



NOTICE OF DECISION TO GRANT A PERMIT

FORM 5 Section 64

APPLICATION NUMBER:	396/2021/P
RESPONSIBLE AUTHORITY:	Frankston City Council
PLANNING SCHEME:	Frankston Planning Scheme
ADDRESS OF THE LAND:	176-178 Nepean Highway, SEAFORD 3198
THE RESPONSIBLE AUTHORITY HAS DECIDED TO GRANT A PERMIT. THE PERMIT HAS NOT BEEN ISSUED.	
WHAT THE PERMIT WILL ALLOW:	Use and Development of Land for the Purpose of a Service Station and Convenience Restaurant, Display of Advertising Signage and Alteration of Access to a Road in a Transport Zone 2

WHAT WILL THE CONDITIONS OF THE PERMIT BE?

Amended Plans

1. Before the development starts, 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. The plans must be generally in accordance with the plans prepared by McIntyre & Cross Architects, comprising TP01 Rev A (12.07.21); TP02 Rev A (12.07.21); TP03 Rev C (17.01.22); TP04 Rev B (27.09.21); TP05 Rev A (12.07.21); TP06 Rev A (12.07.21); TP07 Rev A (28.01.22); and TP08 Rev A (28.01.22) and the Landscape Plan – Town Planning Issue, L-TP1 Rev B (Dec 21) prepared by Etched, but modified to show:
 - a. The incorporation of all ESD and WSUD measures as contained within the Environmentally Sustainable Design Report prepared by Sustainable Development Consultants dated July 2021, where such measures can be shown on plans.
 - b. Corner splay or area at least 50 per cent clear of visual obstructions extending at least 2 metres along the frontage road from the edge of an exit lane and 2.5 metres along the exit lane from the frontage, to provide a clear view of pedestrians on the footpath of the frontage road. The area clear of visual obstructions may include an adjacent entry or exit lane where more than one lane is provided, or adjacent landscaped areas, provided the landscaping in those areas is less than 900mm in height.
 - c. Details of the acoustic tunnel and acoustic fence, including sections showing all relevant specifications, as required by Condition 15 and in accordance with the recommendations of the Acoustic Assessment Report prepared by Watson Moss Growcott Acoustics dated 23 July 2021
 - d. The acoustic fence on the southern boundary tapering down to a height of 900mm towards the Nepean Highway boundary as per *Figure 8: Site Plan including Barrier Section* contained in the Acoustic Assessment Report prepared by Watson Moss Growcott Acoustics dated 23 July 2021

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- e. Details of all advertising sign displays, including colours and wording.
- f. A lighting plan detailing the location and specification of all proposed external lighting, including security lighting. Specifications must include, but not necessarily limited to, illumination strength and direction, including baffling, and the height of light poles.
- g. A signage and line marking plan demonstrating how vehicle movements within the site will be managed.
- h. All signage required by Department of Transport as contained in Condition 39. Any conflicting directional signage shown on the plans is to be deleted.

Patron and Safety Management Plan

- 2. Before any use starts, a Patron Management Plan must be prepared for the use to the satisfaction of the Responsible Authority. When endorsed the plan will be endorsed and will then form part of the permit. All Patron Management Plans must include/address, as appropriate, the following:
 - (a) The area to be covered by the Patron Management Plan
 - (b) The requirement for a roster to be prepared which outlines the number of staff and the responsibilities and authorities of staff to be on the premises at all times.
 - (c) The maintenance of a complaints register which must be made available for inspection by the Responsible Authority upon request.
 - (d) The publication of a complaints telephone number and email address to occupiers of adjoining and nearby properties.
 - (e) Steps to be taken if there is a complaint.
 - (f) Steps to be taken to make sure patrons leave the premises in an orderly manner, which may include supervision of the car park.
 - (g) Steps to be taken to make sure patrons do not cause nuisance or annoyance to persons beyond the land.
 - (h) Procedures to evacuate the premises of staff and visitors in an orderly manner in the event of an emergency.
 - (i) Signage at exits advising patrons to leave the centre and the land in an orderly manner and to respect neighbours.
 - (j) Steps to prevent people congregating on or near the site outside of operating hours, in particular safety measures preventing people accessing the acoustic tunnel and drive-thru area.

