



URBIS

1 FITZROY STREET, ST KILDA

Section 87A Amendment

Prepared for
JCDECAUX AUSTRALIA TRADING PTY LTD
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We acknowledge, in each of our offices, the Traditional Owners on whose land we stand.

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INTRODUCTION

Urbis Pty Ltd have been engaged by JCDecaux Australia Trading Pty Ltd (CAN 059 604 278) in support of a Section 87A Application (Amend a Planning Permit via the Victorian Civil and Administrative Tribunal [VCAT]) under the *Planning and Environment Act 1987*.

Planning Permit No. 678/2000A will expire on the 1 November 2023 and this Section 87A application seeks to amend Condition 18 in order to extend the permit expiry date associated with the display of an electronic major promotion sign by a further 15 years, to 1 November 2038, which is the maximum permissible under the Port Phillip Planning Scheme.

The application also seeks to delete/amend several permit conditions that are 'historical' conditions relating to the original conversion of the sign in 2013 from internally illuminated to electronic. This includes modernising the lighting condition to refer to the current Department of Transport's illuminated outdoor advertising signage guidelines. In addition, because the current permit permission refers to "replacement & redevelopment", a minor amendment to the permission is proposed so as to delete these words given the sign is existing and no works are proposed. A markup of the proposed changes sought to the permit is included in **Appendix A**.

The site is located within the Commercial 1 Zone and is subject to the Heritage Overlay – Schedule 5 and Design and Development Overlay – Schedule 6-4.

To determine whether the proposed 15-year time extension is warranted, this report assesses the following since the permit was amended on 1 November 2013:

- Whether the existing sign is consistent with current planning policy.
- Whether there are any road safety considerations having regard to changes in traffic conditions since the sign was amended to an electronic sign.
- Whether there are any potential new offsite amenity impacts having regard to any new sensitive land uses since the sign amended to an electronic sign.

This report should be read in conjunction with:

- Certificate of Title.
- Lighting report prepared by Electro Light.
- Traffic assessment prepared by Stantec.

1. SITE AND SURROUNDING CONTEXT

1.1. SUBJECT SITE

The subject site comprises one lot and is identified as 1 Fitzroy Street, St Kilda and can be formally identified as Lot 1 on Title Plan TP131928.

The site is located in the south-east corner of Fitzroy Street, before merging into The Esplanade to the south.

The subject site is irregular in shape. Currently the site comprises a dining and cocktail bar (Ellora St Kilda) which operates at the ground and first floor.

An electronic major promotion sign is located on top of the building and angled facing west toward Jacka Boulevard, The Esplanade and Fitzroy Street. This existing electronic major promotion sign which has been operating for nearly 10 years is the subject of this s87A application.

Figure 1 Aerial – Subject Site



Source: Urbis

Figure 2 Subject Site



Source: Urbis 2023

1.1.1. Interfaces

The key interfaces of the subject site are detailed below:

1.1.1.1. North

To the north of the subject site is the intersection of Fitzroy Street (as it becomes The Esplanade) and Beaconsfield Parade. Fitzroy Street contains two tram stops.

Further north is Cleve Gardens and Acland Street.

Figure 3 Northern Interfaces



Picture 1 Looking north-east along Fitzroy Street from in front of the subject site



Picture 2 Looking north-west along Fitzroy Street from in front of the subject site

1.1.1.2. South

To the south of the subject site is The Esplanade, a major thoroughfare along the beach of St Kilda. Immediately south of the site is the Bayside (residential) apartment complex, approximately 3 storeys high.

Further south are more residential buildings and The Esplanade Hotel.

Figure 4 Southern Interfaces



Picture 3 Looking south along The Esplanade from in front of the subject site.



Picture 4 Looking south-west from in front of the subject site.

1.1.1.3. East

To the east of the subject site are a combination of residential and commercial/retail buildings. Directly to the east, is an access laneway.

Further east is Acland Street, which contains majority retail and food and drink premises, with some residential.

Figure 5 Eastern Interfaces



Picture 5 Looking east from in front of the subject site.



Picture 6 Looking east from in opposite the subject site, on Fitzroy Street.

1.1.1.4. West

To the west of the subject site is The Esplanade and Beaconsfield Parade, and Jacka Boulevard, which are major thoroughfares within the Transport Zone – Schedule 2. Further west is Catani Gardens, containing the Ferris Wheel and the Royal Melbourne Yacht Squadron.

Figure 6 Western Interfaces



Picture 7 Looking south-west from in front of the subject site.



Picture 8 Looking north-west from in front of the subject site.

1.2. SURROUNDING CONTEXT

The subject site is located in St Kilda along the coast and periphery of a major retail and commercial hub, approximately 4 kilometres south-east of the Melbourne CBD.

The commercial area largely consists of retail stores, cafes, restaurants and bars.

The site is in close proximity to a range of recreational places and public transport options, including St Kilda Beach and Pier, Catani Gardens, the Acland Street restaurant and bar strip and Luna Park.

Figure 7 Aerial – Surrounding Area



Source: Urbis

2. PERMIT HISTORY

2.1. 2000 PERMIT AND VCAT APPEAL

On the 12 July 2000, the City of Port Phillip granted a planning permit (No. 678/2000) for the reconstruction of a major promotion sign on the subject land. The sign was to replace a previously existing sign which existed for over 20 years prior. The existing major promotional sign was internally illuminated.

The following year (2001), VCAT hearing *Buckle Outdoor Advertising Pty Ltd v Port Phillip CC & Ors [2001]* ordered the approval of a permit for the reconstruction of a major promotion sign that would be slightly larger than the previous (2000) approval, under the permit number 1090/2000. The permit was never acted upon and has since lapsed.

2.2. 2013 VCAT APPEAL

In 2012, a s72 application was lodged to amend planning permit No. 678/2000 to allow for the replacement of the existing internally illuminated major promotional sign with an electronic major promotion sign. The electronic major promotion sign would maintain the same size of the advertising display area as the internally illuminated major promotional sign and would retain the existing support structure.

