

**Management report to Council**

**Agenda item 6.2**

**Proposed public highway declaration of Pender Alley and Cleve Lane, Melbourne**

**Council**

**Presenter:** Angela Meinke, Manager Planning and Building

**24 February 2015**

**Purpose and background**

1. The purpose of this report is to seek endorsement of the proposed public highway declaration of Pender Alley and Cleve Lane, Melbourne (the Roads), as shown hatched on the attached plan (refer Attachment 2) pursuant to section 204(1), 207A and 223 of the *Local Government Act 1989* (Act).
2. Public consultation of the proposed public highway declaration was undertaken as detailed in the supporting attachment. A submission in relation to Pender Alley (Attachment 3) was lodged by Marshalls+Dent Lawyers who act for Beyarra Pty Ltd, the owner of the property at 600 Little Bourke Street. The submission is on behalf of Beyarra and Ibis Melbourne Little Bourke Street, the management company of the Ibis Hotel which is located on the property at 600 Little Bourke Street, Melbourne, referred to below as the 'interested parties'.

**Key issues**

3. Cleve Lane and the north south portion of Pender Alley are already on Council's Road Register as public highways as they were constructed by Council in the late 1800's and since that time have been maintained and cared for by Council. The small portion of Pender Alley at its northern end which runs east west is a private lane which is not maintained by Council.
4. The declaration of the private portion of Pender Alley is required by condition 17 of planning permit 2014/000409 which was issued by the Minister for Planning (Attachment 4), for the development of the site at 605-613 Lonsdale Street, Melbourne. Access to the loading dock for that development is from Pender Alley, including the private portion. A request for the declaration was received from the Tompkinson Group, the site developer.
5. Cleve Lane was added to the public notice by management and has not attracted any submissions.
6. The declaration of the private portion of Pender Alley will transfer the care and maintenance of it to Council. A later plan of subdivision will result in a title being issued for the roads in Council's name.
7. The interested parties have requested that they maintain the ability to use Pender Alley as they have done since the Ibis Hotel was constructed, requiring clear and unfettered access to and egress from Pender Alley. The status will not change for the north south portion of Pender Alley which is already a public highway on Council's Road Register.
8. The interested parties currently keep bins in the private portion of Pender Alley, this activity currently conflicts with the existing carriageway easement rights of other parties over the land. Should the proposal be successful the Interested Parties would be able to approach Council about the ability to formally keep the bins in this portion of Pender Alley utilising a possible prescribed bin area.

**Recommendation from management**

9. That Council:
  - 9.1. Declares as public highways Pender Alley and Cleve Lane, Melbourne as shown hatched in the public notice dated 29 October 2014 for the following reasons:
    - 9.1.1. The majority of the affected roads are already on the Council's road register maintained under the *Road Management Act 2004* having been constructed by the Council in the late 1800s and maintained by the Council since.

- 9.1.2. The declaration of the small private portion of Pender Lane (private lane) is an express requirement of condition 17 of a planning permit issued by the Minister for Planning on 1 September 2014 in respect to the adjoining development at 605-613 Lonsdale Street, Melbourne.
  - 9.1.3. The use of the private lane for rubbish disposal purposes by the interested parties at 600 Little Bourke Street, Melbourne, can be managed through the processes under Council's Activities Local Law 2009.
- 9.2. Notifies the applicant and submitter in writing of the decision and reasons for the decision.

**Supporting Attachment**

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**Legal**

1. Pursuant to sections 204(1), 207A and 223 of the *Local Government Act 1989*, Council has given public notice that it proposes to declare the Road a public highway.
2. That Council must consider all submissions received before making its decision.

**Finance**

3. If the application is approved and the roads are declared as public highways, the subject land will vest in Council. Council can then obtain a title to the roads via a plan of subdivision.
4. The costs of the additional survey and plan of subdivision for Pender Alley will be met by the developer of the property at 605-613 Lonsdale Street, Melbourne. The plan of subdivision for Cleve Lane which will include Rose Lane will be prepared by the management.
5. The ongoing care and maintenance will be met from current and future budgets.

**Conflict of interest**

6. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a direct or indirect interest in relation to the matter of the report.

**Stakeholder consultation**

7. The proposal was given public notice. Overall the consultation involved:
  - 7.1. advertising in the Age on 29 October 2014
  - 7.2. a letter was sent to the owners and occupiers of abutting properties
  - 7.3. all of the Service Authorities were notified by e-mail of the proposal.
8. A submission was received and reported at the Submissions (Section 223) Committee meeting held on 1 December 2014.

**Relation to Council policy**

9. There is no Council policy for the declaration of roads as public highways, however the actions taken and the recommendations in this report are all legislatively compliant and accord with well-established practice.