The permitted uses must operate in accordance with the approved Patron Management Plan and any activities or ongoing obligations contained in the approved plan must be carried out in accordance with the approved plan.

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Litter Management Plan

3. Before any of the uses starts, a Litter Management Plan must be prepared for each use to the satisfaction of the Responsible Authority. When approved, the plan will be endorsed and will form part of the permit. The plan must include:
 - (a) The location of all rubbish bins external to buildings accessible to the public.
 - (b) Rubbish bins to be regularly cleared so as not to spill or to attract insects, vermin or to emit unacceptable odours.
 - (c) Signage within the Convenience restaurant, adjacent to the drive through food collection booths, and within the Convenience store, advising patrons that they are within a scenic foreshore and creek environment and encouraging patrons to not litter public areas and roadside reserves.
 - (d) The conduct of a litter patrol to be undertaken on each day that the premises are open for trading to the public within a 300 m radius of the periphery of the site to collect and dispose of any litter emanating from the site.
4. The operators of the service station and convenience restaurant must continually implement the Litter Management Plan during the permitted hours of operation to the satisfaction of the Responsible Authority.

Coastal Acid Sulphate Soils

5. Prior to commencement of works a soil test is undertaken by a qualified geotechnical engineer to test for the presence of coastal acid sulphate soils, with the results to be forwarded to the Responsible Authority. The site must be assessed in accordance with EPA Publication 655 – Acid Sulphate Soil and Rock. If acid sulphate soils are found to be present, an Environmental Management Plan must:
 - (a) Be prepared in accordance with the requirements of the Environment Protection Authority Industrial Waste Management Policy (Waste Acid Sulphate Soils) and forwarded to the Responsible Authority; and
 - (b) Be referred to, and approved by, the Environment Protection Authority.
 - (c) All works on the site must be in accordance with the Environmental Management Plan.

Landscape Plan

6. Before the commencement of buildings and works, a landscape plan prepared by a suitably qualified person must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must be generally in accordance with the Landscape Plan – Town Planning Issue, L-TP1 Rev B (Dec 21) prepared by Etched, but modified to show:
 - (a) the delineation and details of surface finishes of all garden beds, grassed areas, pathways, driveways, retaining walls and other landscape works including areas of cut and fill throughout the development site;
 - (b) a planting schedule of all proposed trees, shrubs and ground covers (low maintenance species), including botanical names, common names, pot sizes, size at maturity and quantities of each plant.

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- (c) a detailed maintenance schedule.
to the satisfaction of the responsible authority.
7. Before the occupation commences, the landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping must thereafter be maintained to the satisfaction of the Responsible Authority at all times.

Drainage

8. A Drainage Strategy/Plan with proposed Building and finished Surface Floor Levels (FLL) detailing how it is proposed to drain the site to Council's existing underground drainage infrastructure including clear provision for the conveyance of 100 year flow paths. The application will be required to verify that sufficient capacity is available in the Council's drainage system to accept design flow from the development.
9. Provision of a Stormwater Detention System with a volume capable of retarding the 10 year ARI flow from the development site back to a 5 year ARI pre-development value to the satisfaction of the Responsible Authority including providing over-land stormwater surcharge routes and cut-off drains for the safe and effective passage of stormwater flows arising from the subject land;
10. Water Sensitive Urban Design principles (WSUD) are to be incorporated into the drainage design, which may include but not be limited to the following components or a combination thereof:
- On-site stormwater detention and rainwater tanks.
 - Soil percolation
 - Stormwater harvesting and Re-use of stormwater for garden watering, toilet flushing, etc
 - On-site 'bio-treatment' to reduce dissolved contaminants and suspended solids.
11. Prior to commencement of development construction detailed design plans and drainage computations of the internal stormwater drainage system including the method of connection to the existing Council drainage infrastructure are to be submitted and approved to the satisfaction of the Responsible Authority.