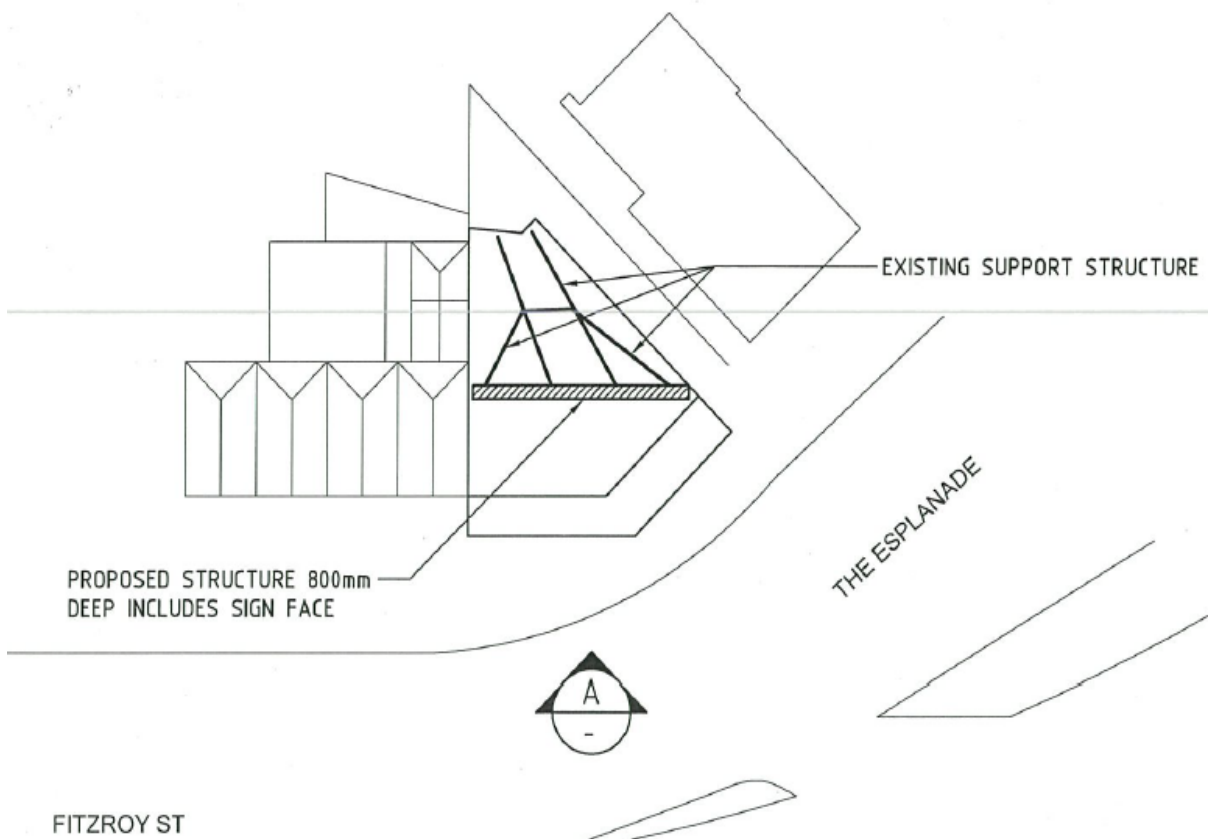
The s72 application was refused by Council on the grounds that the new type of sign would not be consistent with the local policy and character objectives for the area.

Following Council's refusal of the s72 application, VCAT hearing *APN Outdoor Pty Ltd v Port Phillip CC [2013]* took place on 10 and 11 October 2013. Subsequent to the ruling of VCAT, an amended permit (No. 678/2000/A) was issued 13 November 2013 which allowed for:

"Reconstruction, enlargement and minor relocation of an existing illuminated major promotional sign with the following changes: To develop the land for the purpose of a replacement/reconstruction of an electronic major promotion sign in accordance with the endorsed plans.

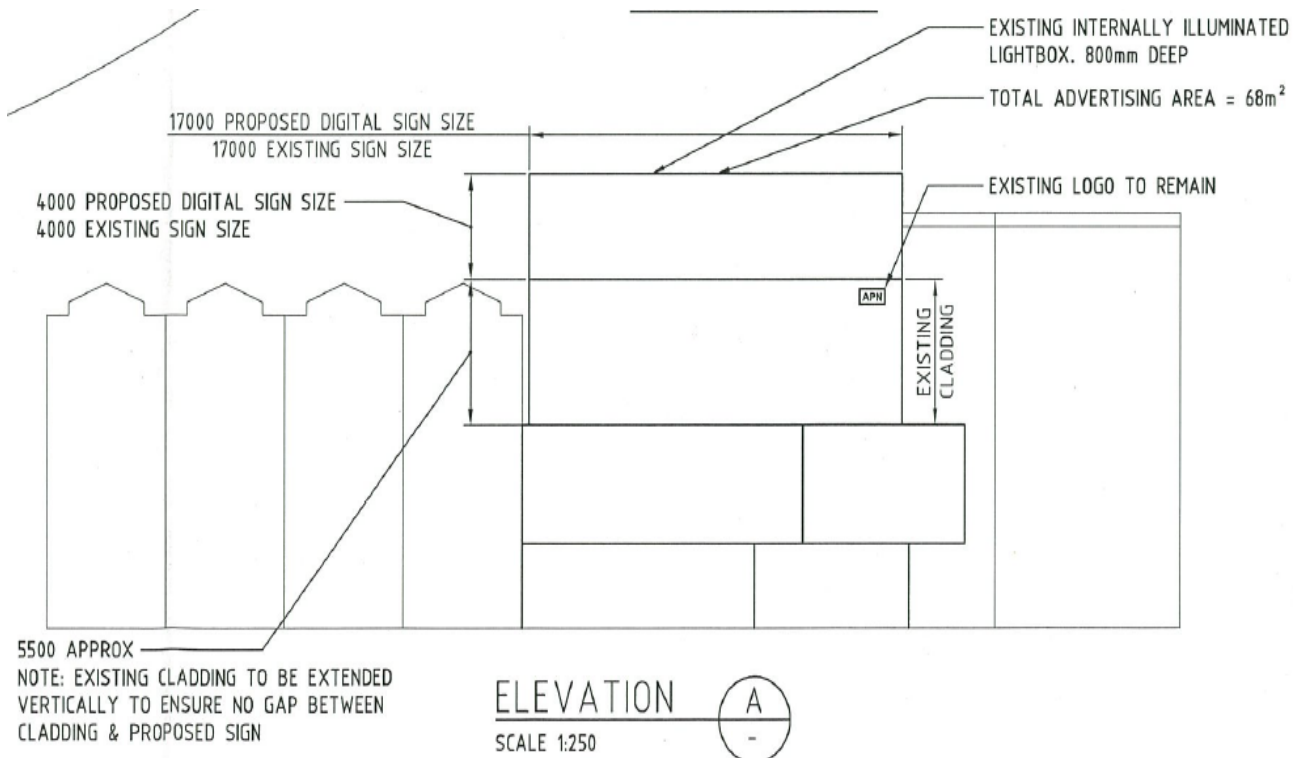
The sign measures 4 metres x 17 metres, a total of 68 sqm.

Figure 8 Endorsed Plans (2013)



Source: DBCE

Figure 9 Endorsed Plans (2013)



Source: DBCE

3. PROPOSAL

This Section 87A application seeks to amend Planning Permit No. 678/2000A in order to extend the life of the permit for a further 15 years and also amend/delete several permit conditions that are 'historical' conditions which are no longer relevant given they relate to the original conversion of the sign in 2013 from internally illuminated to electronic. The permit preamble is also proposed to be updated to reflect that the sign is now existing and that no new works are proposed.

