

## PLANNING PERMIT

<b>Permit No.:</b>	PA2403256
<b>Planning scheme:</b>	Boroondara Planning Scheme
<b>Responsible authority:</b>	Minister for Planning
<b>ADDRESS OF THE LAND:</b>	79 Balwyn Road, Balwyn Vic 3103

### THE PERMIT ALLOWS:

<b>Planning scheme clause No.</b>	<b>Description of what is allowed</b>
32.09-10	Construct a building or construct or carry out works for a Section 2 use.
43.01-1	Construct a building or construct or carry out works within a Heritage Overlay
43.04-2	Permit must be generally in accordance with the Development Plan

### THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

#### Compliance with documents approved under this permit

1. At all times what the permit allows must be carried out in accordance with the requirements of any document approved under this permit to the satisfaction of the responsible authority.

#### Amended Plans

2. Before the development starts, including demolition, bulk excavation and site preparation works, detailed development plans for that stage including a development summary must be approved and endorsed by the Responsible Authority. The plans must be generally in accordance with the plans prepared by COX Architecture, dated 08 August 2024, but modified to show:
  - a) Location of rainwater tanks (25kL) as specified in the submitted Stormwater Management Plan, prepared by MCG Consult, dated 25 September 2024.
  - b) Any changes required by the Landscape plan.
  - c) Proposed site plan updated to include tree ID numbers for retained trees.

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- d) Plans updated to identify tree numbers (as detailed in the arborist report) and include the TPZ of street trees located in the nature strip adjacent to the subject site.

### Landscaping

3. Concurrent with the endorsement of plans, an amended landscape plan must be submitted to and approved by the Responsible Authority. The Landscape plan must be prepared to the satisfaction of the Responsible Authority, be drawn to scale with dimensions, be generally in accordance with the landscape plan prepared by Papworth Design, dated 20.09.24, and must include the following:
- a) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
  - b) Details of surface finishes of pathways, permeable paving and seating areas.
  - c) Details of how the project responds to water sensitive urban design principles, including how storm water will be mitigated, captured, cleaned and stored for onsite use and the location and type of irrigation systems to be used including the location of any rainwater tanks to be used for irrigation.
4. At all times the landscaping shown on the approved landscape plan must be maintained (including the replacement of any dead, diseased or damaged plants) to the satisfaction of the Responsible Authority.

### Tree protection

5. Before the development starts, including demolition, a Tree Protection Zone (TPZ) must be established and maintained on the subject land (and nature strip if required) during and until completion of all buildings and works including landscaping, around the following trees in accordance with the distances and measures specified below, to the satisfaction of the Responsible Authority.
- a) Tree protection distances:
    - i. Tree 13 – Grevillia robusta (Silky Oak) – 5.52 metre radius from centre of the tree base.
    - ii. Tree 14 – Grevillia robusta (Silky Oak) – 6.72 metre radius from centre of the tree base.
    - iii. Street Trees (x4) – 3 metre minimum radius from the centre of the tree base.
  - b) Tree Protection Zone measures are to be established in accordance with Australian Standard 4970-2009 and including the following:
    - i. Erection of solid chain mesh or similar type fencing at a minimum height of 1.8 metres in height held in place by concrete feet.
    - ii. Signage placed around the outer edge of perimeter the fencing identifying the area as a TPZ. The signage should be visible from within the development, with the lettering complying with AS 1319.

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- iii. Mulch across the surface of the TPZ to a depth of 100mm and undertake supplementary watering in summer months as required.
- iv. No excavation, construction works or activities, grade changes, surface treatments or stage of materials of any kind are permitted within the TPZ unless otherwise approved within this permit or further approved in writing by the responsible authority.
- v. All supports and bracing should be outside the TPZ and any excavation for supports or bracing should avoid damaging roots where possible.
- vi. All sub surface utilities and utility connection points, inspection pits and associated infrastructure trenching and installation are to be designed so that they are located outside the TPZs of retained trees, to the satisfaction of the responsible authority. Utility conduits can be located beneath TPZs but must be installed using trenchless excavation (eg:boring) and installed to a minimum depth of 0.6 metres below natural grade.
- vii. Where construction is approved within the TPZ, fencing and mulching should be placed at the outer point of the construction area.
- viii. Where there are approved works within the TPZ, it may only be reduced to the required amount by an authorised person only during approved construction within the TPZ, and must be restored in accordance with the above requirements at all other times.