**Environmental sustainability**

10. This proposal has no significant impact on environmental sustainability.

**PUBLIC NOTICE - MELBOURNE CITY COUNCIL**

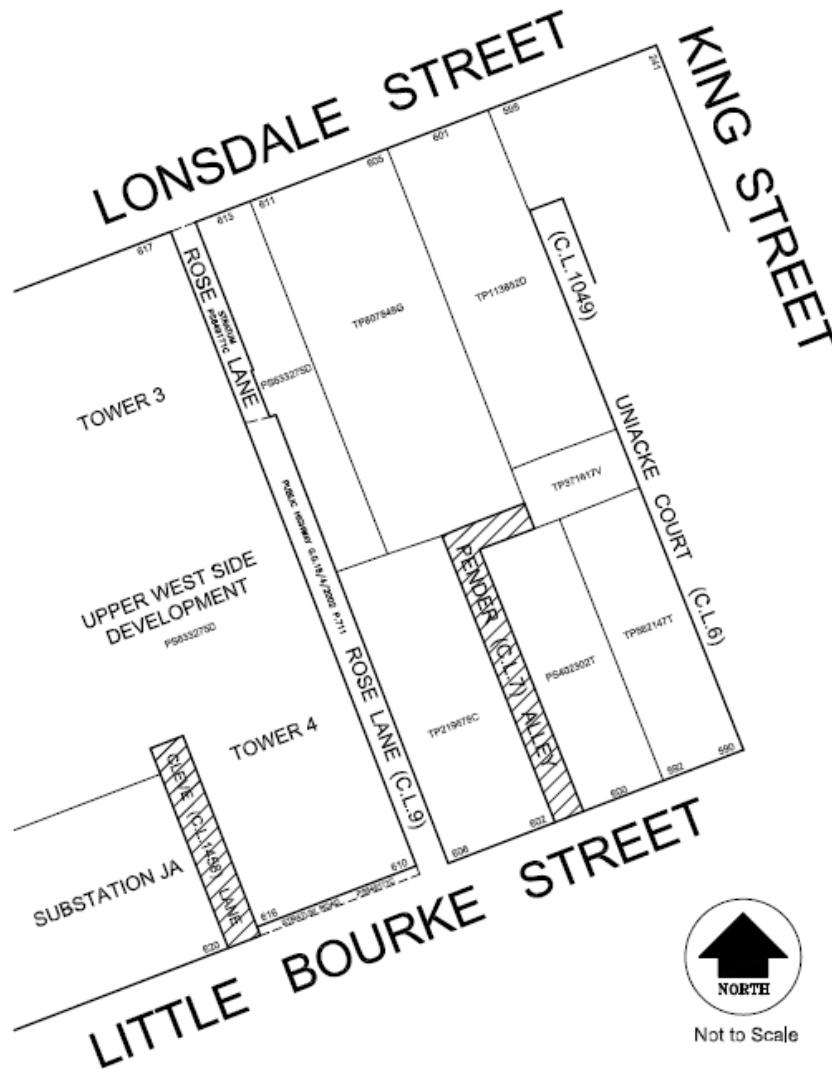
**PROPOSED PUBLIC HIGHWAY DECLARATION OF PENDER ALLEY  
 AND CLEVE LANE, MELBOURNE**

Notice is given pursuant to sections 204(1) and 223 of the *Local Government Act* 1989 ('the Act') that the Melbourne City Council ('Council') proposes to declare the roads shown hatched on the plan below as a public highway ('Proposal').

Any person may make a submission on the Proposal to the Council. All submissions received by the Council on or before 27 November 2014 will be considered in accordance with Section 223(1) of the Act, by the Council's Submissions (Section 223) Committee ('Committee').

If a person wishes to be heard in support of their submission they must include the request to be heard in the written submission and this will entitle them to appear in person, or by a person acting on their behalf, before a meeting of the Committee, scheduled to be held on 1 December 2014, commencing at 3pm, in the Melbourne Town Hall, Administration Building, Swanston Street, Melbourne.

Written submissions should be marked 'Proposed Public Highway Declaration of Pender Alley and Cleve Lane' and addressed to the Manager Governance Services, Melbourne City Council, Town Hall, 90 Swanston Street, Melbourne, 3000 or GPO Box 1603, Melbourne, 3001. Written Submissions received will be made public and may be made available on the Council's Website.



Not to Scale



Land Subject to Public Highway Declaration



marshalls + dent  
lawyers

Our Ref: JSP:JK:DLS:101212  
Email: jkaplan@mdlaw.com.au

24 November 2014

Manager, Governance Services  
Melbourne City Council  
GPO Box 1603  
MELBOURNE VIC 3001

Dear Sir

***Proposed Public Highway Declaration of Pender Alley and Cleve Lane***

Marshalls + Dent act for Beyarra Pty Ltd (***Beyarra***), the owner of the freehold situate at 600 Little Bourke Street, Melbourne (***the Premises***).

