Planning and Environment
Regulations 2015

Form 4 Sections 63, 64, 64A and 86

**PLANNING PERMIT**

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| **Permit No.:** | PA2403363-4 |
| **Planning scheme:** | Merri-bek Planning Scheme |
| **Responsible authority:** | Minister for Planning |
| **ADDRESS OF THE LAND:** | 342-348 Victoria Street, BRUNSWICK VIC 3056,<br>368- 370 Victoria Street, BRUNSWICK VIC 3056,<br>13 Rosser Street, BRUNSWICK VIC 3056,<br>15 Rosser Street, BRUNSWICK VIC 3056, and;<br>32 Wilkinson Street, BRUNSWICK VIC 3056. |

**THE PERMIT ALLOWS:**

| Planning scheme clause | Matter for which the permit has been granted |
|---|---|
| Clause 34.01 | To construct a building and works. |
| Clause 34.01 | To use the land for dwelling with ground floor frontage exceeding 2 metres. |
| Clause 34.01 | To use the land as a medical centre |
| Clause 34.01 | To use the land as an indoor recreation facility |
| Clause 34.01 | To use the land as a restricted recreation facility |
| Clause 34.01 | To use the land as a veterinary centre |
| Clause 43.01 | To demolish (partial), construct a building and works (HO183 and HO239). |
| Clause 43.02 | To construct a building and works (DDO18). |
| Clause 52.06 | To reduce the statutory car parking rate (car parking). |

**THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:**

## Amendment PA2403363-4 Conditions

1. Before the indoor recreation facility and restricted recreation facility land uses commence, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with

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dimensions and must be generally in accordance with Ground Floor Plan prepared by Fieldwork referenced as TP02-102 Revision W dated 29 September 2026 but modified to include:

a) the recommendations of the acoustic report as required pursuant to the Condition 2.

2. Prior to the endorsement of plans under Condition 1, an acoustic report prepared by a suitable qualified acoustic engineer, generally in accordance with the advertised acoustic letter prepared by Acoustic Logic dated 11/08/2026, must be submitted to and endorsed by the Responsible Authority, in consultation with Merri-bek City Council, but updated to include assessments considering the noise associated with the gym (restricted recreation facility) and personal training gym (indoor recreation facility) studio operational requirements. The updated report must:

a) Include site specific acoustic testing to demonstrate that the proposed fit-out and operational measures will achieve compliance with the applicable requirements of the EPA Noise Protocol at nearby noise-sensitive receivers, including dwellings within the development.

b) Demonstrate that noise associated with the gym and personal training studio, including weight drops, exercise equipment, impact noise and other intermittent activities, will comply with the maximum impact-noise (Lmax) criteria specified in Table 2 of the Acoustic Logic letter.

c) Specify all acoustic treatments and operational measures necessary to achieve compliance with conditions 2(a) and 2(b) including any requirements for floor and ceiling treatments, equipment isolation, music controls and restrictions on activities.

When submitted and approved to the satisfaction of the Responsible Authority, the Acoustic Report will be endorsed to form part of this permit.

3. Within 60 days after the completion and installation of the recommendations and requirements as specified within the required Acoustic Report pursuant to Condition 2, or as otherwise agreed in writing by the Responsible Authority, a Post Commencement Acoustic Report is to be submitted to the Responsible Authority, in consultation with Merri-bek City Council. The report must detail the following matters to the satisfaction of the Responsible Authority:

a) Confirmation that all of the recommendations of the endorsed Acoustic Report have been implemented.

b) Further testing, including background noise measurements taken immediately adjacent to the site or in a location otherwise to the satisfaction of the Responsible Authority, to ascertain whether the use complies with the maximum noise levels prescribed by the Environment Protection Regulations 2021 (Vic) and the incorporated Noise Protocol (Publication 1826, Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues, Environmental Protection Authority, March 2021) or any other superseding regulation.

c) Confirmation that the acoustic testing has been carried out during the operation of the use at night time.

d) If non-compliance is measured, recommendations for additional acoustic measures to ensure compliance with the endorsed Acoustic Report.

Once submitted to and approved by the Responsible Authority, the report will be endorsed to form part of the permit. The provisions, recommendations and requirements of the endorsed Post Commencement Acoustic Report must be implemented and complied with to the satisfaction of the Merri-bek City Council within 30 days of the endorsement of that report, or as otherwise agreed in writing by Merri-bek City Council. The report must not be altered without the prior written consent of the Responsible Authority

4. No music other than of a type and volume appropriate to background music (unless otherwise agreed to by the Responsible Authority) may be emitted from speakers inside the building. Background music is defined as any music played at a level that enables patrons to conduct a conversation at a distance of 600 millimetres without having to raise their voice to a substantial degree. It is not background music if it is played at a level which requires patrons to shout, or use a stage voice such as that used by an actor in the theatre, in order to carry out a conversation at such a distance.

5. Noise levels associated with the uses must at all times comply with the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Noise Limit and

Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues, Environment Protection Authority, March 2021), or any other superseding regulation.

6. Should Merri-bek City Council deem it necessary, the owner and/or occupier of the land must submit an Acoustic Report to the satisfaction of the Merri-bek City Council which demonstrates compliance, or which outlines any measures considered necessary to achieve compliance.