ESD and WSUD Implementation

12. All ESD and WSUD initiatives as set out in the Environmentally Sustainable Design Report prepared by Sustainable Development Consultants dated July 2021 must be implemented to the satisfaction of the Responsible Authority.

ESD and WSUD Self-evidencing Report

13. Prior to the uses commencing, a report from the author of the Environmentally Sustainable Design Report dated July 2021 or a suitably qualified person must be provided to the satisfaction of the Responsible Authority. This report must confirm all that ESD and WSUD features have been implemented in the development as approved.

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No access to Kananook Creek

14. No access is to be provided from the subject land to the adjoining Kananook Creek Reserve either during construction of the buildings and works hereby approved or following completion of those buildings and works.

Acoustic Screens and Report

15. The proposed acoustic tunnel/drive-thru driveway enclosure must be designed and constructed in accordance with the recommendations of the Acoustic Assessment Report prepared by Watson Moss Growcott Acoustics dated 23 July 2021 to the satisfaction of the responsible authority.
16. Prior to the commencement of the permitted convenience restaurant use, the acoustic tunnel/drive-thru driveway enclosure must be constructed in accordance with the above requirements and endorsed plans and be to the satisfaction of the Responsible Authority.
17. The proposed 2.2m high acoustic barrier must be designed and constructed along the southern boundary in accordance with the recommendations of the Acoustic Assessment Report prepared by Watson Moss Growcott Acoustics dated 23 July 2021 to the satisfaction of the responsible authority. Prior to the commencement of the permitted uses, acoustic fencing must be erected along the southern site boundary in accordance with the above requirements and endorsed plans and be to the satisfaction of the Responsible Authority.
18. Once a mechanical services design has been completed and equipment selections have been made, an acoustic consultant must be engaged to undertake a review to ensure noise emissions associated with the proposal comply with relevant project design objectives and nearby noise sensitive receptor locations as set out in the Acoustic Assessment Report prepared by Watson Moss Growcott Acoustics dated 23 July 2021, or other appropriate noise criteria as deemed appropriate by the acoustic consultant. The acoustic consultant must prepare a report setting out their findings and if compliance is not achieved, the measures required to bring the mechanical services design into compliance with relevant project design objectives and nearby noise sensitive receptor locations or other appropriate noise criteria must be identified and implemented to the satisfaction of the Responsible Authority.
19. All mechanical services must be located within the within a dedicated services area located adjacent to the eastern facade of the base building and the roof top services platform to the satisfaction of the Responsible Authority.
20. By a date no later than three months after a use starts, a further report must be prepared by a suitably qualified acoustic consultant to the satisfaction of the Responsible Authority demonstrating that compliance with the Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues (Publication 1826.2, Environment Protection Authority) ('Noise Protocol') has been achieved. If noise emitted from the premises exceeds the recommended noise limits, the report must address additional noise control treatments required to the satisfaction of the Responsible Authority.

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Waste Management

21. Before the development starts, a waste management plan (WMP) prepared by a suitably qualified person and to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the WMP will be endorsed and form part of this permit. The WMP must generally be in accordance with the WMP prepared by Waste Tech Services Pty Ltd dated 13 July 2021 and must include, but not limited to, details of waste collection to be undertaken by private contractor only, time and frequency of waste collection, waste streams, waste minimisation strategies, collection points, waste vehicle size and swept path diagrams, adherence to EPA Victoria Publication 1254.2 Noise Control Guidelines, all to the satisfaction of the Responsible Authority.
22. All waste collection must be undertaken in accordance with the EPA Victoria Publication 1254.2 Noise Control Guidelines and the endorsed WMP at all times.