We make this submission on behalf of Beyarra and Ibis Melbourne Little Bourke Street, the management company of the Ibis Hotel (the ***Hotel***) which is located on the Premises. For the purpose of this submission, Beyarra and the Hotel will be referred to collectively as "the Interested Parties".

**BACKGROUND AND OUTLINE OF SUBMISSIONS**

The Melbourne City Council (***MCC***) has submitted a proposed Public Highway Declaration of Pender Alley and Cleve Lane (***the Proposal***).

The Hotel has used Pender Alley as a key service alley for it to carry out some of its essential business functions and activities since in or about 1998 when the All Seasons Paragon Hotel was first established by Ibis Melbourne (***the Hotel Commencement Date***).

The west boundary of the Hotel abuts Pender Alley. To this end, Pender Alley has become a vital means of access to and egress from the Hotel for the Hotel's staff, guests and servicemen and women.

There is a neighbouring building alongside the east boundary of the Hotel. There is no access to an alleyway or side street alongside the east side of the Hotel between the two buildings.

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Professional Standards  
Legislation.



Since the Hotel Commencement Date, the Hotel has, at its sole cost and expense, maintained the presentation of Pender Alley, keeping it and its surrounding areas clean, tidy and free of refuse and vermin.

The Interested Parties will be affected by the Proposal if it:

- gives rise to an obstruction to, or hindrance of, the way in which Pender Alley is presently used and enjoyed by the Hotel; and/or
- leads to an increase in vehicular traffic in Pender Alley which will inhibit the Hotel's use and enjoyment of the Alley for its normal business activities.

In accordance with the above, the Interested Parties are requesting a written declaration from the MCC providing that:

- the Hotel be permitted to continue to use and enjoy Pender Alley to carry out its normal business functions and activities in the same manner as it has been from on or about the Hotel Commencement Date;
- the Proposal will not lead to a greater volume of vehicular traffic passing through Pender Alley which may inhibit the Hotel from effectively carrying out its normal business functions and activities.

#### USE AND ENJOYMENT OF PENDER ALLEY

The Interested Parties request the MCC provide the declaration above for reasons which include, but are not limited to, the following:

- **Services provided via Pender Alley:** From on or about the Hotel Commencement Date, Pender Alley has been used as a service road for delivery vehicles to park and unpack and/or collect goods via the service entry doors located along the west boundary of the Hotel.



We are submitting that the parking, collection and/or unpacking of goods must continue to be performed via the service roller doors located in Pender Alley.

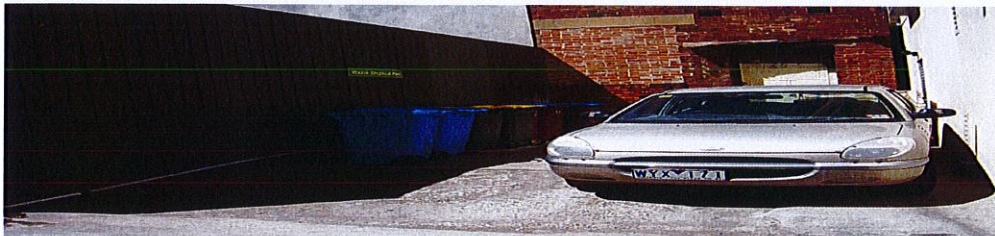
The service vehicles require access to entry points of the building other than through the front foyer located on Little Bourke Street due to the nature of the goods being collected. For example, from time to time the Hotel's cleaning providers will be collecting unwashed linen and towels from the Hotel. In our submission, it will not be appropriate for the cleaning



providers to be transporting these goods through the Hotel's foyer and front entry doors located on Little Bourke Street.

- **Increased Traffic Flow along Little Bourke Street:** In our submission, the diversion of service vehicles that service the Hotel to Pender Alley has resulted in an ease of traffic congestion along primary thoroughfares such as Little Bourke Street. A diversion of this nature will only become more necessary having regard to the expected increase in vehicular traffic flow along Little Bourke Street as a result of the Upper West Side Development.
- **Occupational Health and Safety:** In the event of a fire, staff and guests of the Hotel are required to exit the Hotel via the Fire Exit Doors located on the North West corner of Pender Alley. Accordingly, in our submission, the Hotel requires unfettered access to this part of Pender Alley for occupational health and safety reasons.
- **Environmental Reasons:** A section of the north boundary of Pender Alley has enabled the Hotel to cordon off its rubbish disposal area and keep this area out of the site of members of the public who may be passing along Little Bourke Street.