A summary of the proposed changes to the permit are outlined below. A tracked changes copy of the proposed amended planning permit is contained within **Appendix A**.

PREAMBLE

Given the electronic major promotion sign has existed in this location for nearly 10 years, it is proposed to amend the preamble to remove any reference to works or development as neither is now applicable.

The permit preamble currently reads:

"To develop the land for the purpose of a replacement/reconstruction of an electronic major promotion sign in accordance with the endorsed plans."

It is proposed to amend the preamble to read:

Display an electronic major promotion sign in accordance with the endorsed plans.

CONDITION 6

With the electronic major promotion sign existing on the subject site for nearly 10 years, Condition 6 is no longer considered to be relevant and should therefore be deleted.

Condition 6 currently reads:

"Before the existing internally illuminated sign is decommissioned, an all-white vinyl billboard must be displayed and, with that billboard in place, an on-site measurement of the vertical illuminance (lux) of the internally illuminated sign must be taken and recorded by a qualified consultant:

- i. At a distance of 90 metres standing directly in front of the sign (within Catani Gardens);*
- ii. During night time hours while it is dark; and*
- iii. While the sign is illuminated.*

And, on the basis of that measure the luminance (cd/m²) at a distance of 90 metres directly in front of the internally illuminated sign must be calculated using the retina illuminance method and recorded by the qualified lighting consultant."

It is proposed to amend Condition 6 to read:

Deleted.

CONDITION 7

With the proposed deletion of Condition 6 as per above and the fact the sign currently exists, Condition 7 as it is currently worded is no longer relevant. Instead, we propose to amend Condition 7 as follows which will ensure that the sign complies with the findings of the Lighting Impact Assessment (dated 23 March 2023) prepared by Electro Light.

Condition 7 currently reads:

"Once installed and commissioned, the electronic sign must be set to display an all-white screen and, while displaying that screen, set to operate so that during hours of darkness (that is after the sun has fully set and before the sun starts to rise) the sign's luminance levels 90 metres standing directly in front of the sign do not exceed the luminance 90 metres in front of the internally illuminated sign as recorded pursuant to Condition 6."

It is proposed to amend Condition 7 to read:

The sign must not exceed a luminance of 193 cd/m² during night time operation.

CONDITION 8

This condition currently is worded to refer to itself which appears to be an error. Given the proposed amendment to Condition 7 above, Condition 8 should now stand on its own and no longer reference to installing and commissioning as the sign is existing and has therefore already been commissioned.

Condition 8 currently reads:

“Once installed and commissioned, the electronic sign must be set to operate so that all times other than those referred to in condition 8 (that is, during daylight and twilight hours) the luminance of the sign will automatically adjust relative to the measured ambient light levels.”

It is proposed to amend Condition 8 to read:

The electronic sign must be set to operate so that during daylight and twilight hours the luminance of the sign will automatically adjust relative to the measured ambient light levels.

CONDITION 16

With the introduction of the Department of Transport Requirements and Guidelines for Illuminated Outdoor Advertising Signage 6th May 2022, it is considered that this condition is now outdated and should be amended in order to comply with these new lighting criteria.

Condition 16 currently reads:

“The luminance of the advertising sign must be such that it does not give a veiling luminance to the driver, of greater than 0.25cd/m², throughout the driver’s approach to the advertising sign.”

It is proposed to amend Condition 16 to read:

The sign must at all times comply with the Lighting Criteria of the Department of Transport Requirements and Guidelines for Illuminated Outdoor Advertising Signage 6th May 2022.

CONDITION 18

Condition 18 currently results in the permit expiring on the 1 November 2023. It is proposed to extend the life of the permit by a further 15 years (up to the maximum 25 years permissible).

Condition 18 currently reads:

“The permit expires 10 years from the 1 November 2013, at which time the sign and all supporting structures must be removed and the site made good to the satisfaction of the Responsible Authority.”

It is proposed to amend Condition 18 to read:

The permit expires 25 years from the 1 November 2013, at which time the sign and all supporting structures must be removed and the site made good to the satisfaction of the Responsible Authority.

There are no changes proposed to the existing endorsed plans as there are no works or changes proposed to the sign as part of this s87A application.

4. PLANNING POLICY FRAMEWORK

4.1. STRATEGIC CONTEXT

4.1.1. Plan Melbourne

Plan Melbourne 2017-2050 is the Metropolitan Planning Strategy which outlines the Victorian Government's vision for the city of 2050. The document provides guidance on the direction of the City's growth and how it should be managed.

Plan Melbourne recognises all activity centres have the capacity to continue to grow and diversify the range of activities they offer and that there is the need to improve access to jobs across Melbourne and closer to where people live.

Plan Melbourne identifies St Kilda as a Major Activity Centre.

4.1.2. St Kilda Foreshore Urban Design Framework 2002

The St Kilda Foreshore Urban Design Framework ("The Framework") aims to deliver a foreshore precinct that recaptures and reinforces the physical characteristics and cultural heritage that define St Kilda as a special place — captures its 'St Kilda-ness.' It seeks a high-quality public realm and a sustainable natural environment in the context of a diverse and environmentally aware community.

Specific to this proposal, it seeks to ensure that signage is respectful of the key interfaces along the foreshore and the heritage buildings within the area.

4.1.3. Outdoor Advertising Guidelines 2007

The City of Port Phillip Outdoor Advertising Guidelines are designed to help property owners, traders, business and the advertising industry understand the importance of signs in the urban environment, and to ensure that signs effectively convey their message without detracting from their surroundings.

The City of Port Phillip recognises that advertising is a legitimate means of communication and promotion. It is an increasingly visible element within cities, with demand by businesses and the advertising industry seeking to increase exposure. If well designed and located, signage can be helpful and informative, whilst adding interest, colour and character to local streetscapes.

Specifically, the guidelines require that:

- *Signs should not dominate the building to which they are fixed or the property on which they are sited;*
- *Signs should not break the sky-line of the building;*
- *Too many signs on a single property or site become confusing and lose their effectiveness;*
- *The position of signage on a property or building must take into account the architectural style of the building, the character of the local environment and the need to avoid conflict with traffic signals and other necessary control and directional signs;*
- *There should be an equitable distribution of signage between premises within one commercial precinct to avoid visual dominance of one business over others.*