Car Parking and Loading Management Plan

23. Prior to the commencement of any buildings and works permitted by this permit, a Car Parking and Loading Management Plan (CPLMP) must be prepared to the satisfaction of the Responsible Authority. It must include, but is not limited to, the following:
- A. Vehicle parking and access
- An allocation plan for the number and location of car parking for convenience restaurant staff and patrons, and service station staff and patrons
- B. Loading
- Hours of deliveries
 - Nature and location of deliveries
 - Management of loading areas to prevent vehicle and pedestrian conflicts
 - Restrictions on the size and type of vehicles as required.

The CPLMP may be amended from time to time and must be to the satisfaction of the responsible authority. When approved the CPLMP will form part of this permit and must be complied with to the satisfaction of the Responsible Authority.

No Alterations or Changes

24. The use and development as shown on the endorsed plans and described in the endorsed documents must not be altered without the prior written consent of the Responsible Authority.

Completion of Works

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

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Hours of Operation and Conditions

26. The convenience restaurant must only operate between the hours of 10am and 11pm.
27. Goods delivery, fuel delivery and waste collection events must only occur at the site during the hours of 7:00am to 6:00pm Monday to Saturday.
28. The service station may operate 24 hours a day, seven days a week.
29. Unless with the prior written consent of the Responsible Authority, the convenience restaurant must provide for a maximum of 30 patrons at any one time, including indoor seating for a maximum of 16 patrons.

Storage

30. Goods must not be stored within the front setback, landscaped area, car parking or vehicle access areas at any time.

Amenity

31. The amenity of the area must not be detrimentally affected by the use and development through the:-
 - (a) Transport of materials, goods or commodities to or from the land;
 - (b) Appearance of any building, works or materials;
 - (c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
 - (d) Presence of vermin; or
 - (e) In any other way.
32. When on site, truck motors and any associated motors for delivery vehicles must be turned off when the delivery vehicle is parked. Vehicles must then be unloaded by hand and trolley only. Forklifts or other potentially noisy unloading mechanisms are not permitted.
33. Outdoor lighting must be provided, designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on neighbouring land and to comply with the requirements of AS 4282-1997.
34. No external sound amplification equipment or loudspeakers may be used for the purpose of announcements, broadcasts, playing of music or similar purposes, with the exception of emergency announcements.
35. Noise emissions from the Subject Land shall comply with Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues (Publication 1826.2, Environment Protection Authority), and accepted sleep disturbance criteria.
36. All security alarms or similar devices installed on the land must be of a silent type in accordance with any current standard published by Standards Australia International Limited and be connected to a security service.
37. All plumbing works, sewer pipes etc. associated with the buildings must be concealed from general view.

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38. Power and telephone lines to all buildings must be placed underground from the main points of service outside the boundaries of the site.

Conditions required by Department of Transport

39. Prior to the endorsement of plans, amended plans must be submitted to and approved by the Head, Transport for Victoria. When approved by the Head, Transport for Victoria, the plans must be endorsed by the Responsible Authority and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plans date stamped January 2021 and annotated "Service Station & Fast Food 176-178 Nepean Highway, Site Layout, Job No. 19-027, Drawing No. TP01 Revision A" but modified to show:
- a) No entry signage at the Nepean Highway entry crossover directed towards northbound traffic on Nepean Highway.
 - b) No right turn signage within the subject site directed towards vehicles exiting the site onto Nepean Highway.
40. Prior to the occupation of the development, the crossovers and access arrangements to both Seaford Road and Nepean Highway must be constructed to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria and the Responsible Authority.
41. Prior to the occupation of the development, all disused or redundant vehicle crossings on both Seaford Road and Nepean Highway must be removed, and the area reinstated to kerb, channel, and nature strip to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria and the Responsible Authority.
42. Vehicles must enter and exit the site in a forward direction at all times.