We are further submitting that having the entire rubbish disposal facilities of the Hotel located in a confined area helps ensure that the litter and waste from the Hotel can be deposited into the correct disposal bin.



#### **REQUIREMENT TO KEEP TRAFFIC FLOW IN PENDER ALLEY TO A MINIMUM**

The Interested Parties must be satisfied that the declaration of Pender Alley as a "highway" will not give rise to Pender Alley becoming a thoroughfare for passing vehicular traffic between Little Bourke Street and Lonsdale Street.

The historical designation of the Alley as a "one way street" has enabled the Hotel and the surrounding businesses to use the Alley to carry out those essential activities described above.

#### **SUMMARY**

In our submission, the Hotel requires clear and unfettered access to and egress from Pender Alley in order to carry out its normal business functions and activities. There are overwhelming operational health and safety and environmental reasons for the Hotel to continue to use and enjoy Pender Alley as it has been from the Hotel Commencement Date.





The Interested Parties must be convinced that changing the designation of Pender Alley to a “public highway” will not lead to an obstruction of or a hindrance to the effective running of the Hotel’s business.

Yours faithfully  
marshalls+dent

Josh Kaplan  
Lawyer





**Minister for Planning  
Minister for Multicultural Affairs and Citizenship**



ATTACHMENT 4  
Agenda item 6.2  
Council  
24 February 2015

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Melbourne Victoria 3000 Australia  
Telephone: 03 8392 6075  
www.vic.gov.au  
DX 210292

Our Ref: BMIN021837  
File: 14/000409

<b>RECEIVED</b>
Business Information Services
-- 5 SEP 2014
DM#: _____
SR#: _____

The Rt Hon. Lord Mayor  
Cr Robert Doyle  
City of Melbourne  
PO Box 1603  
MELBOURNE VIC 3000

Dear Lord Mayor,

**MELBOURNE PLANNING SCHEME PERMIT APPLICATION NO 2014/000409  
605-613 LONSDALE STREET, MELBOURNE  
DEVELOPMENT OF THE LAND FOR A MULTI-STOREY TOWER**

I refer to the above application which was lodged with the Department of Transport, Planning and Local Infrastructure (DTPLI) on 30 January 2014.

As the Responsible Authority for the application, I have considered your Council's comments and determined to grant Planning Permit 2014/000409 subject to conditions. Please find enclosed a copy for your records.

Should you have any queries regarding this matter, please contact Jim Gardner, Executive Director, Statutory Planning and Heritage on telephone 03 9658 4732.

Yours sincerely

**MATTHEW GUY MLC**  
Minister for Planning

1-9-14

Enc

**Privacy Statement**

Any personal information about you or a third party in your correspondence will be protected under the provisions of the Information Privacy Act 2000. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Manager Privacy, Department of Transport, Planning and Local Infrastructure, GPO Box 2392, Melbourne, 3001.



# PLANNING PERMIT

Permit No.: 2014/000409

Planning Scheme: Melbourne

Responsible Authority: Minister for Planning

**ADDRESS OF THE LAND:**

605-613 Lonsdale Street, Melbourne

**THE PERMIT ALLOWS:**

Demolition of the existing building, construction of a multi-storey building comprising of dwellings and retail premises (other than adult sex bookshop, department store, hotel, supermarket and tavern)

**THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT**

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**Amended Plans**

1. Before the development starts, including demolition and bulk excavation, amended plans must be submitted to and be 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 three copies must be provided. The plans must generally be in accordance with the plans received on 30 January 2014 and 9 May 2014 submitted with the application but modified to show the following:
  - a) Details of the treatment of the western boundary wall within the car parking entrance to Lonsdale Street to provide visual interest;
  - b) The doors to the booster cabinet to Lonsdale Street not to project more than 600mm beyond the street alignment when fully open;
  - c) Modifications to the canopy to Lonsdale Street and Rose Lane to ensure compliance with Council's Road Encroachment Guidelines including minimum clearance to the underside of the structure and offset from the face of the kerb;
  - d) Screening to the podium apartment bedrooms to Rose Lane;
  - e) An alternative car park screen to the south and west elevations to provide a greater degree of visual interest and to ensure direct views into the car parking area is limited;
  - f) Any modifications to plans as required by the Wind Assessment in the corresponding condition below;
  - g) Any modifications to plans as required by the Water Sensitive Urban Design Response referred to in corresponding condition below;
  - h) Any modifications to plans as required by the Traffic and Loading Management Reports referred to in the corresponding condition below; and
  - i) Any modifications to plans as required by the Waste Management Plan referred to in the corresponding condition below.