7. The recommendations of the Acoustic Report must be implemented no later than three (3) months after the date that Merri-bek City Council advises in writing that it is satisfied with the report, or as otherwise agreed in writing by Merri-bek City Council. The endorsed plans must also be amended within three (3) months, or as otherwise agreed in writing by the Responsible Authority, to accord with the recommendations.

## Hours of Operation

8. The use of tenancy OG03 for an indoor recreation facility must only operate between the following times:
    e) 7 am and 10 pm Monday to Sunday.
9. The use of tenancy OG01B and OG04for a Medical centre must only operate between the following times:
    a) 7 am and 9 pm Monday to Sunday.
10. The use of tenancy OG02A for a veterinary centre must only operate between the following times:
    a) 8 am and 6 pm Monday to Friday
11. The use of tenancy T07 as an indoor recreation facility must only operate between the following times:
    a) 6 am to 9 pm Minday to Friday, 7 am and 8 pm Saturday

The responsible authority may consent in writing to vary these requirements.

## Limit on number of persons

12. At any time no more than 60 patrons and 4 staff may be present within tenancy OG05 while it is used for a Restricted recreation facility.

13. At any time no more than 60 patrons and 5 staff may be present within tenancy OG03 while it is used for an indoor recreation facility

14. At any time no more than 15 patrons and 8 staff may be present within tenancy OG01B and OG04 while they are used for a Medical centre.

15. At any time no more than 9 staff may be present within tenancy 0GO2A while it is used for a veterinary centre.

16. At any time no more than 8 patrons and 2 staff may be present within tenancy T07 while it is used for a indoor recreation facility

    The responsible authority may consent in writing to vary this requirement.

17. Before the development commences (excluding demolition of non-heritage buildings and works related to the remediation of contaminated land), amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the application plans prepared by Fieldwork referenced as Revision L all dated 20 September 2023 but modified to include:

    a) Demolition plans generally in accordance with Revision K (30 August 2023).
    b) Bicycle parking dimensioned in accordance with Australian Standard for Parking Facilities – Bicycle Parking (AS2890.3) or otherwise justified by a suitably qualified professional to the satisfaction of the Responsible Authority.
    c) All parking spaces with a wall adjacent to one side of the parking space must be at least 0.3m wider than a standard space, to allow for opening car doors.

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d) The inclusion of awnings over the footpath for the length of Victoria Street between Rosser Street and the Upfield Shared Path, excluding between Buildings 1 and 2, generally in accordance with the without prejudice sketch plans prepared by Fieldwork Architects dated 18 September 2023.
e) Any modifications to align with the landscape plan required by Condition 3 of this permit;
f) The proposed vehicle crossing in Victoria Street to be a maximum of 6.0m wide at the building line with an intercom/card reader shown on a median with necessary accessway widening to accommodate this within the site if required;
g) The proposed vehicle crossing with 1 metre straight splays on both sides in accordance with Council's Standard Vehicle Crossing design;
h) Any modifications to align with the recommendations of the acoustic report required by Condition 13 of this permit;
i) Any modifications to align with the wind impact assessment required by Condition 12 of this permit;
j) Initiatives contained within the Sustainability Management Plan (SMP) and revised SMP (as per condition 6):
k) Removal of servery windows opening onto public roads;
l) Removal of note stating 'renovation design shown indicative only' on ground floor.

## Compliance with Endorsed Plans

18. The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority. This does not apply to any exemption specified in Clauses 62.01, 62.02-1 and 62.02-2 of the Merri-bek Planning Scheme unless specifically noted as a permit condition.

## Landscaping

19. Prior to the endorsement of plans, a detailed landscape plan must be submitted to and approved by the Responsible Authority. The landscape plan must be generally in accordance with the landscape design proposal prepared by Mala dated 24 May 2023 but modified to:
    a) Changes in accordance with the amended plans required by Condition 1;
    b) Remove details of any works outside of Title boundaries (these areas must be detailed on the public works plan);
    c) Detail of canopy cover quantity across the site demonstrating that canopy cover has been maximised;
    d) Clearly show the location of all climbing frames and vertical planting;
    e) Provide a schedule of all proposed trees, shrubs, climbers and ground covers (including numbers, size at planting (including pot sizes,) size at maturity and botanical names). The flora selection and landscape design should be drought tolerant and based on species selection recommended in the Moreland Landscape Guidelines 2009.
    f) Show details of the location and type of all paved and sealed areas and a schedule of ground surface materials.
    g) Show details of all raised planter beds and boxes, including height, construction methods and appropriate soil depths to support the proposed vegetation.
    h) Show details of irrigation to all landscaping, including:

        (i) Automated irrigation to any green walls and communal spaces; and
        (ii) The use of stormwater collected in rainwater tanks for irrigation.
        (iii) Provide a maintenance schedule

20. Prior to occupation of the development all landscaping works must be completed in accordance with the endorsed Landscape Plan to the satisfaction of the Merri-Bek City Council

## Tree Protection

21. Prior to development commencing (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), all trees west of the site marked on the Arborcultural Impact Assessment prepared by Tree Department dated 22 September 2024 as being retained must have a Tree Protection Zone (TPZ) to the satisfaction of the Merri-bek City Council. The fencing associated with this TPZ must meet the following requirements:

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**Extent**

The tree protection fencing (TPF) is to be provided to the extent of the identified TPZ.

