plan showing the location of parking areas for construction and sub-contractors' vehicles on and surrounding the site, to ensure that



vehicles associated with construction activity cause minimum disruption to surrounding premises. Any basement car park on the land must be made available for use by sub-constructors/tradespersons upon completion of such areas, without delay;

- j) A Traffic Management Plan showing truck routes to and from the site;
- k) Swept path analysis demonstrating the ability for trucks to enter and exit the site in a safe manner for the largest anticipated truck associated with the construction;
- l) Measures to ensure that sub-contractors/tradespersons operating on the site are aware of the contents of the Construction Management Plan;
- m) Contact details of key construction site staff;
- n) Any other relevant matters, including the requirements of VicRoads or Public Transport Victoria.
- o) Except with the prior written consent of the Responsible Authority, a requirement that construction works must only be carried out during the following hours:
 - Monday to Friday (inclusive) – 7.00am to 6.00pm;
 - Saturday – 9.00am to 1.00pm;
 - Saturday – 1.00pm to 5.00pm (Only activities associated with the erection of buildings. This does not include excavation or the use of heavy machinery.)
 - No works are permitted on Sundays or Public Holidays.

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

Sustainable Management Plan (SMP) Required

20 Concurrent with the endorsement of any plans pursuant to Condition 1, a Sustainable Management Plan (in accordance with Clause 22.13) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Sustainable Management Plan will be endorsed and will form part of this permit.

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

Amended Acoustic Report Required

22 Concurrent with the endorsement of any plans pursuant to Condition 1, 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 Octave Acoustics dated 21 July 2020, but modified to include:

- a) Any changes as required by Condition 1 of the Permit.

Car Park Management Plan Required

- 23 Before the development commences, an amended Car Park Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Car Park Management Plan will be endorsed and will form part of this permit. The amended Car Park Management Plan must be generally in accordance with the Car Park Management Plan prepared by MGA dated 16 September 2020, but modified to include (or show):
 - a) All car spaces on the land to be allocated to hotel or office uses.
 - b) Tandem car parking proposed to be allocated to staff.
- 24 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.

Department of Transport Conditions (ref: PPR33676/20)

- 25 The demolition and construction of the development must not disrupt bus operations on Wellington Road without the prior written consent of the Head, Transport for Victoria.
- 26 Any request for written consent to disrupt bus operations on Wellington Road during the demolition and construction of the development must be submitted to the Head, Transport for Victoria not later than 8 weeks prior to the planned disruption and must detail measures that will occur to mitigate the impact of the planned disruption.

Amenity of Area

- 27 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, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; and
 - d) presence of vermin.

To the satisfaction of the Responsible Authority.



Noise

- 28 Noise levels emanating from the premises must not exceed the relevant levels prescribed under State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2, to the satisfaction of the Responsible Authority.
- 29 Noise levels emanating from the premises must not exceed the relevant levels prescribed by the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1, to the satisfaction of the Responsible Authority.

Licensed premises

- 30 Alcohol must only be consumed within the areas delineated on the plans by a red line.
- 31 Except without the prior written consent of the Responsible Authority, the sale and consumption of liquor may only occur during the following hours:
- a) Café/ Lounge – 9am – 1am the following morning, 7 days per week.
 - b) Dining – 9am-1am the following morning, 7 days per week.
 - c) Level 3 events areas and business centre – 9am-1am the following morning, 7 days per week.
 - d) Hotel Suites – 24 hours

Car Parking and Driveways

- 32 Before the use starts or any building is occupied, areas set aside for parked vehicles and access lanes as shown on the endorsed plans must be:
- a) constructed to the satisfaction of the Responsible Authority;
 - b) properly formed to such levels that they can be used in accordance with the plans;
 - c) surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority;
 - d) drained, maintained and not used for any other purpose to the satisfaction of the Responsible Authority;
 - e) line-marked to indicate each car space and all access lanes to the satisfaction of the Responsible Authority.

Parking areas and access lanes must be kept available for these purposes at all times.