**Layout Not Altered**

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

### **Demolition**

3. Demolition must not commence unless the Responsible Authority is satisfied that the permit holder has made substantial progress towards obtaining the necessary building permits for the development of the land generally in accordance with the development proposed under this permit and the permit holder has entered into a bona fide contract for the construction of the development, or otherwise as agreed with the Responsible Authority.

### **Materials and Finishes**

4. Before the development starts, excluding demolition and bulk excavation, a facade strategy must be submitted to and approved by the Responsible Authority. The facade strategy for the redevelopment must be generally in accordance with plans prepared by Cottee Parker Architects dated May 2014 and detail a schedule of material, finishes and details, including but not limited to the colour, type of materials (and quality), construction and appearance. The strategy must illustrate the legibility of the proposal from short and distant views, including the extent of facade pattern, level of colours and the ability to provide richness, saturation and depth. This can be provided through montages from various vantage points and/or a built model. The facade strategy must be submitted to and be to the satisfaction of the Responsible Authority and when approved will form part of the endorsed plans.
5. Before the development starts, excluding demolition and bulk excavation, a sample board including a colour rendered and notated plan/elevation that illustrates the location and details of all external materials and finishes must be submitted to and be to the satisfaction of the Responsible Authority and when approved will form part of the endorsed plans. All finishes and surfaces of all external buildings and works, including materials and colours must be in conformity with the approved schedule to the satisfaction of the Responsible Authority.
6. Except with the consent of the Responsible Authority, Cottee Parker Architects must be retained to complete and provide architectural oversight during construction of the detailed design as shown in the endorsed plans and endorsed schedule of materials to the satisfaction of Responsible Authority.
7. Except with the consent of the Responsible Authority, all external glazing must be of a type that does not reflect more than 20% of visible light when measured at an angle of incidence normal to the glass surface.

### **Wind Assessment**

8. Before the development starts, excluding demolition and bulk excavation, wind tunnel testing must be carried out by a suitably qualified consultant, must be carried out on a model of the approved building. A report detailing the outcome of the testing must be submitted to and be to the satisfaction of the Responsible Authority. The report must also recommend any modifications which must be made to the design of the building to reduce any adverse wind conditions in areas used by pedestrians, to the satisfaction of the Responsible Authority. The recommendations of the report must be implemented at no cost to the Responsible Authority and must not include reliance on street trees. The report should be in the form of an addendum to the report by Mel Consultants dated April 2014 and should address the following matters:
  - Wind impacts within Pender Alley.
  - Provision of diagrams for all tested locations.
  - Confirm that the extent of the canopy to 617 Lonsdale Street shown on page 15 of the report by Mel Consultants matches that shown on the endorsed plans for the building.

### **Construction Management Plan**

9. Before the development starts, including demolition or bulk excavation, a detailed Demolition and Construction Management Plan must be submitted to and approved by the City of Melbourne (Construction Management Group). This Demolition and

Construction Management Plan may be staged and is to be prepared in accordance with the City of Melbourne- Construction Management Plan Guidelines and is to consider the following:

- a) public safety, amenity and site security;
- b) operating hours, noise and vibration controls;
- c) air and dust management;
- d) stormwater and sediment control;
- e) waste and material reuse; and
- f) traffic management.

#### **Environmentally Sustainable Design (ESD)**

10. Before the development starts, excluding demolition and bulk excavation, an amended Environmentally Sustainable Design (ESD) Statement, generally in accordance with the statement prepared by Wood & Grieve Engineers, dated May 2014, shall be submitted to the satisfaction of the Responsible Authority. The ESD Statement must demonstrate that the building has the preliminary design potential to achieve the following:
  - a) A 5 star rating under a current version of Green Star - Multi Unit Residential rating tool or equivalent assessment demonstrating that the building meets the eco city goals and policy objectives referred to in Clauses 22.19-1 and 22.19-2 of the Melbourne Planning Scheme.
  - b) 1 point for Wat-1 credit under a current version of the Green Building Council of Australia's Green Star Multi Unit Residential rating tool or equivalent.
11. The performance outcomes specified in the Environmentally Sustainable Design (ESD) Statement for the development must be implemented prior to occupancy at no cost to the City of Melbourne and be to the satisfaction of the Responsible Authority. Any change during detailed design; which affects the approach of the endorsed ESD Statement, must be assessed by an accredited professional. The revised statement must be endorsed by the Responsible Authority before the development starts.
12. Before the development starts, excluding demolition and bulk excavation, a Water Sensitive Urban Design Response in accordance with Clause 22.23-4 of the Melbourne Planning Scheme must be submitted to and approved by the Responsible Authority.