If works are shown on any endorsed plan of this permit within the confines of the calculated TPZ, then the TPF must be taken in to only the minimum amount necessary to allow the works to be completed.

**Fencing**

All tree protection fencing required by this permit must be erected in accordance with the approved TPZ and AS 4970-2009 and signed off by the Project Arborist before any works (including demolition) are undertaken.

**Signage**

Fixed signs are to be provided on all visible sides of the TPF clearly stating “Tree Protection Zone – No Entry”, to the satisfaction of the Responsible Authority.

**Irrigation**

The area within the TPZ and TPF must be irrigated during the summer months with 1 litre of clean water for every 1cm of trunk girth measured at the soil/trunk interface on a weekly basis.

**Access to TPZ**

Should temporary access be necessary within the Tree Protection Zone during the period of construction, the Responsible Authority must be informed prior to relocating the fence (as it may be necessary to undertake additional root protection measures such as bridging over with timber).

5a. Prior to development commencing (excluding demolition and works related to the remediation of contaminated land), a Tree Protection Management Plan must be submitted to the satisfaction of the Responsible Authority. The TPMP must be prepared by a suitably qualified Arborist and make specific recommendations in accordance with the Australian Standard AS4970: 2009 - Protection of Trees on Development Sites to ensure that retained trees remain healthy and viable during construction. The TPMP must include the following to the satisfaction of the Responsible Authority:

a) A tree protection plan to scale that shows:
   i. All Tree Protection Zones and Structural Root Zones
   ii. All Tree Protection Fencing
   iii. Areas where ground protection systems will be used
   iv. The type of footings within any Tree Protection Zone
   v. The location of services within any Tree Protection Zone
   vi. The location and design of Tree Protection Fencing.
   vii. Details of appropriate footings within the Tree Protection Zone.

b) How surfacing and underground services will be installed within the TPZ (this must include annotation on the TPP for use of hydro-excavation under project arborist supervision for earthworks that cannot be relocated outside the TPZ)
c) Details of how the root zone and canopy will be protected throughout the project.
d) A timetable outlining works requiring supervision by the Project Arborist (including supervision of removal of existing surfacing within the TPZ).
e) All remedial pruning works that are required to be performed on the tree during the development of the

site. The pruning comments must reference Australian Standards 4373:2007, Pruning of Amenity Trees and a detailed photographic diagram specifying what pruning will occur.

When submitted and approved to the satisfaction of the Responsible Authority, the TMP will be endorsed to form part of this permit. The recommendations of the endorsed TMP must be implemented to the satisfaction of the Responsible Authority. No changes can be made to the plan without the written consent of the Responsible Authority.

5b. The Arborcultural Impact Assessment (AIA) prepared by Tree Department dated 22 November 2023 is endorsed to form part of this permit. The recommendations of the endorsed AIA must be implemented to the satisfaction of the Merri-bek City Council. No changes can be made to the plan without the written consent of the Responsible Authority.

## Environmentally Sustainable Design (ESD)

22. Prior to the endorsement of plans, an SMP must be submitted to and approved to the satisfaction by the Responsible Authority. The Sustainable Management Plan must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the SMP drafted by HIP V. HYPE dated 01 June 2023, but modified to include the following changes:
    a) Reduce commitment of 5-star WELS toilet to 4, or confirm commitment to integrated hand basin and tap type systems.
    b) Provide further detail on proposed fire system test water re-use.
    c) Provide detail of how the development is incorporating drought tolerant plant species in the landscape design or remove commitment from SMP.
    d) Align the avergae NatHERS rating commitment proposed in the SMP with NatHERS ratings entered in the BESS report.
    e) Provide a NatHERS modelling mark-up and/or additional model results that demonstrate all thermally unique dwellings have been modelled.
    f) Provide additional documentation to support “Winter Sunlight” criteria claim in BESS.
    g) Provide additional documentation demonstrating adequate shading for the north, west and east facing windows of the development.
    h) Provide detail of how the development is incorporating locally indigenous, native, or adaptive species in the landscape design, or remove commitment from SMP.
    i) Reduce points claimed for ‘Net-Zero in Operations’ innovation from 2 to 1.
    j) Reduce points claimed for ‘Build to Rent to Own’ innovation from 2 to 1.

    Where alternative ESD initiatives are proposed to those specified in this condition, the Responsible Authority may vary the requirements of this condition at its discretion, subject to the development achieving equivalent (or greater) ESD outcomes in association with the development.

    When submitted and approved to the satisfaction of the Responsible Authority, the amended Sustainability Management Plan and associated notated plans will be endorsed to form part of this permit.

23. All works must be undertaken in accordance with the endorsed Sustainability Management Plan (SMP) to the satisfaction of the Responsible Authority. No alterations to the SMP may occur without the prior written consent of the Responsible Authority.

24. Prior to the occupation of any dwelling approved under this permit, a report from the author of the Sustainability Management Plan (SMP) approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the SMP have been implemented in accordance with the approved plan.

## Heritage Conservation Plan

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25. Concurrently with the submission of plans for endorsement to the Responsible Authority, a full schedule of conservation works for the exterior of 13 and 15 Rosser Street must be submitted to the Responsible Authority. The schedule must be prepared by a suitably qualified and experienced heritage consultant, to the satisfaction of the Merri-bek City Council and when approved will be endorsed to form part of the permit.
The conservation works detailed in the endorsed schedule of works for 13 and 15 Rosser Street must be carried out concurrently or in advance of other works.