#### Vehicle crossing

6. Before the development is occupied, any new vehicle crossing must be constructed to the satisfaction of the Boroondara City Council.
7. Before the development is occupied all existing disused or redundant vehicle crossings must be removed and the nature strip and kerb and channel reinstated to the satisfaction of the Boroondara City Council.

#### Noise Impacts

8. Noise levels emanating from the music building must not exceed those required to be met under State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade), No. N-1. Any works required to ensure and maintain the noise levels are in compliance with this policy must be completed prior to the commencement of the use or occupation of the site and maintained thereafter, all to the satisfaction of the Responsible Authority.

#### General Amenity

9. The amenity of the area must not be detrimentally affected by the use(s), including through:
  - The transport of materials, goods or commodities to and from the land;
  - The unsightly appearance of any buildings, works or materials;
  - The emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; or

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- The presence of vermin;

To the satisfaction of the Responsible Authority.

### **Control of light spill**

10. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.

### **Sustainable Management Plan (SMP)**

11. Concurrent with the endorsement of plans, the Sustainability Management Plan (SMP) Statement prepared by Blue Bee Sustainable Services, dated 2 October 2024 must be approved by the Responsible Authority. The performance outcomes for the development must be in accordance with the report, to the satisfaction of the Responsible Authority. The report must not be altered without the prior written consent of the Responsible Authority.
12. Any change during detailed design, which prevents or alters the attainment of the performance outcomes specified in the endorsed report in an addendum to this report, which must be provided to the satisfaction of the Responsible Authority prior to the commencement of construction.

### **Construction Management Plan (CMP)**

13. Before the development starts, including demolition, site preparation works and the removal of vegetation, a Construction Management Plan (CMP) must be submitted to and approved by the Boroondara City Council. When approved, the CMP will be endorsed and will form part of this permit. The CMP must include (but not necessarily be limited to) the following:
  - a) Be prepared in accordance with the Civil construction building and demolition guide, Publication 1834 (EPA, 2020).
  - b) Adopt the form of the template included in the EPA guide and must address the following risks:
    - i. Noise and vibration
    - ii. Erosion, sediment and dust
    - iii. Contaminated land and groundwater
    - iv. Chemicals
    - v. Waste
  - c) The working hours schedule for construction, building and demolition noise in accordance with the EPA guide (unless with the further written consent of the Responsible Authority).
  - d) Include a traffic management plan showing:
    - i. Access routes for construction vehicles.
    - ii. 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.

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- iii. Proposed parking locations for construction vehicles and construction workers vehicles.
  - iv. Any impacts on adjacent roads and pedestrian walkways and provision for adequate movement and circulation of vehicles and pedestrians adjacent to the land during the construction phase.
- e) The person/s responsible for implementation and compliance of each aspect of the CMP.
  - f) Measures to avoid and minimise amenity and environmental impacts during the construction.
  - g) Procedures to manage construction noise and vibration.
  - h) Procedures to manage mud and debris on the surrounding road network which may occur during construction.
  - i) A construction timetable, including typical daily start and end times.

The Responsible Authority may consent in writing to vary any details in the CMP.

14. All persons undertaking works on site must be fully briefed on all aspects and requirements of the endorsed CMP. All works constructed or carried out must be in accordance with the endorsed CMP to the satisfaction of the Responsible Authority.

**Commencement**

15. This permit will operate from the issued date of this permit.

**Expiry**

16. This permit will expire if one of the following circumstances apply:

- a) The development is not started within 2 years of the issued date of this permit.
- b) The development is not completed within 4 years of the issued date of this permit.