4.2. ZONE

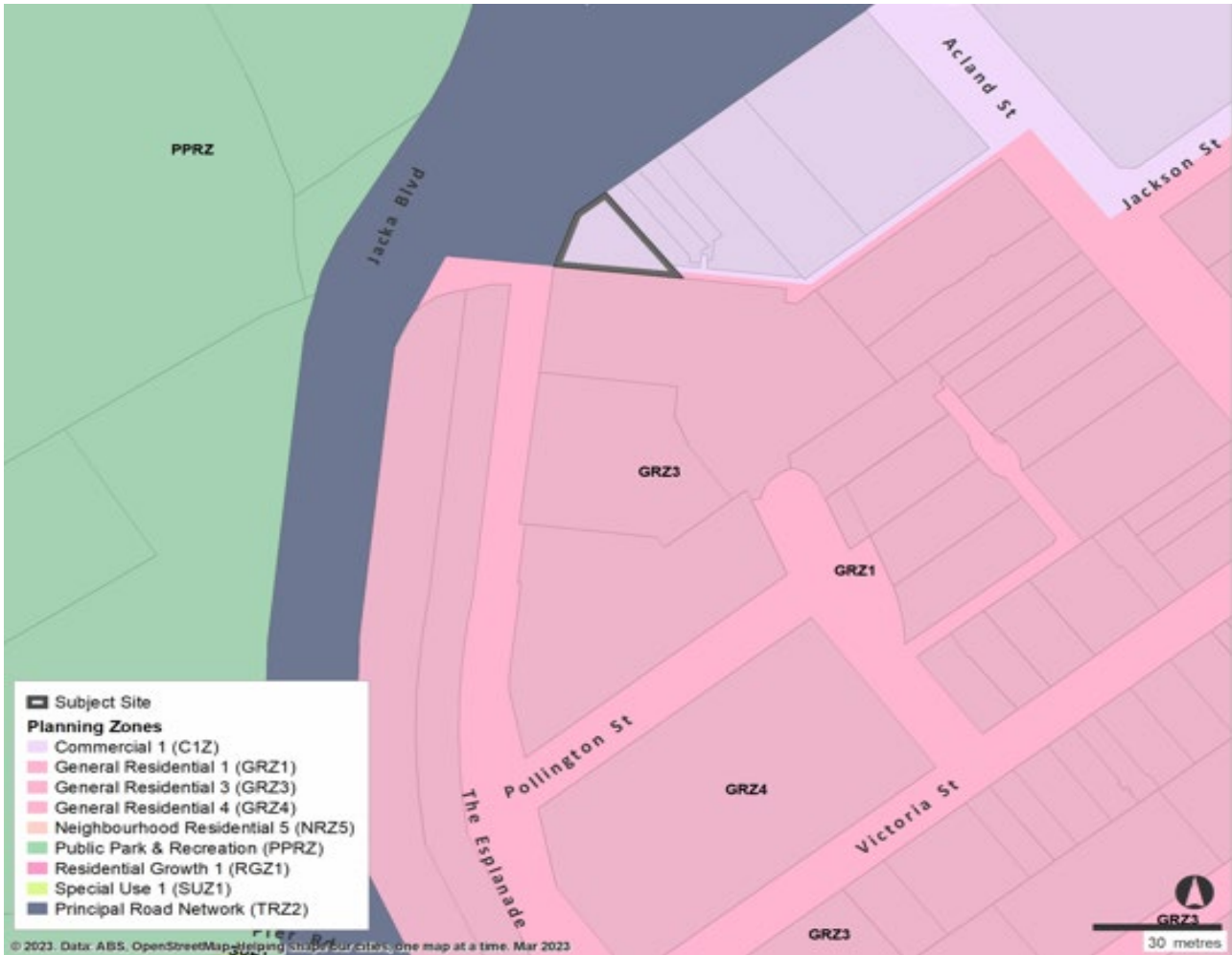
The site is located within the Commercial 1 Zone (C1Z)

The purpose of this zone is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To create vibrant mixed use commercial centres for retail, office, business, entertainment, and community uses.*
- *To provide for residential uses at densities complementary to the role and scale of the commercial centre.*

Pursuant to Clause 34.01-9 sign requirements are at Clause 52.05. This zone is in Category 1.

Figure 10 Zoning Map



Source: Urbis

4.3. OVERLAYS

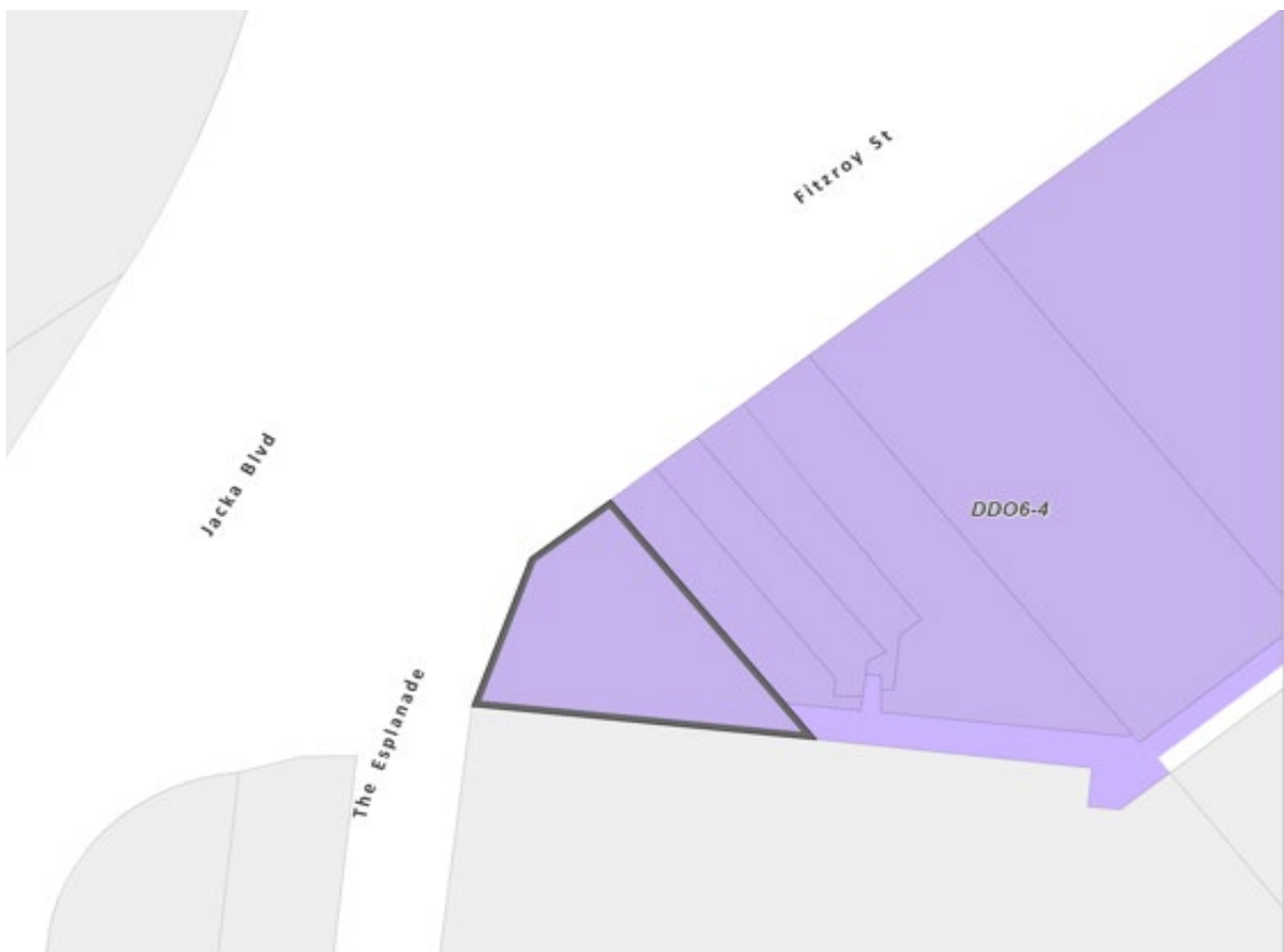
4.3.1. Design and Development Overlay – Schedule 6-4