## Public Works Plan

26. Prior to the commencement of the development (excluding demolition of non-heritage buildings and works related to the remediation of contaminated land), or at another time as agreed to in writing by the Responsible Authority, a Public Works Plan and associated construction drawing specifications must be submitted to the Responsible Authority. The Plan must be to the satisfaction of Merri-bek City Council, Transport for Victoria and VicTrack and must detail all public realm improvements within the following areas:
    a) The Upfield Bike Path. The plan for this area must detail:
        (i) A pedestrian and cyclist connection between the Upfield Bike Path and the subject site.

    b) Wilkinson Street. The plan for this area must detail:
        (ii) The making good of the footpaths adjacent to the site.
        (iii) Undergrounding or bundling of powerlines (subject to further consultation with Citipower).
        (iv) Installation of bollards where Wilkinson Street meets the Upfield Bike Path to prevent vehicles from using VicTrack land to turn around.

    c) Rosser Street. The plan for this area must detail:
        (i) The provision of at least seven street trees on the west side of Rosser Street, with location and species selected in consultation with Council's Open Space Unit.
        (ii) Undergrounding or bundling of powerlines (subject to further consultation with Citipower).

    d) Victoria Street. The plan for this area must detail:
        (i) Relocation of the bus stop (including construction of a safe seating area within the development) in accordance with Transport for Victoria's requirements and compliant with Disability Standards for Accessible Public Transport 2002;
        (ii) The existing crossover removed and the kerb and channel, footpath reinstated to Council's standards using construction plans approved by Merri-bek City Council, City Infrastructure Department.
        (iii) Undergrounding or bundling of powerlines (subject to further consultation with Citipower).

    Once approved, the Public Works Plan will be endorsed to form part of the planning permit.

    The public works plan must use Council's standard Tech Notes and show the location of all above ground public infrastructure and show all below ground public infrastructure as identified by the 'dial before you dig' service and confirmed through ground radar and test holes. The public works plan may be designed to minimise relocation or modification of such infrastructure.

    Where, during the course of construction of the endorsed public works, additional underground public infrastructure not identified by the 'dial before you dig' service is found, the owner may redesign the Public Works Plan to the satisfaction of the Responsible Authority to avoid relocation or modification of such infrastructure. In the further event that a redesign is not possible without such relocation or modification, the Public Works Plan shall be modified to the satisfaction of the responsible authority to take into account the continued presence of such infrastructure.

27. Prior to the occupation of the development, all public works shown on the endorsed public works plan must be implemented to a standard satisfactory to the Merri-bek City Council. All public realm works shown on the endorsed public works plan must be constructed under the supervision of the Merri-bek City Council at the expense of the owner of the land, unless otherwise agreed with prior written consent of the Merri-bek City Council

The owner may discharge its obligations under this condition by providing to the Responsible Authority a bond on terms and conditions satisfactory to the Merri-bek City Council.
If any damage is caused to the Upfield Bike Path during construction of the permitted development, such damage shall be repaired to the satisfaction of VicTrack at no cost to VicTrack.

If any part if the Upfield Bike Path is proposed for construction or reconstruction, it shall be constructed or reconstructed, as the case may be, to a minimum width of 3m, where possible, with asphalt and having regard to relevant guidelines in the Austroads standards.

## Wind Impact Statement

28. Prior to the endorsement of plans, a wind effects statement must be submitted to and be to the satisfaction of the Responsible Authority. Modifications must be made to the design of the development to reduce any adverse wind conditions to the publically accessible areas. Conditions must be suitable for walking at a minimum. The report must be to the satisfaction of the Responsible Authority. The recommendations of the report must be implemented at no cost to the Responsible Authority.

## Acoustic Report

29. Prior to the endorsement of plans, an amended Acoustic Report prepared by a qualified Acoustic Engineer must be submitted and approved to the satisfaction of the Responsible Authority. The report must be generally in accordance with the report prepared by Acoustic Logic dated 23 May 2023 but must be modified to:
    a) Make any necessary modifications to the recommendations as a result of the amended plans referred to in Condition 1;
    b) Assess noise impacts of mechanical plants, lifts, building services, non-residential uses, car parking, communal areas and other dwellings on noise sensitive areas (such as bedrooms) and recommend any acoustic measures to address those impacts.

    When submitted and approved to the satisfaction of the Responsible Authority, the Acoustic Report will be endorsed to form part of this permit.

30. The building must be constructed and maintained in accordance with the recommendations contained within the approved Acoustic Report to the satisfaction of the Merri-bek City Council. The Acoustic Report endorsed under this permit must be implemented and complied with at all times to the satisfaction of the Merri-bek City Council unless with the further written approval of the Responsible Authority.

31. Prior to the occupation of any dwelling approved under this permit, a report from the author of the Acoustic Report approved pursuant to this permit or similarly qualified person or company must be submitted to the Merri-bek City Council. The report must be to the satisfaction of the Merri-bek City Council and must confirm that all measures specified in the Acoustic Report have been implemented in accordance with the approved Acoustic Report.