In accordance with Section 69 of the Planning and Environment Act 1987, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

- a) The commencement date referred to if a request is made in writing before the permit expires or within six months afterwards.
- b) The completion date referred to if a request is made in writing within six months after the permit expires and the development started lawfully before the permit expired.

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

<i>Date of amendment</i>	<i>Brief description of amendment</i>	<i>Name of responsible authority that approved the amendment</i>

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

<i>Date extension approved</i>	<i>Period of extension</i>	<i>Commencement date</i>	<i>Completion date</i>	<i>Date to certify plan of subdivision</i>

**Notes:**

(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:

- These notes are provided for information only and do not constitute part of the permit or conditions of this permit.
- This permit does not authorise the commencement of any demolition or construction on the land. Before any demolition or construction may commence, the applicant must apply for and obtain appropriate building approval from a Registered Building Surveyor.
- The applicant/owner will provide a copy of this planning permit and endorsed plans to any appointed Building Surveyor. It is the responsibility of the applicant/owner and the relevant Building Surveyor to ensure that all building (development) works approved by any building permit are consistent with this planning permit.
- A building permit under the *Building Act 1993*.
- Paths, access ramps and Tactile Ground Surface Indicators to be installed in accordance with DDA requirements and the relevant Australian Standards.

**Tree Removal – Council**

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- The Tree Protection Local Law 2024 (the Local Law) applies in the City of Boroondara. The application documents note that the redevelopment will result in the removal of Trees 2, 5, 7, 13, 14, 15, 19 and 38 which are considered canopy trees and protected under Council's Local Law.
- Please note that the Local Law requires that a permit be sought from Council for the removal of a canopy tree. A permit is required to carry out works (including excavation and construction) within 2 metres of a canopy tree. Works occurring more than 2 metres away from a canopy tree may still constitute damage or destruction of the tree and may require a permit. A copy of the Local Law may be viewed on Council's website. Further information can be found at <https://www.boroondara.vic.gov.au/services/environment-and-sustainability/trees/protected-and-significant-trees>

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**IMPORTANT INFORMATION ABOUT THIS PERMIT**

**WHAT HAS BEEN DECIDED?**

The responsible authority has issued a permit **\*at the direction of the Victorian Civil and Administrative Tribunal.** \*Delete if not applicable

(Note: This is not a permit granted under Division 5 or 6 of Part 4 of the **Planning and Environment Act 1987.**)

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

*[If this permit was not issued at the direction of the Victorian Civil and Administrative Tribunal or if this permit was issued at the direction of the Tribunal but the Tribunal did not direct that the permit or part of the permit must not be amended by the responsible authority under Division 1A of Part 4 of the Act include the following paragraph-]*

The responsible authority may amend this permit under Division 1A of Part 4 of the **Planning and Environment Act 1987.**

*[If the Victorian Civil and Administrative Tribunal directed that the permit must not be amended by the responsible authority under Division 1A of Part 4 of the Act insert the following paragraph-]*

The Victorian Civil and Administrative Tribunal directed that this permit must not be amended by the responsible authority under Division 1A of Part 4 of the **Planning and Environment Act 1987.**

*[If the Victorian Civil and Administrative Tribunal directed that a specified part of the permit must not be amended by the responsible authority under Division 1A of Part 4 of the Act insert the following paragraph-]*

The Victorian Civil and Administrative Tribunal directed that the following specified part(s) of this permit must not be amended by the responsible authority under Division 1A of Part 4 of the **Planning and Environment Act 1987:**

*[List the specified part(s) of the permit that the Victorian Civil and Administrative Tribunal directed must not be amended by the responsible authority under Division 1A of Part 4 of the Act.]*

**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.

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**WHAT ABOUT REVIEWS?**

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- 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 issued: 29 January 2024**    **Signature for the responsible authority:**