The design objectives of the Design and Development Overlay – Schedule 6-4 (DDO6-4) are:

- To protect sunlight access to public places and open space areas, in particular the foreshore and significant streets including Fitzroy Street, Acland Street, the Esplanade, Beaconsfield Parade and Marine Parade.
- To protect and enhance the visual amenity and environment of the St Kilda foreshore as an important natural, recreational and tourism asset of metropolitan Melbourne by ensuring development complements the foreshore and hinterland.
- To encourage retention of the streetscape elements and features that enhance the appearance of the identity and image of the St Kilda foreshore and adjacent areas as an attractive seaside residential, entertainment and leisure area.
- To ensure the built form and building siting respects the dominant street patterns.
- To encourage high quality, well-designed new buildings, works, renovations and additions that are compatible with the existing diverse architectural and streetscape character of St Kilda and reinforce its distinctive built form.
- To create articulated, attractive, and detailed facades on all visible elevations, including exposed boundary walls.

- To ensure that the facade design of new development is compatible with, and respects the character of, neighbouring buildings within the same streetscape.
- To create active commercial and retail street frontages, by increased floor to floor heights at ground floor level.
- To ensure that active frontages are achieved where relevant and are designed to provide shop entrances or display windows facing the street, and avoid blank walls, non-transparent detail and non-retail uses.
- To strengthen and enhance the pedestrian links between The Esplanade and Fitzroy Street and Acland Street, and to the St Kilda foreshore.
- To ensure that any new car parking areas are not visible from public spaces, are not provided by way of open parking lots, and are provided in basement structures where feasible.
- To encourage the design of new car parking spaces within buildings so that residential or commercial floor space is provided between the parking areas and public streets, so that the building does not appear as a parking station.
- To protect and enhance key views to and from the St Kilda foreshore.
- To ensure building height and form reflects the topography of the foreshore and surrounding area.
- To ensure that new development on sites containing or adjacent to a heritage place is of a form and scale that is respectful of the heritage place.
- To encourage architectural design elements which enhance the character of the area and form and provide a safe and comfortable environment for outdoor eating and promenading.

Figure 11 Design and Development Overlay – Schedule 6-4



Source: Urbis

The subject site is within area DDO6-4 Fitzroy Street (south-east side between Acland Street and The Esplanade). The preferred character, objectives and requirements are detailed below:

Table 1 DDO6-4 Fitzroy Street (south-east side between Acland Street and The Esplanade).

Preferred Character:
<ul style="list-style-type: none"> ▪ An architectural form that respects the historic built environment and responds to the open prospect of the beach front setting and marks the beach end of Fitzroy Street. ▪ A low scale pedestrian-oriented shopping and leisure strip with traditional heritage buildings with a mix of uses above active frontages that face a footpath that has direct solar access.
Design Objectives:
<ul style="list-style-type: none"> ▪ To retain a built form that respects the scale and form of nearby heritage places. ▪ To ensure that the existing built form is retained and that an active urban edge is maintained extending to the street. ▪ To encourage weather protection of the footpath by inclusion of continuous awnings. ▪ To encourage built form outcomes that reinforce the topography of St Kilda Hill.
Requirements:
<ul style="list-style-type: none"> ▪ Buildings must not exceed 12.5 metres in height. ▪ Buildings must not exceed 10.5 metres in height for the first 10 metres from the Fitzroy Street frontage. ▪ Buildings should have a zero setback to the Fitzroy Street frontage. ▪ Buildings should have a verandah or street canopy over the Fitzroy Street footpath that complements existing weather protection structures and maintain solar access. ▪ Building facades should be articulated to respond to their highly visible location. ▪ Buildings should be designed to provide casual surveillance of the street from upper levels.

DDO6-4 does not include any provisions in respect to signs.

4.3.2. Heritage Overlay – HO5

The subject site is affected by the Heritage Overlay (HO5). HO5 refers to St Kilda Hill and describes the area generally bound by Fitzroy St to the North, Barkly St to the east, Carlisle St to the south and Port Phillip Bay to the west. The heritage place is non-contributory.

Figure 12 Heritage Overlay – Schedule 5



Source: Urbis

4.4. PLANNING POLICY FRAMEWORK

The City of Port Phillip Planning Scheme contains the following State and Local policy clauses which are relevant to the display of signage.

- Clause 21.01 – Vision and Approach, seeks continue Port Phillip’s economic vitality, sustainability, innovation and cultural identity. It seeks to strengthen the capital city function of the St Kilda Foreshore Precinct.
- Clause 21.05-2 – Urban Structure and Character seeks to ensure protect the municipality’s distinctive physical character and retain and enhance key landmarks.
- Clause 21.05-3 Urban Design and the Public Realm, seeks to ensure that development makes a positive contribution to the overall character of the area. It also seeks to implement the controls under Clause 22.08 Outdoor Advertising Policy and Clause 22.09 St Kilda Foreshore Area Policy.
- Clause 21.06 – Neighbourhoods details the key planning challenges, vision and strategies that relate to neighbourhood areas.

The subject site is within the St Kilda Foreshore Area, with the following objectives:

- *Ensure an integrated approach to the revitalisation of the St Kilda Foreshore area in relation to activity mix, built form and improvements to the public realm.*
- *Support and consolidate the area’s historically significant role as a cultural and recreational destination.*

- *Retain and reinforce the unique cultural heritage of the area though ensuring new uses and development compliment and enhance established iconic buildings, spaces and attractions.*
- *Reinforce the role of key activity destinations including St Kilda Pier, St Kilda Harbour, West Beach area and the Triangle site.*
- *Enhance the network of public spaces through emphasis on design quality, connectivity and the provision of diverse recreational opportunities and experiences.*
- *Ensure that the area’s important metropolitan tourism and recreational roles are balanced with the needs of local residents, the ecological health of the Bay and the environmental values of the Foreshore.*
- *Support cultural uses that complement and link the tourism and retail role of Acland Street and Fitzroy Streets and the St Kilda Triangle site.*
- *Encourage the potential of ferries and boats to provide visitor transportation to the St Kilda Foreshore area.*
- *Recognise the ongoing cultural significance of the Esplanade Hotel when assessing applications for change of use or development.*
- Clause 22.04 – Heritage Policy, seeks to encourage the retention and conservation of all significant and contributory buildings and to ensure that new development and redevelopment of significant and contributory places is respectfully and harmoniously integrated with the surrounding character. The local policy make no reference to signage.
- Clause 22.06 – Urban Design Policy for Non-Residential Development, seeks to ensure that all proposals achieve a high-quality design outcome. Specifically, it seeks to ensure that the design of the building facades make provision for the location of appropriate external lighting, mechanical equipment and signage.
- Clause 22.08 – Outdoor Advertising Policy, seeks to ensure the architectural quality and features of buildings are not obscured by signage. It seeks to protect visual amenity and ensure that the content, location, construction, size and number of outdoor advertising signs are not misleading or dangerous to vehicular or pedestrian traffic.