## Waste Management Plan

32. Prior to the endorsement of plans, the Waste Management Plan prepared by Traffix Group Pty Ltd dated June 2023 must be amended to reflect the amended plans referred to in Condition 1.

    When submitted and approved to the satisfaction of the Responsible Authority, the Waste Management Plan and associated notated plans will be endorsed to form part of this permit.

33. The Waste Management Plan approved under this permit must be implemented and complied with at all times to the satisfaction of the Merri-bek City Council unless with the further written approval of the Responsible Authority.

## Accessibility Report

34. Prior to the endorsement of plans, an Accessibility Report prepared by a suitably qualified person or company must submitted to and approved by the Responsible Authority. The Report must assess the plans that are to be submitted for endorsement and confirm that the development meets the access requirements of the report, including any necessary annotations on the plans.

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Once submitted to and approved by the Responsible Authority, the report will be endorsed to form part of the permit. No alterations to the plan may occur without the written consent of the Responsible Authority.

The recommendations of the report must be implemented to the satisfaction of the Merri-bek City Council prior to the occupation of the development.

35. Prior to the occupation of any dwelling approved under this permit, a report from the author of the Accessibility Report, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Access Plan have been implemented in accordance with the approved Report.

## Section 173 Agreement – Public Access

36. Prior to the commencement of the development hereby permitted (excluding demolition of non-heritage buildings and works related to the remediation of contaminated land), or at another time as agreed to in writing by the Responsible Authority, an agreement under Section 173 of the Planning and Environment Act 1987 must be entered into between the Owners of the land and Merri-bek City Council and Responsible Authority in a form satisfactory to the Responsible Authority providing for:
    a) Unrestricted public pedestrian and bicycle access within all areas of the site shown as publicly-accessible on the endorsed public areas plan, for 24 hours a day (364 days a year), commencing at the time of commencement of the use.

    b) The owners of the land to indemnify the Merri-bek City Council against any claims associated with the use of the publicly accessible areas and to accept liability and responsibility for the on-going maintenance of the publicly accessible areas in perpetuity.

    Once the Section 173 Agreement has been prepared to the satisfaction of Merri-bek City Council and Responsible Authority, prior to the development commencing, or at another time as agreed to in writing by the Responsible Authority, the owner must:
        (i) do all things necessary to enable the Merri-bek City Council and Responsible Authority to register the agreement with the Registrar of Titles in accordance with section 181 of the Act; and
        (ii) pay to the Merri-bek City Council and Responsible Authority its costs and disbursements incurred in relation to the negotiation, preparation, execution and registration of the agreement on the certificate of title to the land.

## Section 173 Agreement – Daylight Access

37. Prior to the occupation of the development hereby permitted or the issue of separate titles on the land whichever comes first, an agreement under Section 173 of the Planning and Environment Act 1987 must be entered into between the owner/s of lots that share a boundary with the land at 28 Wilkinson Street and VicTrack land (whether or not a building is constructed on the lot boundary) and the Merri-bek City Council and Responsible Authority in a form satisfactory to the Merri-bek City Council and Responsible Authority providing for:
    a) the owner/s acknowledge and agree there is no entitlement to daylight access and outlook over 28 Wilkinson Street, Brunswick and/or the VicTrack land and have no objection to any wall constructed on the common boundary;

    Once the Section 173 Agreement has been prepared to the satisfaction of the Merri-bek City Council and Responsible Authority, prior to the development commencing the owner must:

        (i) do all things necessary to enable the Merri-bek City Council and Responsible Authority to register the agreement with the Registrar of Titles in accordance with section 181 of the Act; and
        (ii) pay to the Merri-bek City Council and Responsible Authority its costs and disbursements incurred in relation to the negotiation, preparation, execution and registration of the agreement on the certificate of title to the land.

38. Before the construction or carrying out of buildings and works (excluding any works approved under Condition 24) the owner(s) must provide:

a) A preliminary risk screen assessment statement in accordance with the Environment Protection Act 2017 stating that an environmental audit is not required for the use or, if this permit authorises the construction or carrying out of buildings or works, is not required for the use for which the buildings or works are constructed or carried out; or,
b) An environmental audit statement under Part 8.3 of the Environment Protection Act stating that the land is suitable for the use or, if this permit authorises the construction or carrying out of buildings or works, is suitable for the use for which the buildings or works are constructed or carried out; or
c) An environmental audit statement under Part 8.3 of the Environment Protection Act 2017 stating that the land is suitable for the use or, if this permit authorises the construction or carrying out of buildings or works, is suitable for the use for which the buildings or works are constructed or carried out, if the recommendations made in the statement are complied with.

39. Where an environmental audit statement is issued for the land, and any recommendation of that environmental audit statement requires any maintenance and/or monitoring of an ongoing nature, the Responsible Authority may require the Owner(s) to enter into an Agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987 that provides for the undertaking of the ongoing maintenance and/or monitoring as required by the environmental audit statement.

    Where a Section 173 Agreement is required, the Agreement must be executed prior to the commencement of the permitted use, the issue of an Occupancy Permit under the Building Act 1993. All expenses involved in the drafting, negotiating, lodging, registering and execution of the Agreement, including those incurred by the Responsible Authority, must be met by the Owner(s).

