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**HERITAGE  
PERMIT  
GRANTED UNDER SECTION 102 OF THE  
HERITAGE ACT 2017**

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**Permit No.: P26760**

**Owner/s: Development Victoria**

**MELBOURNE VIC 3000**

**NAME OF PLACE/OBJECT:** FORMER KEW COTTAGES (KEW RESIDENTIAL SERVICES)

**HERITAGE REGISTER NUMBER:** H2073

**LOCATION OF PLACE/OBJECT:** PRINCESS STREET

**THE PERMIT ALLOWS:** *Construction of a three-storey apartment complex with three above ground storeys and a basement at 1 Main Drive, Kew in accordance with the endorsed plans and subject to the below conditions.*

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

**Amended Plans**

1. Before the development starts, amended plans to the satisfaction of the Executive Director must be submitted to and approved by the Executive Director. 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 supplied in PDF format to [heritage.permits@delwp.vic.gov.au](mailto:heritage.permits@delwp.vic.gov.au). The plans must be generally in accordance with the following plans:
  - Architectural plans prepared by Max Architects and lodged with Heritage Victoria on 11 May 2017, being AR08-00.00 (Rev D), AR08-01.01 (Rev B), AR08-01.02 (Rev F), AR08-01.03 (Rev D), AR08-01.04 (Rev D), AR08-01.05 (Rev D), AR08-01.06 (Rev E), AR08-01.07 (Rev G), AR08-01.10 (Rev B), AR08-01.11 (Rev D), AR08-24.01 (Rev E), AR08-24.02 (Rev G), AR08-24.03 (Rev G), AR08-24.04 (Rev H), AR08-24.10 (Rev E), AR08-25.01 (Rev B), AR08-25.02 (Rev B), AR08-25.03; and
  - Architectural plans prepared by Max Architects and circulated as part of the Heritage Council proceeding, being AR08-01.08 (Rev G), AR08-01.09 (Rev F), AR08-24.05 (Rev G), AR08-24.06 (Rev F), AR08-24.07 (Rev G), AR08-24.08 (Rev F), AR08-24.09 (Rev E); and
  - Landscape Concept Plan prepared by MDG Landscape Architects and circulated as part of the Heritage Council proceeding, being Drawing Number 1542 B 01[d], Issue D dated 4 May 2018.

**But modified to show:**

- All externally visible plant and equipment and any required safety barriers;
- Deletion or relocation of the visitor bicycle spaces and associated hoops and paving. If bicycle spaces are required in accordance with planning approval, bicycle spaces are to be relocated either to the basement, or within two metres of the building;

- The removal or modification of visitor car parking spaces. If car parking spaces are required in accordance with planning approval, bluestone paving is to be replaced with permeable paving material that allows grass coverage in the parking area;
- The retention of all curbing along Main Drive, except for the entrance to the basement car park, entry to the pedestrian path, and any visitor car parking that may be required; and
- Deletion of the proposed footpath following the alignment of Main Drive.

#### **Landscape Plans Required**

1. Before the works begin, a complete and detailed **Existing Landscape Conditions Plan, Proposed Landscape Plan** and associated written **Existing Condition Report** on the trees and lawn within the area bounded by Main Drive and Oak Walk is to be prepared by a landscape architect with heritage expertise and an experienced consulting arborist and submitted to the Executive Director for approval. The Plans must be drawn to scale and the Plans and Report must be submitted to the Executive Director in PDF format. The **Existing Condition Report** is to identify each Heritage Registered tree with its location cross-referenced to the associated **Existing Landscape Conditions Plan** and **Proposed Landscape Plan**. The **Existing Condition Report** must include an assessment of the existing condition and estimated remaining healthy lifespan of each of the Heritage Registered trees. *Note: one specimen of Pinus canariensis (Canary Island Pine) is already in decline.* When approved, the **Existing Landscape Conditions Plan, Proposed Landscape Plan** and **Existing Condition Report** will be endorsed and will then form part of this permit
2. The **Proposed Landscape Plan** must be generally in accordance with the Landscape Concept Plan prepared by MDG Landscape Architects and circulated as part of the Heritage Council proceeding, being Drawing Number 1542 B 01[d], Issue D dated 4 May 2018, and must show:
  - a) All existing vegetation (including botanical names) to be retained and/or removed;
  - b) A planting theme which principally comprises trees in a lawn setting;
  - c) Apart from trees:
    - only plants which grow to a height of not more than approximately 0.5 metres except where taller planting may be required such as to act as a security barrier near the vehicle entrance; and
    - no invasive ground cover plants including *Agapanthus* sp.;
  - d) A planting schedule of all trees, ground covers and bedding plants, including botanical names, common names, sizes at maturity and quantities of each plant. All species selected must be to the satisfaction of the Executive Director;
  - e) Details of surface finishes of pathways and the driveway; and
  - f) Details of an in-ground irrigation system to be provided to all landscaped areas.