In the Port Phillip Foreshore Area, it is policy that:

- *Advertising signage is kept to a minimum in and around the Port Phillip foreshore.*
- *Signage should only be permitted where one of the following requirements are met:*
 - *It is a business sign associated with an existing business or activity on the foreshore that is located on the same site or building as the business or activity.*
 - *It promotes a cultural, recreational or leisure activity which has the consent of Council.*
- *Signage interfacing with, or visible from, the foreshore environs should be sited and designed so that it does not impact on the landscape, scenic and built form elements of the Port Phillip foreshore.*
- *Signage should be simple, contemporary, and modest.*
- *Promotion and major promotion signs in the Port Phillip foreshore, and where they will be visible from the Port Phillip foreshore, are discouraged.*

4.5. PARTICULAR PROVISIONS

4.5.1. Clause 52.05 – Signs

This clause seeks to ensure the appropriate display of advertising signage. The purpose of Clause 52.05 is as follows:

- *To regulate the development of land for signs and associated structures.*
- *To ensure signs are compatible with the amenity and visual appearance of an area, including the existing or desired future character.*

- *To ensure signs do not contribute to excessive visual clutter or visual disorder.*
- *To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance, or efficiency of a road.*

For a sign with a display area of 18 square metres or more:

- *A description of the existing character of the area including built form and landscapes.*
- *The location of any other signs over 18 square metres, or scrolling, electronic or animated signs within 200 metres of the site.*
- *Any existing identifiable advertising theme in the area.*
- *Photo montages or a streetscape perspective of the proposed sign.*
- *Level of illumination including:*
 - *Lux levels for any sign on or within 60 metres of a Transport Zone 2, Transport Zone 3, a residential zone or public land zone.*
 - *The dwell and change time for any non-static images.*
 - *The relationship to any significant or prominent views and vistas.*

Before deciding on an application, the responsible authority must consider, as appropriate the Decision Guidelines listed under Clause 52.05-8, as detailed below:

- The effect of the proposed major promotion sign on:
 - *Significant streetscapes, buildings, and skylines.*
 - *The visual appearance of a significant view corridor, view line, gateway location or landmark site identified in a framework plan or local policy.*
 - *Residential areas and heritage places.*
 - *Open space and waterways.*
- When determining the effect of a proposed major promotion sign, the following locational principles must be taken into account:
 - *Major promotion signs are encouraged in commercial and industrial locations in a manner that complements or enhances the character of the area.*
 - *Major promotion signs are discouraged along forest and tourist roads, scenic routes or landscaped sections of freeways.*
 - *Major promotion signs are discouraged within open space reserves or corridors and around waterways.*
 - *Major promotion signs are discouraged where they will form a dominant visual element from residential areas, within a heritage place or where they will obstruct significant view lines.*
 - *In areas with a strong built form character, major promotion signs are encouraged only where they are not a dominant element in the streetscape and except for transparent feature signs (such as neon signs), are discouraged from being erected on the roof of a building.*

Clause 52.05-9 states that a permit for a major promotion sign must include a condition that specifies an expiry date that is 15 years from the date the permit is issued. However, a permit for a major promotion sign may specify an expiry date other than 15 years, but the date must not be less than 10 years or more than 25 years from the date the permit is issued.

Before deciding to alter the specified expiry date of 15 years, the responsible authority must consider, as appropriate:

- The purpose of the sign.
- The existing or desired character of the area.

- The Municipal Planning Strategy and the Planning Policy Framework in terms of the extent to which the proposed sign is consistent with any relevant policy direction and the extent to which the area may be expected to change over time.
- The extent to which the signage is physically and visually integrated into the architecture of the building.

5. PLANNING ASSESSMENT

The key considerations when assessing the appropriateness of this Section 87A application request include:

- Is the existing sign still consistent with current planning policy, including any new planning policy since the VCAT case?
- Are there any road safety considerations having regard to changes in traffic conditions since the sign was amended to an electronic sign?
- Are there any potential offsite amenity impacts having regard to any new sensitive land uses since the sign amended to an electronic sign?

Each of the above questions will be discussed in further detail below.

5.1. CONSISTENCY WITH POLICY

In order to consider and determine the suitability of a 15-year time extension, an analysis of whether the proposal is still suitable against current policy. As such, whether there have been any significant changes to planning policy since the permit was approved in 2013 and what impact (if any) these changes have on the existing major electronic promotional sign.

5.1.1. State and Local Policy

Since 2013, there have been several administrative changes to the applicable State and local policy. However, it should be noted that there have been no new planning policies or changes to existing planning policy that would prohibit this proposal.

The local policy of most relevance is Clause 22.08 (Outdoor Advertising Policy) and there have been minimal changes to this clause. Any changes that have been made to this local policy are considered to be inconsequential to this proposal.

While Clause 22.08 still states that major promotion signs visible from the foreshore are discouraged, the local policy said the exact same thing when the VCAT approved the amended permit back on the 13 November 2013. In *APN Outdoor Pty Ltd v Port Phillip CC [2013]*, VCAT ruled:

“It is the electronic nature of the sign that is relevant. Clause 22.08-7 requires the consideration of the impact on new technologies on the amenity, form and character of the area. It is otherwise silent on the question of electronic signs.”

I find that the local policy does not directly discourage the use of new technologies, but rather requires consideration of the amenity, form and character of the area.”

Given no changes are proposed to the existing sign, we consider that the proposed amendments to the permit are still compliant with Clause 22.08.

5.1.2. Zone

Amendment VC100 (July 2013) introduced the new Commercial 1 Zone to replace the Business 1 Zone. With respect to signage, the wording of the relevant subclause did not change. The amendment was therefore inconsequential to this proposal.

Amendment VC148 (July 2018) minorly altered the wording of the Clause. With specific regard to signage controls, Clause 34.01-6 Advertising Signs was altered from:

“Advertising sign requirements are at Clause 52.05. This zone is in Category 1.”