40. Prior to any remediation works (if required) being undertaken in association with the environmental audit, a 'remediation works' plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must detail all excavation works as well as any proposed structures such as retaining walls required to facilitate the remediation works. Only those works detailed in the approved remediation works plan are permitted to be carried out prior to the issue of an environmental audit statement.

41. No works to construct the development hereby approved shall be carried out on the land and no building contract to construct the development hereby approved may be entered into, other than in accordance with a building contract that stipulates that works must not be commenced until such time as Conditions 22, 23 and 24 are satisfied.

42. Prior to commencement of the use, the issue of an Occupancy Permit under the Building Act 1993, written confirmation of compliance with all the recommendations of the environmental audit statement must be provided by an environmental auditor appointed under the Environment Protection Act 2017, including confirming that any requirements in the environmental audit statement recommendations regarding verification of works have been complied with. All the recommendations of the environmental audit statement must be complied with to the satisfaction of the Responsible Authority.

43. Where a preliminary risk screen assessment has satisfied Condition 22 (that an environmental audit is not required), the development and use must not deviate from the assumptions or limitations contained in the preliminary risk screen assessment, including but not limited to the- layout and design of the development and use of the land without the written consent of the Responsible Authority. The development and use must accord with any requirements and recommendations of the preliminary risk screen assessment to the satisfaction of the Responsible Authority.

44. Prior to any remediation works being undertaken in association with the Environmental Audit, a 'remediation works' plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must detail all excavation works as well as any proposed structures required by the suitably qualified environmental consultant to facilitate the remediation works (such structures may include retaining walls, underground services, footings and slab on ground if they can be demonstrated as being necessary by the environmental consultant to facilitate the remediation works). Only those works detailed in the approved remediation works plan are permitted to be carried out prior to the issue of a Certificate or Statement of Environmental Audit.

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45. Prior to the issue of a Building Permit in relation to the development approved by this permit, a Development Infrastructure Levy and Community Infrastructure Levy must be paid to Merri-bek City Council in accordance with the approved Development Contributions Plan. The Development Infrastructure Levy is charged per 100 square metres of leasable floor space and the Development and Community Infrastructure Levy is charged per dwelling.
If an application for subdivision of the land in accordance with the development approved by this permit is submitted to Council, payment of the Development Infrastructure Levy can be delayed to a date being whichever is the sooner of the following:

- For a maximum of 12 months from the date of issue of the Building Permit for the development hereby approved; or
- Prior to the issue of a Statement of Compliance for the subdivision;

When a staged subdivision is sought, the Development Infrastructure Levy must be paid prior to the issue of a Statement of Compliance for each stage of subdivision in accordance with a Schedule of Development Contributions approved as part of the subdivision.

## Retention of Architects

46. The owner of the land must retain Fieldwork Architects or other registered architect to provide architectural oversight of the delivery of the detailed design, as shown in the endorsed plans and endorsed schedule of materials and finishes, during construction of Stage 2 unless with the prior written approval of the Responsible Authority.

## Engineering Matters

47. Prior to the issue of an Occupancy Permit any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Merri-bek City Council (Merri-bek City Council, City Infrastructure Department).

48. Prior to the occupation of the development, any Council or service authority pole or pit within 1 metre of a proposed vehicle crossing, including the 1 metre splays on the crossing, must be relocated or modified at the expense of the permit holder to the satisfaction of the Merri-bek City Council and the relevant service authority.

49. Prior to the occupation of the development the bicycle parking racks must be installed in a secure manner that accords with the specifications in Australian Standard for Bicycle Parking (AS2890.3), to the satisfaction of the Merri-bek City Council.

50. All stormwater from the land, where it is not collected in rainwater tanks for re-use, must be collected by an underground pipe drain approved by and to the satisfaction of the Merri-bek City Council (Note: Please contact Merri-bek City Council, City Infrastructure Department).

51. Prior to the issue of an Occupancy Permit all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land (including all existing and new buildings) must be underground to the satisfaction of the Merri-bek City Council

## Car Parking Management Plan

52. Before the development is occupied, a Car Parking Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Car Parking Management Plan will be endorsed and will form part of this permit. The Car Parking Management Plan must address, but not be limited to, the following:
    a) The allocation of car and bicycle parking between the uses, having regard to the demand generated by the uses.

    b) End of Trip Facilities that meet the requirements of Clause 52.34.

    c) Where possible visitor bike parking should be located at ground level, or otherwise conveniently accessible within other levels for visitors.

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d) Confirmation that the design of the car parking is to comply with Clause 52.06 and/or AS2890.1 or as otherwise justified to the satisfaction of the responsible authority,

e) Details for the management of the car park access including the design and location of any entry / exit barriers, leasing arrangements and security. The provisions, recommendations and requirements of the endorsed Car Parking Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority

**Affordable Housing Management Plan**

53. Prior to occupation of the development, (or as otherwise agreed by the responsible authority) an Affordable Housing Management Plan must be submitted to and approved by the responsible authority, in consultation with Merri-bek City Council.