Car parking and access

43. Prior to commencement of the uses hereby permitted by this permit starts, areas set aside for parking vehicles, loading bays, access lanes and paths as shown on the endorsed plans must be:
- (a) Constructed to the satisfaction of the Responsible Authority;
 - (b) Properly formed to such levels that they can be used in accordance with the plans;
 - (c) Surfaced with an all-weather sealcoat;
 - (d) Line marked and signed in accordance with the endorsed signage and line-marking plan; and
 - (e) Drained and maintained to the satisfaction of the Responsible Authority.
44. Car spaces, access lanes, loading bays and driveways must be kept available for these purposes at all times.
45. Concrete kerbs and barriers shall be provided to the satisfaction of the responsible authority to prevent direct vehicle access to an adjoining road other than by a vehicle crossing.
46. Directional arrow pavement markings, with size and shape compliant with relevant Australian Standards, must be provided to avoid straying and to formalise vehicle movements at changes of direction.

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47. All parking spaces must be clearly delineated with appropriate pavement line markings and signs to differentiate between parking for staff, delivery vehicles, customers and disabled persons.

Signage Requirements

48. The signs hereby permitted must not:

- (a) be moving or rotating;
- (b) contain any flashing or intermittent light.

49. The signs hereby permitted must be constructed to the satisfaction of the Responsible Authority, and must be maintained to the satisfaction of the Responsible Authority.

50. All signs must be located wholly within the boundary of the land.

51. Upon expiry of the approved signage, all structures built specifically to support the structure must subsequently be removed.

Environmental Audit

52. Should soils be exposed during landscaping activities, any landscape/exposed soil areas (such as lawn or garden beds) must be covered with at least 0.5 metres of "Fill material" (as defined by EPA Publication 448.1).

53. Groundwater must not be abstracted from the site for uses other than clean up or monitoring.

Permit Expiry

54. This permit will expire if:

- a. The development has not started within two (2) years of the date of this permit; or
- b. The development is not completed within four (4) years of the date of this permit.
- c. The use is not started within two (2) years of the date of this permit; or
- d. The use is discontinued for a period of two (2) years or more.

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.

55. The permit for signage expires 15 years from the date of this permit.

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Permit Notes

A. Asset Protection Permit

Prior to the commencement of construction the operator of this planning permit must obtain a non-refundable Asset Protection Permit from Council's Engineering Services Department.

B. Extension of Time

Section 69 of the Planning and Environment Act, 1987 provides that before the permit expires or within 6 months afterwards, the owner or occupier of the land to which the permit applies may ask the responsible authority for an extension of time. Please note, if a request is made out of time, the Responsible Authority cannot consider the request and the permit holder will not be able to apply to VCAT for a review of the matter.

Any extension of time request must be lodged with the relevant administration fee.

C. Variation to Planning Permit

Any request for a variation of this Permit shall be lodged with the relevant fee as determined under the Planning & Environment (Fees) Regulations 2016.

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IMPORTANT INFORMATION ABOUT THIS NOTICE

WHAT HAS BEEN DECIDED?

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

This notice sets out what the permit will allow and what conditions the permit will be subject to if issued.

WHAT ABOUT APPEALS?

For the Applicant -

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

For an Objector -

- An objector may apply for review of the decision of the Responsible Authority to grant a permit. The application for review must be lodged within 28 days after the date of this notice.
- If there is no application for review, a permit will be issued after 28 days of this notice.

For all applications for review -

- An application for review is lodged with the Victorian Civil and Administrative Tribunal.
- An application for review must be made on the Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
- An application for review must state the grounds upon which it is based.
- An application for review must also be served on the Responsible Authority.
- Notice of the application for review must be given in writing to all other parties to the review as soon as practicable after an application for review is lodged. An objector who applies for a review must give notice to the person who applied for the permit.
- An applicant who applies for a review must give notice to all objectors.
- Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.
- Application for review forms and guides are available at www.vcat.vic.gov.au , Ground Floor 55 King Street Melbourne or by contacting VCAT customer service on (03) 9628-9777.

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