#### **Environmental Assessment**

13. Before the development starts, excluding demolition and bulk excavation, the applicant must undertake an environmental assessment of the site to determine if it is suitable for its use. This assessment must be carried out by a suitably qualified environmental professional who is acceptable to the Responsible Authority. The recommendations of this assessment, if any, must be implemented prior to the occupation of the building to the satisfaction of the Responsible Authority.

Should this assessment reveal that an Environmental Audit of the site is necessary then prior to the occupation of the building the applicant must provide either:

- a) A Certificate of Environmental Audit in accordance with Section 53Y of the *Environment Protection Act 1970*; or
- b) A Statement of Environmental Audit under Section 53Z of the *Environment Protection Act 1970*. This Statement must state that the site is suitable for the intended uses.

Where a Statement of Environmental Audit is provided, all the conditions of the Statement must be complied with to the satisfaction of the Responsible Authority prior to the occupation of the building. Written confirmation of compliance must be provided by a suitably qualified environmental professional or other suitable person acceptable to the Responsible Authority. In addition, sign off must be in accordance with any requirements in the Statement conditions regarding verification of required works.

If there are any conditions of a Statement of Environmental Audit that the Responsible Authority consider require a significant ongoing maintenance and/or monitoring, the applicant must enter into a Section 173 Agreement under the *Planning and Environment Act 1987*. This Agreement must be executed on title prior to the occupation of the building. The applicant must meet all costs associated with the drafting and execution of the Agreement including those incurred by the Responsible Authority.

#### **Noise Attenuation**

14. Prior to the occupation of the dwellings, an amended acoustic report must be carried out, generally consistent with report and recommendations contained within the Acoustic Logic report, Revision 1, Reference No. 20140245.1/1303A/R2/BAW dated 10 April 2014, to ensure that the maximum noise level does not exceed 45dB in habitable rooms with windows closed when music noise is emitted from the stadium in the Docklands Area, to the satisfaction of the City of Melbourne. Once approved, the recommendations must be implemented at no cost to the City of Melbourne.

#### **Title**

15. Before the development starts, excluding demolition and bulk excavation, all of the land for the proposed development must be consolidated onto the one title.
16. Before the development starts, excluding demolition and bulk excavation, the owner of the land must enter into an agreement pursuant to Section 173 of the *Planning and Environment Act 1987* in relation to the structure under Rose Lane. The agreement must provide the following:
  - a) The support of the road and maintenance of any support structures. This agreement is to indemnify the City of Melbourne against any claims on the matter. The agreement must also contain such other conditions as may be required by the City of Melbourne's Manager Engineering Services and Chief Legal Counsel.

The owner of the land must pay all of the City of Melbourne's reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title.
17. Before the development starts, excluding demolition and bulk excavation, that part of Pender Alley which is a Private Lane, south of the subject site must be declared a Public Highway.
18. Before the development starts, the legal process for the closure of Rose Lane to vehicular traffic must be completed.
19. The title boundaries for the property may not exactly agree with the road alignments of the abutting Council lanes. The approved works must not result in structures that encroach onto any Council lane.

#### **Landscaping and Public Realm**

20. Within three (3) months of commencement of the development, or as may otherwise be agreed with the Responsible Authority, a qualified landscape architect is to produce a scaled and dimensioned detailed landscape plan that shall be submitted to and be to the satisfaction of the Responsible Authority in consultation with the City of Melbourne. The plan shall include a schedule of all soft and hard landscape materials and treatments including street trees, automatic irrigation, planting schedule, urban design elements including, but not limited to, paving, lighting, seating, and public art, and clear demarcation of public realm and private spaces including arrangements for pedestrian, bicycle, vehicular circulation in the development. The landscape plan shall demonstrate how the project responds to water sensitive urban design principles including how storm water will be mitigated, captured, cleaned and stored for on site irrigation purposes. The City of Melbourne technical notes should form the basis for all public realm works.
21. Before the development starts, excluding demolition and bulk excavation, a landscape management plan detailing the ownership, maintenance regime and management responsibilities of the public spaces associated with the development must be prepared and submitted to the satisfaction of the Responsible Authority.

22. The approved landscape plan must be completed within three (3) months of the completion of the development or stages thereof, or as may otherwise be agreed with the Responsible Authority and the area(s) concerned shall be subsequently maintained to the satisfaction of the Responsible Authority.