The Plan must:

a) Require that no less than 20 per cent of dwellings are provided as affordable housing, to the satisfaction of the responsible authority.
b) Specify:

i) the total value of the contribution as being no less than 7.8 per cent of the total development cost.

ii) the number and mix of dwellings to be provided as affordable housing;

ii) the mechanism for delivering the affordable housing as discounted rental dwellings;

iii) the method for determining the market rent and the discount to be applied; and

iv) the duration of the affordable housing provision and the mechanism for acquitting the total contribution.

c) Describe the requirements for eligible households and a process to allocate the affordable housing dwellings. An eligible household is a household that meets the income threshold for Moderate income (annual) set out in the Governor in Council Order – Table 1. The Plan must specify matters to be considered when allocating affordable housing to eligible households such as age and occupation of each household. This information can be used to inform and evaluate affordable housing and key worker policy objectives.
d) Provide for annual reporting to the responsible authority and Merri-bek City Council in respect of the relevant 20 per cent affordable housing dwellings until the affordable housing contribution has been acquitted to the satisfaction of the responsible authority. The reporting for each affordable dwelling must include:

i. The total household income
ii. The amount of rent payable
iii. The period when total household income exceeded the Moderate income threshold specified in the Governor in Council Order
iv. The accrued value of the discount

Reporting must commence from the first anniversary of the issue of the Statement of Compliance or Certificate of Occupancy (whichever occurs first) and must be reviewed and verified by a suitably qualified independent entity, to the satisfaction of the responsible authority.

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e) Specify the discounted rent levels, including any escalation over time, to ensure affordability is maintained until the required contribution value has been achieved, to the satisfaction of the responsible authority. This must include:

- Rent for nominated affordable dwellings to be set at a level so as not to exceed 30 per cent of total household income for eligible Moderate income households, unless otherwise agreed to the satisfaction of the responsible authority.

Once approved, the Affordable Housing Management Plan will be endorsed and will form part of this permit. The use and development must be carried out in accordance with the endorsed Plan. The Plan must not be altered without the written consent of the responsible authority.

**Section 173 Agreement – Affordable Housing**

54. Prior to the occupation of the development (or as otherwise agreed by the responsible authority), the owner of the land must enter into an agreement with the responsible authority under section 173 of the *Planning and Environment Act 1987*, in a form to the satisfaction of the responsible authority, that provides for a contribution towards affordable housing (affordable housing contribution).

The agreement must provide for an affordable housing contribution equivalent to **no less than 7.8% of the total development cost** of the development.

The contribution must be acquitted in accordance with the approved Affordable Housing Management Plan required by Condition 37 of the permit

The owner must pay the reasonable costs of preparation, execution and registration of the section 173 agreement.

## Environmental Audit

55. Before the commencement of the development, including demolition permitted by this permit for that part of the land within the Heritage Overlay or bulk excavation other than excavation permitted under Condition 24, detailed construction/ engineering plans and computations for any construction or works likely to have an impact on railway operations, railway infrastructure assets or railway land are to be submitted to, and approved by, VicTrack. The plans must detail all excavation of the site adjacent to the railway corridor having impact on the railway land. The construction or works must be carried out in accordance with the plans approved by VicTrack.

## Demolition and Construction Management Plan

56. Before development starts, including demolition permitted by this permit for that part of the land within the Heritage Overlay and bulk excavation, other than excavation permitted under Condition 24 a Demolition and Construction Management Plan (which may be approved in stages e.g. demolition, bulk excavation or construction) must be submitted to VicTrack and TfV which must be to the satisfaction of VicTrack and TfV. The Construction Management Plan must include details of (but not limited to) management proposals to minimise impacts to VicTrack assets and the operation of the railway during construction and must set out objectives and performance and monitoring requirements for:

a) Access to the rail environment, including designation of any areas to be used under license during the construction process.

b) Any approvals and permits required from TfV, VicTrack prior to works commencing and prior to accessing the rail corridor.

c) Rail safety requirements that must be adhered to by the permit holder.

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d) Protection of all rail infrastructure to ensure rail infrastructure is not damaged during demolition or construction.

e) Minimising disruption to train services.

f) Management of drainage, effluent, material stockpiles, fencing, hoardings to ensure VicTrack land is not used for, or impacted on by these activities outside of the licence area.

g) Public safety, amenity and site security

h) Operating hours, noise and vibration controls.

i) Air and dust management

57. The permit holder must not, at any time:
a) allow any drainage, effluent, waste, soil or other materials to enter or be directed to the railway land; or

b) store or deposit any waste, soil or other materials on the railway land.

58. The permit holder must not plant any plants or tree species that are likely to cause any future overhang onto the railway land or disturbance to the railway operations.

59. During the construction of the development, including demolition and bulk excavation, the permit holder must take all reasonable steps to avoid disruptions to rail operations.

60. All works, including hoardings, must be undertaken within the subject land and except with the written consent of VicTrack, must not encroach onto the railway land.

61. During the construction of the development, the permit holder must not at any time erect lighting (permanent or temporary) that spills light onto the railway tracks or which interferes with the visibility of signals and rail lines by train drivers.

62. The permit holder must not install, or cause to be installed, any permanent or temporary ground anchors within the railway land without the consent of VicTrack.

63. During the construction of the development, the permit holder must take all reasonable steps to ensure that disruption to bus operation along Victoria Street is kept to a minimum during the construction of the development. Foreseen disruptions to bus operations and mitigation measures must be communicated to Public Transport Victoria eight (8) weeks prior by telephoning 1800 800 007 or emailing customerservice@ptv.vic.gov.au.

64. The existing bus stop along Victoria Street may continue to operate during construction, however if a temporary stop in an alternative location is required, the temporary bus stop must be provided in consultation with, and to the satisfaction of the Director of Public Transport.