To:

“Sign requirements are at Clause 52.05. This zone is in Category 1.”

As the Zone’s Category under Clause 52.05 did not change and altered wording was minor, the amendment does not have any meaningful impact upon the proposal.

5.1.3. Overlays

With regards to Overlays, the land has always been covered by a Design and Development Overlay – Schedule 14 (DDO14) and Heritage Overlay (HO5) since the permit was amended back on the 13 November 2013 and neither have been amended whereby the electronic major promotion sign would no longer be permissible.

Following a review of the current zoning and overlays that cover the subject site, it is determined that neither would prohibit or discourage an electronic major promotion sign on the site in its previously approved location.

5.1.4. Clause 52.05 – Signs

Clause 52.05 contained within the Particular Provisions has been amended 3 times since November 2013. Amendment VC148 amended the structure of this clause so that it was clearer and to enable the schedule to the clause to exempt applications for any type of signs from the notice and review requirements of the Act. Amendment VC199 (2022) altered the conditions under Clause 52.05-11 – Cause 52.05-14 Category 1-4 while Amendment VC205 (2022) altered the wording of the Application Requirements under Cause 52.05-6.

The current version of Clause 52.05 still contains the same decision guidelines and expiry date conditions for major promotion signs as what existed back on the 13 November 2013.

When looking to alter the specified expiry date, the following must be considered, as appropriate:

- *The purpose of the sign.*

The existing electronic major promotion sign will help continue to support and cement the role of the area and its ongoing vitality and viability. The purpose of this sign continues to be to provide a place for advertising for third parties and it is considered that the purpose of this sign has not changed since the permit was amended back on the 13 November 2013.

- *The existing or desired character of the area.*

The desired character and built form of the area is influenced by DDO6-4 and the desired character has not changed since the permit was amended. Given the sign faces towards the road (west), there has been no new sensitive land uses developed within close proximity of and visible to the sign. For over 40 years there has been a sign in this location.

- *The Municipal Planning Strategy and the Planning Policy Framework in terms of the extent to which the proposed sign is consistent with any relevant policy direction and the extent to which the area may be expected to change over time.*

As discussed earlier in this section of the report, since the permit was amended back on the 13 November 2013 the zoning of the land changed from Business 1 Zone to Commercial 1 Zone and the signage requirements under Clause 52.05 have remained relatively the same. The intent for the site and surrounding area has also remained unchanged and it is expected this to continue, especially the neighbouring land that has the greatest views to the sign (Catani Gardens).

- *The extent to which the signage is physically and visually integrated into the architecture of the building.*

The integration of the sign with the building remains consistent with what has been approved under the permit and presents an appropriate response to the area. The frame with cladding allows the sign to be setback from Fitzroy Street and to be positioned onsite such that the sign does not face any neighbouring properties.

There has been little change to the applicable policy and controls related to the display of major promotional signage between 2013 and 2023 and none of the changes would result in the existing sign no longer being permissible in this location.

5.2. ROAD SAFETY CONSIDERATIONS

A Transport Impact Assessment (TIA) has been prepared by Stantec. Of note, the images displayed on the sign are displayed for no less than 30 seconds before changing instantaneously and the sign does not display moving or flashing images or video content. Further, the sign is displayed above the road, and is not a physical hazard.

The TIA identified the following:

- Motorists driving south along Beaconsfield Parade see no more than one change of image on the sign unless they are stopped at a red traffic signal.
- The sign is not at a location where particular concentration is required above the typical level of concentration required by motorists when driving on the road network.
- The crash history in the vicinity of the sign indicates that six crashes resulting in injury occurred in the last five-year period from where the sign might be visible. However, only two of the crashes involved motorists for whom the sign would have been clearly visible. This suggests that the existing sign is not generating significant safety issues.
- The sign has appropriate regard for the requirements of Clause 52.05-8 of the Port Phillip Planning Scheme for assessing whether a sign is a safety hazard and the principles and recommendations outlined in the Austroads Research Report regarding roadside advertising.

Consequently, there is no reason from a road safety perspective why the expiry period on the existing permit should not be extended.

5.3. OFF-SITE AMENITY CONSIDERATIONS

Land surrounding the site is primarily commercial / retail in nature with built form largely limited to 2-storeys. Residential properties are located to the rear of the sign. This application does not seek to make any changes to the sign and therefore will not introduce any new potential offsite impacts.

With respect to the existing residential neighbours to the south of the sign, they currently do not have direct views to the electronic screen (the front of the sign). This was also highlighted by VCAT in *APN Outdoor Pty Ltd v Port Phillip CC [2013]* where VCAT ruled:

"I can see no impact because of the electronic display to the residential neighbours to the south. The sign is orientated away from these residences. There are also residential properties some distance away to the north (in Beaconsfield Parade) which would have some views to the sign from their frontages, but any visual impact resulting from the changes is in my view successfully mitigated by distance."

Since 2013, there have been no new developments nearby to the subject site, especially on the west side of Fitzroy Street which is where the electronic screen would be most visible from.

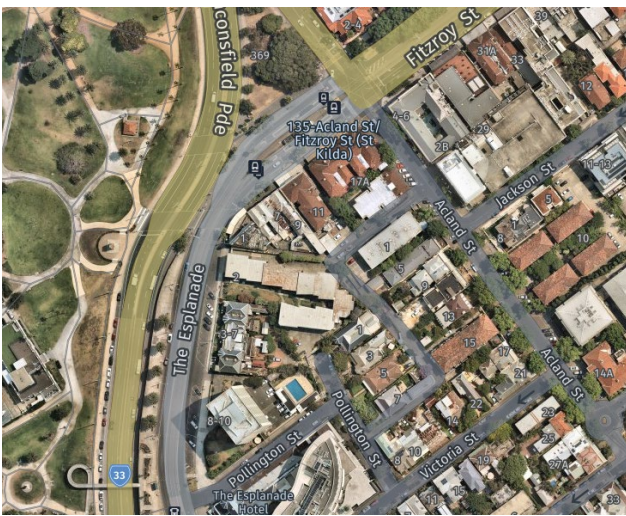
Figure 13 Historical Aerials



Picture 9 2012 Aerial Image



Picture 10 2015 Aerial Image



Picture 11 2019 Aerial Image



Picture 12 2023 Aerial Image

Source: NearMaps

While the existing electronic major promotion sign is visible from the foreshore directly opposite and from the southern section of the Catani Gardens, VCAT previously ruled in *APN Outdoor Pty Ltd v Port Phillip CC [2013]* that the sign would not result in a significant change in impact on the visual amenity of the area. It stated:

“While the sign is clearly viewable from the foreshore and garden areas, I do not consider that this will significantly affect the enjoyment of these spaces because the sign is viewed in its context as part of the urban backdrop and the activity of the abutting roads and major activity centre. I agree with the opinion of Mr. McGurn that those parts of the gardens from which the sign is most visible are those parts have a more urban context than areas further away from the site.”