**Public Transport Victoria**

23. The permit holder must take all reasonable steps to ensure that disruption to bus operations along Lonsdale Street is kept to a minimum during the construction of the development. Foreseen disruptions to bus operations and mitigations measure must be communicated to Public Transport Victoria (PTV) at least fourteen days (14) prior.
24. The existing bus stop and associated infrastructure on Lonsdale Street must not be altered without the prior consent of Public Transport Victoria. Any alterations including temporary works or damage during construction must be rectified to the satisfaction of Public Transport Victoria and at the cost of the permit holder.
25. Before the commencement of the access works along Lonsdale Street, the bus stop and shelter including all associated infrastructure, must be relocated or replaced at a cost borne by the permit holder to the satisfaction of Public Transport Victoria and deemed compliant with the Disability Discrimination Act- Disability Standards for Accessible Public Transport 2002.
26. Prior to the occupation of the development, appropriate traffic management devices such as kerbing and signage must be installed at the Lonsdale Street entry to allow for a self-enforcing "left in/ left out" access configuration to the satisfaction of Public Transport Victoria at the full cost of the permit holder.

**Building appurtenances**

27. All building plant and equipment on the roofs and public through fares must be concealed to the satisfaction of the Responsible Authority. The construction of any additional plant machinery and equipment, including but not limited to all air-conditioning equipment, ducts, flues, all exhausts including car parking and communications equipment shall be to the satisfaction of the Responsible Authority.
28. Any satellite dishes, antennas or similar structures associated with the development must be designed and located at a single point on each building in the development to the satisfaction of the Responsible Authority, unless otherwise approved to the satisfaction of the Responsible Authority.

**Car Parking, Loading/ Unloading, Waste Management & Bicycle Facilities**

29. Before the development starts, including demolition and bulk excavation, the applicant must submit a revised Traffic and Loading Management Report to the City of Melbourne (Engineering Services). The report must be and be to the satisfaction of the City of Melbourne (Engineering Services). The revised traffic management report should address:
- a) The speed of the vehicle lifts operate, preferred at a speed of 1.0m/s.
  - b) Left-turn only and No Right Turn signs installed for both entering and exiting.
  - c) The car lift access control point relocated to a point at least 6 metres south of the building line.
  - d) Clear swept path diagrams showing an 8.8 metre vehicle both entering and exiting Pender Alley in a forward direction.
30. Car park design must be safe, convenient and non-discriminatory for people with disabilities.
31. Car parking and storage lots may only be used by occupiers of the site.
32. The areas for the parking of vehicles must be clearly indicated on the floor and the boundaries of all car parking spaces and access lanes and the direction in which vehicles should proceed along the access lanes must be in conformity with the endorsed plans. The car parking spaces must not be used for any other purpose and all

access aisles must be kept clear. Priority should be given to pedestrians on the street over vehicles entering/ exiting the building.

33. The areas set aside for the parking of vehicles within the site must not be operated as a public car parking facility.
34. All mechanical exhaust systems to the car park hereby approved must be sound attenuated to prevent noise nuisance to the occupants of the surrounding properties, to the satisfaction of the Responsible Authority.
35. Before the development starts, excluding demolition and bulk excavation, a Waste Management Plan (WMP) shall be prepared and submitted to the City of Melbourne (Engineering Services). The WMP should detail waste storage and collection arrangements and comply, or as otherwise agreed to, with the City of Melbourne Guidelines for Preparing a Waste Management Plan 2014. Waste storage and collection arrangements must not be altered without prior consent of the City of Melbourne (Engineering Services).
36. All waste must be stored and handled within the site. Bins must not be placed outside the property boundary for collection.
37. Bicycle parking must be provided, located and appropriately signed generally in accordance with Clause 52.34 of the Melbourne Planning Scheme to the satisfaction of the Responsible Authority.

#### **Street Levels and Crossovers**

38. Prior to the occupation of the development, all necessary vehicle crossings must be constructed and all unnecessary vehicle crossings must be demolished and the footpath, kerb and channel reconstructed, in accordance with plans and specifications first approved by the City of Melbourne (Engineering Services).
39. The footpath adjoining the site along Lonsdale Street must be reconstructed in sawn bluestone together with associated works including the reconstruction or relocation of kerb and channel and/or services as necessary at the cost of the developer, in accordance with plans and specifications first approved by the City of Melbourne (Engineering Services).
40. Existing street levels in Lonsdale Street, Rose Lane and Pender Alley must not be altered for the purpose of constructing new vehicle crossings or pedestrian entrances without first obtaining approval from the City of Melbourne (Engineering Services).
41. Pender Alley and the Private Lane must be reconstructed together with associated works including the extension of the existing drainage and the reconstruction or relocation of services and public lighting as necessary at the cost of the developer in accordance with plans and specifications first approved by the City of Melbourne (Engineering Services).
42. All new or altered portions of road (including the provision of footpaths, public lighting, street trees, pavement marking, bollards and signage) in Rose Lane must be constructed prior to the occupation of the development, in accordance with plans and specifications first approved by the City of Melbourne (Engineering Services).