65. All demolition and construction works must be carried out in accordance with the approved Demolition and Construction Management Plan. The Demolition and Construction Management Plan must be implemented at no cost to VicTrack, TfV.

66. Other than those materials shown on the endorsed plans, any building materials (including glass/window/ balcony treatments) or advertising signs likely to have an effect on train driver operations along the rail corridor must be shown by a reflectivity and or light study not to cause reflections or glare that may interfere with train driver operations and avoid using red, green or yellow colour schemes capable of being mistaken for train signals to the satisfaction of VicTrack

67. No lighting is to be erected that throws light onto the railway tracks or which interferes with the visibility of train signals and the rail lines by train drivers.

68. No building or structure is to be erected that interferes with or restricts train driver lines of sight to train signals to the satisfaction of VicTrack.

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69. No drainage, effluent, waste, soil or other materials must enter or be directed to railway land or stored or deposited on railway land.

70. Any wall which may be permitted to be located on the railway reserve boundary shall not have any fitting, window or doorway when opened intrudes into the railway reserve boundary.

71. Any wall which may be permitted to be located on the railway reserve boundary must be cleaned and finished using a graffiti resistant finish or alternative measures used to prevent or reduce the potential of graffiti.

## Car Share

72. A minimum of four car parking spaces within the car park are to be reserved for a car-share operation (Car Share Spaces), for use by residents. The car-share operation is to be managed by the owner or a commercial provider, pending demand.

73. Deleted.

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

a) the development is not commenced within four 4) years from the date of issue of this permit;
b) the development is not completed within eight (8) years from the date of issue of this permit;
c) the use is not commenced within eight (8) years from the date of issue of this permit.

The Responsible Authority may extend the period referred to if a request is made in writing before the permit expires or;

- within six months after the permit expires to extend the commencement date.
- within 12 months after the permit expires to extend the completion date of the development if the development has lawfully commenced.

**USEFUL INFORMATION:**

- (the following information does not form part of this permit)
- The permitted use or development may need to comply with, or obtain the following further approvals:
  - The recommendations of a cultural heritage management plan approved under the *Aboriginal Heritage Act 2006*.
  - A building permit under the *Building Act 1993*.

**THIS PERMIT HAS BEEN AMENDED AS FOLLOWS:**

| Date of amendment | Brief description of amendment | Name of responsible authority that approved the amendment | Section of the Act under which the permit has been amended |
|---|---|---|---|
| 1 April 2025 | To give back the responsibility of enforcement of conditions to Merri-Bek City Council for the following items:<br>• Condition 4 - landscaping<br>• Condition 5 - tree protection<br>• Condition 5b - Tree Protection Zone<br>• Condition 9 - Heritage Conservation Plan<br>• Condition 11 - Public Works Plan | Department of Transport and Planning | Section 71 Amendments as a result of clerical errors excluding the words Merri-Bek City Council. |

**Date of issue:** 20 March 2025 **Signature for the responsible authority:**

| | | | |
|---|---|---|---|
| | • Condition 14 and 15 - Acoustic measures<br>• Condition 17 - Waste Management Plan<br>• Condition 18 - Accessibility<br>• Condition 20 - Section 173 Agreement - public access<br>• Condition 21 - Section 173 Agreement - Daylight Access<br>• Conditions 31, 32, 33, 34, 35 - Engineering Matters<br>• Condition 37 and 38 - Affordable Housing | | |
| 22 April 2026 | Amend Conditions 37 and 38 to revise the affordable housing contribution from BTRTO to BTR. | Department of Transport and Planning | Section 72 Amendment |
| 22 September 2026 | Amend Conditions 37 and 38 to add the words (or as otherwise agreed by the responsible authority)<br>Delete Condition 57. | Department of Transport and Planning | Section 72 Amendment |
| 5 November 2026 | Amended planning permit to include:<br>• New land uses into the permit trigger table including medical centre, indoor recreation facility, restricted recreation facility and veterinary centre.<br>• New conditions 1 to 16<br>• Conditions renumbered 17 to 74 | Department of Transport and Planning | Section 72 Amendment |

**Date of issue:** 20 March 2025 **Signature for the responsible authority:**

Planning and Environment
Regulations 2015

Form 4 Sections 63, 64, 64A and 86

**IMPORTANT INFORMATION ABOUT THIS PERMIT**

**WHAT HAS BEEN DECIDED?**

The responsible authority has issued a permit

**CAN THE RESPONSIBLE AUTHORITY AMEND THIS PERMIT?**

The responsible authority may amend this permit under Division 1A 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 Administrative Tribunal, if the permit was issued at the direction of the Tribunal; or
  ii. the date on which it was issued, in any other case.

**WHEN DOES A PERMIT EXPIRE?**

1. A permit for the development of land expires if–
   - the development or any stage of it does not start within the time specified in the permit; or
   - the development requires the certification of a plan of subdivision or consolidation under the **Subdivision Act 1988** and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision; or
   - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation, within five 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 is lodged with the Victorian Civil and Administrative Tribunal.
- An application for review must be made on the relevant 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.
- A copy of an application for review must also be served on the responsible authority.
- Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.

**Date of issue:** 20 March 2025 **Signature for the responsible authority:**