A Lighting Impact Assessment has been prepared by Electro Light which assessed the existing electronic major promotion sign against the Department of Transport’s Policy and Guidelines for Illuminated Outdoor Advertising Signage and AS4282-2019 Control of the Otrusive Effects of Outdoor Lighting. The key findings of this report were:

- The existing electronic major promotion sign complies with the requirements of the Department of Transport’s Policy and Guidelines for Illuminated Outdoor Advertising Signage.

- The existing electronic major promotion sign has been found to comply with all relevant requirements of AS4282-2019 Control of the Obtrusive Effects of Outdoor Lighting.
- The existing electronic major promotion sign shall not result in unacceptable glare, nor shall it adversely impact the safety of pedestrians, residents or vehicular traffic. Additionally the signage shall not cause unacceptable amenity impacts to nearby residences.

The Lighting Impact Assessment also recommends that conditions 6, 7, 8 and 16 be amended/deleted so that the sign is assessed against and complies with, the Department of Transport's latest signage guidelines and requirements. We consider these proposed condition changes as logical and should be supported as they will have no impact on any third parties.

6. CONCLUSION

In summary it is considered that the proposed amendments to planning permit 678/2000A is appropriate for the following reasons:

- Amendments to Conditions 6, 7, 8 and 16 simply reflect the existing nature of the sign and will ensure that it is accessed against Department of Transport's latest signage guidelines and requirements.
- There are no traffic engineering reasons as to why the 15-year time extension should not be supported.
- There will be no new offsite impacts as a result of extending the permit expiry period.

Overall, the sign continues to help reinforce the St Kilda area as a major commercial, retail and tourist hub and is in accordance with the established signage character of the area and therefore a favourable consideration is appropriate in this instance.

DISCLAIMER

This report is dated March 2023 and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Urbis Pty Ltd (**Urbis**) opinion in this report. Urbis prepared this report on the instructions, and for the benefit only, of JCDecaux Australia Trading Pty Ltd (**Instructing Party**) for the purpose of Planning Report (**Purpose**) and not for any other purpose or use. To the extent permitted by applicable law, Urbis expressly disclaims all liability, whether direct or indirect, to the Instructing Party which relies or purports to rely on this report for any purpose other than the Purpose, and to any other person which relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

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All surveys, forecasts, projections and recommendations contained in or associated with this report are made in good faith and on the basis of information supplied to Urbis at the date of this report, and upon which Urbis relied. Achievement of the projections and budgets set out in this report will depend, among other things, on the actions of others over which Urbis has no control.

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This report has been prepared with due care and diligence by Urbis and the statements and opinions given by Urbis in this report are given in good faith and in the reasonable belief that they are correct and not misleading, subject to the limitations above.

APPENDIX A

**PROPOSED AMENDED PLANNING
PERMIT NO. 678/2000A**

Permit No.: 678/2000/A

Address Of The Land: 1 Fitzroy Street, St Kilda

Permit Allows: ~~To develop the land for the purpose of a replacement/reconstruction~~ Display of an electronic major promotion sign in accordance with the endorsed plans.

The Following Conditions Apply To This Permit:

1. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
2. The permit shall not be construed as permitting any animation of the sign hereby permitted to the satisfaction of the Responsible Authority.
3. The location and details of the structure shown on the endorsed plan must not be altered without the written consent of the Responsible Authority.
4. Sign lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.
5. Any electronic sign must incorporate:
 - a) Luminance sensors that measure ambient light at the sign and technology that enables the luminance of the sign to automatically adjust relative to the measured ambient light levels;
 - b) Technology that enables the luminance of the sign to be set to a maximum luminance level; and
 - c) A control system that will record no less frequently than every 5 minutes:
 - i. The sign's luminance (cd/m^2 or as a percentage of its maximum luminance); and
 - ii. The sign's luminance sensor reading of the ambient light.

6. ~~Deleted. Before the existing internally illuminated sign is decommissioned, an all-white vinyl billboard must be displayed and, with that billboard in place, an on-site measurement of the vertical illuminance (lux) of the internally illuminated sign must be taken and recorded by a qualified lighting consultant:~~
 - ~~i. at a distance of 90 metres standing directly in front of the sign (within Catani Gardens);~~
 - ~~ii. during night time hours while it is dark; and~~
 - ~~iii. while the sign is illuminated.~~

~~And, on the basis of that measurement the luminance (cd/m^2) at a distance of 90 metres directly in front of the internally illuminated sign must be calculated using the retina illuminance method and recorded by the qualified lighting consultant.~~

7. ~~The sign must not exceed a luminance of $193 \text{ cd}/\text{m}^2$ during night time operation. Once installed and commissioned, the electronic sign must be set to display an all-white screen and, while displaying that screen, set to operate so that during hours of darkness (that is after the sun has fully set and before the sun starts to rise) the sign's luminance levels 90 metres standing directly in front of the sign do not exceed the luminance 90 metres in front of the internally illuminated sign as recorded pursuant to condition 6.~~
8. ~~Once installed and commission, t~~The electronic sign must be set to operate so that ~~at~~

~~all times other than those referred to in condition 8 (that is, during daylight and twilight hours)~~ the luminance of the sign will automatically adjust relative to the measured ambient light levels.

9. Records of the sign's luminance levels must be retained for a period of 6 months after the recordings were made.
10. The cladding on the sign's structure of the sign must extend vertically to ensure there is no gap between the cladding and the sign to prevent inadvertent light shining between the cladding and the sign.
11. No advertisement or image may be displayed for less than 30 seconds.
12. The transition from one advertisement to another must be instantaneous.
13. The rear of the sign should be finished/clad and present a well-maintained appearance to the satisfaction of the responsible authority.
14. In relation to the images displayed on the sign:
 - a) Sequences of images giving the illusion of continuous movement must not be displayed.
 - b) Images capable of being mistaken for traffic signals or traffic control devices because they, for example, contain red, amber or green circles, octagons, crosses or triangles must not be displayed.
 - c) Images or text capable of being mistaken as an instruction to a road user must not be displayed.
 - d) Flashing background, flashing text or flashing images must not be displayed.
15. The sign must not dazzle or distract road users due
16. The ~~sign must at all times comply with the Lighting Criteria of the Department of Transport Requirements for Illuminated Outdoor Advertising Signage 6th May 2022~~ luminance of the advertising sign must be such that it does not give a veiling luminance to the driver, of greater than 0.25 cd/m^2 , throughout the driver's approach to the advertising sign.
17. In the event of an attack by a computer hacker or similar resulting in unauthorised display of visual images or any other display malfunction, the electronic sign is to shut down and cease any form of visual output until the malfunction is repaired.
18. The permit expires ~~25~~10 years from the 1 November 2013, at which time the sign and all supporting structures must be removed and the site made good to the satisfaction of the Responsible Authority.