### **Tree Management Plan Required**

3. Before the works begin, a **Tree Management Plan**, which includes a **Tree Replanting Schedule** of trees of the same species as the Heritage Registered trees, or suitable alternative species that reflect the heritage significance and values of the site, is to be prepared by a landscape architect with heritage expertise and an experienced consulting arborist and submitted to the Executive Director for approval. The plan must be drawn to scale with dimensions and must be submitted to the Executive Director in PDF format. The **Tree Management Plan** must apply to the entire area bounded by Main Drive and Oak Walk. When approved, the plan will be endorsed and will form part of this permit.
4. The **Tree Replanting Schedule** must include a fifteen-year **Tree Establishment Plan**, including proposed replacement trees for existing senescent and diseased trees, and a removal and replacement planting program designed to achieve a continuous tall tree canopy within this 'island' section of Main Drive. Botanical names, common names, and sizes at maturity for each proposed replacement tree must be provided. The **Tree Replanting Schedule** must include a written explanation in relation to the principles that will apply to consideration of removal of trees and selection of species and proposed locations of all proposed new trees.
5. The permit holder must complete tree removal and replanting in accordance with the **Tree Replanting Schedule** prior to the Executive Director confirming that the works have been satisfactorily completed in accordance with condition 15 below.

### **Tree Protection During Construction**

6. To ensure protection of the Heritage Registered trees within the area bounded by Main Drive and Oak Walk, all works approved by or otherwise required by this permit must be carried out in accordance with the requirements and recommendations of Australian Standard AS 4970-2009 '*Protection of Trees on Development Sites*'.
7. Before the works approved or required by this permit (including demolition works) begin, a scaled plan showing the location of Tree Protection Fences and any associated tree protection measures required under condition 7 above is to be submitted to the Executive Director for approval. Once approved, the plan will be endorsed and will then form part of this permit.
8. Except with the prior written consent of the Executive Director, within the Tree Protection Zones:
  - a) No vehicular or pedestrian access, trenching or soil excavation is to occur; and
  - b) No storage or dumping of tools, equipment or waste is to occur.
9. The Tree Protection Fences and associated protection measures must be erected before the works approved or required by this permit (including demolition works) begin, and must remain in place until all construction works have been completed. Before the development starts, the ground surface of the Tree Protection Zones must be covered by a 100mm deep layer of mulch. The Tree Protection Zones must be watered regularly to the satisfaction of the Executive Director.

**Heritage Act 2017**

10. The Tree Protection Fences and associated tree protection measures may only be removed after completion of all approved construction works to facilitate the landscape works approved by this permit. The Executive Director must be informed when the approved works have been completed.
11. Any pruning that is required to be done to the canopy of any Heritage Registered trees is to be done by a qualified arborist to Australian Standard – Pruning of Amenity Trees AS4373-1996. Any pruning of the root system of any Heritage Registered tree is to be done by hand by a qualified arborist.

**Financial Security**

12. Before the permitted works begin, in accordance with the provisions of s.103 of the *Heritage Act 2017* ('the Act'), financial security in the form of an unconditional Bank Guarantee or Insurance Bonds (or other instrument as agreed in writing by the Executive Director) must be lodged with the Executive Director, issued in favour of the **Heritage Council of Victoria** (ABN 87 967 501 331) in the amount of **\$250,000-00** (two-hundred-and-fifty-thousand-dollars). It must be unconditional with regard to expiry date and provide that it will be returned to the issuing institution at the request of the permit holder on the completion of the approved works and any works required by this permit to the satisfaction of the Executive Director.
13. The financial security referred to in condition 13 shall be forfeited to the favouree, being the **Heritage Council of Victoria**, if the works for which it is lodged have not been completed within the validity period of this permit to the satisfaction of the Executive Director.