#### **Drainage**

43. Before the development starts, excluding demolition and bulk excavation, a stormwater drainage system incorporating integrated water management design principles must be submitted to, and approved, by the City of Melbourne (Engineering Services). This system must be constructed prior to the occupation of the development and provision made to connect this system to the City of Melbourne's stormwater drainage system.

#### **Projections**

44. All projections over the street alignment must be drained to a legal point of discharge in accordance with plans and specifications first approved by the City of Melbourne (Engineering Services).

### 3D Model

45. Before the development starts, excluding demolition and bulk excavation, or as otherwise agreed with the Responsible Authority a 3D digital model of the development and its immediate surrounds, as appropriate, must be submitted to the Responsible Authority and be to the satisfaction of the Responsible Authority in conformity with the Department Transport, Planning and Local Infrastructure Advisory Note 3D Digital Modelling.

In the event that substantial modifications are made to the building envelope a revised 3D digital model must be submitted to and be to the satisfaction of the Responsible Authority.

### No Advertising Displayed on Building

46. No advertising signs shall be erected, painted or displayed on the land without the permission of the Responsible Authority unless in accordance with the provisions of the Melbourne Planning Scheme.

### Expiry of Permit

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

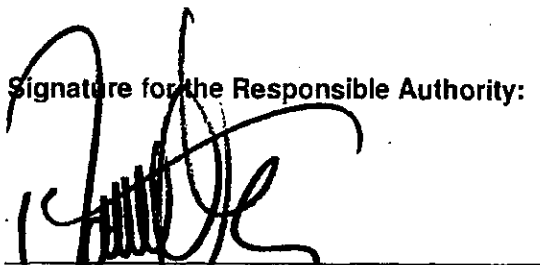
- The development is not started within three years of the date of this permit.
- The development is not completed within five years of the date of this permit.

The Responsible Authority may extend the permit if a request is made in writing before the permit expires, or within six months afterwards. The Responsible Authority may extend the time for completion of the development if a request is made in writing within 12 months after the permit expires and the development started lawfully before the permit expired.

Date Issued: 1-9-14

Note: Under Part 4, Division 1A of the *Planning and Environment Act 1987*, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.

Signature for the Responsible Authority:



### Notes:

- The development must provide for and meet the requirements of the Australian Government Department of Broadband, Communications and Digital Economy publication *Fibre in new developments; policy update* dated 22 June 2011 (as amended).
- The subject site may be identified in Heritage Victoria's Heritage Inventory as having archaeological potential. If an archaeological site is uncovered in the course of a building project it is an offence under the *Heritage Act 1995* to knowingly disturb, damage or excavate without obtaining the consent of the Executive Director of Heritage Victoria. The applicant is therefore advised to contact Heritage Victoria prior to the commencement of any demolition, excavation or works on the site.
- The City of Melbourne will not change on-street parking restrictions to accommodate the needs of this development. Developments in this area are not entitled to resident parking permits. Therefore residents/occupants of this building will not be eligible to receive parking permits and will not be exempt from on-street parking restrictions.
- The proposed crossover is located close to an existing bus bay. Any change to the location of the bus bay requires the approval of Public Transport Victoria and the City of Melbourne (Engineering Services).
- The developer must fund all costs incurred as part of the process to close Rose Lane to vehicular traffic. An alternative to the closure process is laneway discontinuance. The City of Melbourne has not made a decision as to whether it will support either of these options.
- Any requirement to temporarily relocate and/or remove and street furniture or public street lighting must first be approved are reinstated to the satisfaction of City of Melbourne (Engineering Services).



- All necessary approvals and permits for works beyond the boundaries of the subject site are to be first obtained from the City of Melbourne and the works performed to the satisfaction of the City of Melbourne (Engineering Services).
- Prospective purchasers of apartments which have been allocated small car spaces must be advised that the car spaces are small, prior to purchase.
- Any future plan of subdivision must show storage spaces behind car spaces as being linked to the car space.
- At the time of subdivision a Rose Lane address will be allotted to all apartments.
- The permitted development has not been assessed against the *Building Regulations 2006*, Part 5, Division 2 – Projections. It is the responsibility of the Relevant Building Surveyor to make such an assessment prior to issuing a Building Permit. Matters that do not meet the requirements of the Regulations require the Report and Consent of Council prior to a building permit being issued.

## IMPORTANT INFORMATION ABOUT THIS NOTICE

### WHAT HAS BEEN DECIDED

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

### 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 a plan is not certified within two years of the issue of a permit, unless the permit contains a different provision; 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 in the case of a subdivision or consolidation within 5 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 of 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 APPEALS?

- \* 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 an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
- \* An application for review must state the grounds upon which it is based.
- \* An application for review must also be served on the Responsible Authority.
- \* Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.