- 33 Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose, to the satisfaction of the Responsible Authority.



- 34 Concrete kerbs or other suitable barriers must be provided to prevent damage to fences and/or landscaped areas and to prevent direct vehicle access to and from the site other than by a vehicle crossing, to the satisfaction of the Responsible Authority.
- 35 Low intensity / baffled lighting must be provided to ensure that car park areas and pedestrian accessways are adequately illuminated without any unreasonable loss of amenity to the surrounding area, to the satisfaction of the Responsible Authority.
- 36 Visitor parking spaces within the development must be:
 - a) Clearly identified by appropriate signage having an area no greater than 0.3m²;
 - b) Line marked to indicate each car space; and
 - c) Available for visitor usage at all times.
- 37 All loading and unloading of vehicles must be carried out within the designated loading bay and must be conducted in a manner that does not cause any interference with the circulation and parking of vehicles on the land, to the satisfaction of the Responsible Authority.

Ongoing Architect Involvement

- 38 As part of the ongoing consultant team, WMK Architects or an architectural firm which is acknowledged to have comparable skill and expertise 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.

Service Location

- 39 Any required fire services, electricity supply, gas and water meter boxes must be discreetly located and/or screened to compliment the development to the satisfaction of the Responsible Authority. Any required services must be clearly detailed on endorsed plans forming part of this permit.
- 40 No equipment, services, architectural features or structures of any kind, including telecommunication facilities, 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.
- 41 No goods must be stored or left exposed outside the building so as to be visible from any public road or thoroughfare.

Drainage and Stormwater

- 42 The site must be drained to the satisfaction of the Responsible Authority.



- 43 All stormwater collected on the site from all hard surface areas must not be allowed to flow uncontrolled into adjoining properties or the road reserve.
- 44 The nominated point of stormwater connection for the site is to the south of the property where the entire site's stormwater must be collected and free drained via a pipe to the in the easement via the existing property connection. Note: If the point of connection cannot be located then notify Council's Engineering Department immediately.
- 45 Any internal drainage pipes found during construction are to be reconnected to the new internal stormwater system, or to the satisfaction of the Responsible Authority.

Signs

- 46 The location, layout, dimensions, structures and features of the approved sign(s) shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
- 47 All signs must be constructed and maintained to the satisfaction of the Responsible Authority.
- 48 All signs must be located wholly within the boundary of the land.
- 49 The intensity of lighting associated with the illumination of the advertising sign(s) must be limited so as not to cause glare or be a distraction to motorists in adjoining streets or cause a loss of amenity in the surrounding area to the satisfaction of the Responsible Authority.
- 50 The sign must not:
 - a) Dazzle or distract drivers due to its colouring;
 - b) Be able to be mistaken for a traffic signal because it has, for example, red circles, octagons, crosses or triangles;
 - c) Be able to be mistaken as an instruction to drivers.to the satisfaction of the Responsible Authority.
- 51 Signs advertising goods and services must, to the satisfaction of the Responsible Authority, only be for goods and services available on the land for which this permit is granted.

Tree Replacement

- 52 The replacement trees shown in the endorsed landscape plans must be planted before 30 May 2025 unless otherwise agreed to in writing by the responsible authority. Council must be notified when this has been completed to enable inspection.

Time for Starting and Completion

- 53 In accordance with section 68 of the Planning and Environment Act 1987, this permit will expire if one of the following circumstances applies:

- a) The development has not started before 2 years from the date of issue.
- b) The development is not completed before 4 years from the date of issue.

In accordance with section 69 of the Planning and Environment Act 1987, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or:

- (i) within six (6) months afterwards if the use or the development has not commenced; or
- (ii) within twelve (12) months afterwards if the development has not been completed.

Council and the Victorian Civil and Administrative Tribunal are unable to approve requests outside of the relevant time frame.

Permit to Expire

- 54 The approved sign(s) of this Permit will expire 15 years from the date of issue of this permit.

– End of conditions –