**Covenant**

14. Before the works begin, the owner of the land must enter into a covenant with the Heritage Council of Victoria pursuant to s.134 of the Act, and must ensure that the Registrar of Titles makes a recording of the covenant pursuant to s.140 of the Act. The covenant must provide for the following matters, all to the satisfaction of the Heritage Council of Victoria:
  - a) The covenant will commence operation upon the approval of the **Tree Management Plan** required by condition 4 of the permit;
  - a) The owner must comply with all requirements, directions, guidance and recommendations contained in the **Tree Management Plan** required by condition 4 of the permit, as amended from time to time, all in accordance with any relevant timeframes referred to in that plan;
  - b) The owner must engage a suitably qualified consulting arborist with heritage expertise to review the ongoing appropriateness of the **Tree Management Plan** approved pursuant to condition 4 of the permit prior to the expiry of 5 years of the commencement of this covenant;
  - c) The owner must engage a suitably qualified consulting arborist with heritage expertise to review the ongoing appropriateness of the **Tree Management Plan** approved pursuant to condition 4 of the permit prior to the expiry of 10 years of the commencement of this covenant;

- d) In the event that a suitably qualified consulting arborist with heritage expertise recommends changes to the **Tree Management Plan** approved pursuant to condition 4 of the permit at any time, the owner will apply to the Executive Director to amend that plan pursuant to condition 4 of the permit, so as to give effect to that professional's relevant recommendations;
- e) Before the works begin, the owner must ensure that a person with the benefit of the permit provides a financial security (either in the form of an unconditional bank guarantee or insurance bond or other instrument as agreed in writing by the Executive Director) to the **Heritage Council of Victoria**, in accordance with s.103 of the Act. That financial security must be in the amount of **\$150,000** (one-hundred-and-fifty-thousand-dollars). It must be unconditional with regard to expiry date and must provide that:
  - i. \$50,000 of that financial security will be returned to the person who provided it upon the expiry of 5 years of the commencement of this covenant, subject to satisfactory compliance with conditions 4-6 of the permit during that 5 year period to the satisfaction of the Executive Director;
  - i. A further \$50,000 of that financial security will be returned to the person who provided it upon the expiry of 10 years of the commencement of this covenant, subject to satisfactory compliance with conditions 4-6 of the permit during that 10 year period to the satisfaction of the Executive Director;
  - ii. The remaining \$50,000 of that financial security will be returned to the person who provided it upon the expiry of 15 years of the commencement of this covenant, subject to satisfactory compliance with conditions 4-6 of the permit during the total 15 year period to the satisfaction of the Executive Director;
  - iii. Any or all of the total financial security will be forfeit to the favouree, being the **Heritage Council of Victoria**, in the event of non-compliance with conditions 4-6 of the permit to the satisfaction of the Executive Director;
  - iv. In the event that the land is sold or subdivided, the person who provides the financial security may assign its entitlement to return of the financial security, or any portion thereof, to the person or people subject to the ongoing obligation to comply with conditions b, c, d and e of this condition 15;
- f) In the event that the land is subdivided, the covenant will not be binding on any part of the land which does not contain any part of the apartment building allowed by this permit;
- g) In the event that the land is subdivided, and in the event that any or all of the trees to be protected by the **Tree Management Plan** to be approved pursuant to condition 4 of the permit are no longer located on land within the ownership or control of the person bound by the obligations of this covenant, the person bound by the obligations of this covenant must consult with and engage with the owner of the land where those trees are located;
- h) In the event that the land is subdivided in a way which creates an Owners' Corporation associated with the apartment building allowed by this permit, the covenant may provide for

the substantive obligations to be binding on the Owners' Corporation, rather than being directly binding on owners of any residential lots to be created;

- i) The covenant will end after the completion of 15 years from the date of the approval of the **Tree Management Plan** pursuant to condition 4 of this permit; and
- j) The owner must pay the legal costs associated with the preparation, execution and recording of the covenant, including the reasonable legal costs of the Heritage Council of Victoria.

#### **General Conditions**

- 15. Subject to condition 11 (in relation to Tree Protection Fences), no fencing is allowed within the area bounded by Main Drive and Oak Walk except as may be required to serve as safety barriers adjacent to the proposed driveway, or to prevent public access to any plant or equipment.
- 16. This permit will expire if the permitted works have not commenced within three (3) years of the date of issue of this permit and are not completed within five (5) years of the date of issue of this permit unless otherwise agreed in writing by the Executive Director.
- 17. The Executive Director is to be given five working days' notice of the intention to commence the approved works.
- 18. Approved works or activities are to be planned and carried out in a manner which prevents damage to the registered place. However, if other previously hidden original or inaccessible details of the place are uncovered, any works that may affect such items must immediately cease. The Executive Director must be notified of the details immediately to enable Heritage Victoria representatives to inspect and record the items, and for discussion to take place on the possible retention of the items, or the issue of a modified approval.
- 19. All works must cease and Heritage Victoria must be contacted if historical archaeological artefacts or deposits are discovered during any excavation or subsurface works. Should any munitions or other potentially explosive artefacts be discovered, Victoria Police is to be immediately alerted and the site is to be immediately cleared of all personnel.

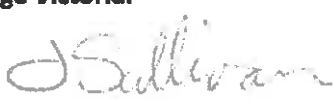

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**NOTE THAT PERMISSION HAS BEEN GIVEN FOR INSPECTIONS OF THE PLACE OR OBJECT TO BE UNDERTAKEN DURING THE CARRYING OUT OF WORKS, AND WITHIN SIX (6) MONTHS OF NOTIFICATION OF THEIR COMPLETION.**

**TAKE NOTICE THAT ANY NATURAL PERSON WHO CARRIES OUT WORKS OR ACTIVITIES NOT IN ACCORDANCE WITH THE PERMIT OR CONDITIONS IS GUILTY OF AN OFFENCE AND LIABLE TO A PENALTY OF 120 PENALTY UNITS (\$19,028 AS AT NOVEMBER 2017) OR IN THE CASE OF A BODY CORPORATE 600 PENALTY UNITS (\$95,142 AS AT NOVEMBER 2017) UNDER SECTION 104 THE HERITAGE ACT 2017 (THE ACT).**

WORKS UNDERTAKEN WITHOUT A PERMIT OR PERMIT EXEMPTION CAN INCUR A FINE OF UP TO 4800 PENALTY UNITS (\$761,136 AS AT NOVEMBER 2017) FOR A NATURAL PERSON OR 5 YEARS IMPRISONMENT OR BOTH AND UP TO 9600 PENALTY UNITS (\$1,522,272 AS AT NOVEMBER 2017) IN THE CASE OF A BODY CORPORATE UNDER SECTION 87 OF THE ACT.

THE ATTENTION OF THE OWNER AND/OR APPLICANT IS DRAWN TO THE NEED TO OBTAIN ALL OTHER RELEVANT PERMITS PRIOR TO THE COMMENCEMENT OF WORKS.

Date Issued: 25 September 2018	Signed on behalf of the Executive Director, Heritage Victoria: 	
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*(If the permit has been amended, include the following table indicating the date and nature of amendments included in the amended permit)*

Date of amendment	Brief description of amendment

## IMPORTANT INFORMATION ABOUT THIS PERMIT

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### WHAT HAS BEEN DECIDED?

The Executive Director has issued a permit under section 102 of the *Heritage Act 2017*.

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### WHEN DOES THE PERMIT BEGIN?

The permit operates from a day specified in the permit.

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### WHEN DOES A PERMIT EXPIRE?

A permit 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 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.

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 REVIEW OF THE DETERMINATION?

The applicant or the owner of a registered place or registered object may ask the Heritage Council of Victoria to review any condition of a permit imposed by the Executive Director on a permit issued under Section 102 of the Heritage Act 2017.

A request must -

- \* be in writing; and
- \* be lodged within 60 days after the permit is issued.

Review request forms can be downloaded at:

<http://heritagecouncil.vic.gov.au/hearings-appeals/permit-appeals/permit-appeals-explained/>

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