Section 87A Application to amend and remove conditions
4 Sheppard Street, Coburg North – Planning Permit MPS/2008/737/A

An amended Planning Permit (MPS/2008/737/A) for 4 Sheppard Street, Coburg North was issued on 24 July 2024 and this Planning permit was modified in accordance with the VCAT Order P309/2025 dated 5 September 2025 following agreement at a Compulsory Conference.

I continue to act for the owner of the site, Builtmore Investments Pty Ltd, on instructions from Mr. Peter Farah.

Two of the conditions on the planning permit (Conditions 1A and 15) have a requirement for items to be completed by 1 September 2026. These are:

> **1A**. **By 1 September 2026,** the following must be completed to the satisfaction of the
>
> Responsible Authority:
>
> - Installation of Alubatten cladding façade, as shown on Decision Plan TP01, advertised on 31 October 2024.
> - Landscaping in accordance with Condition 3.
> - Deleted.
> - Deleted.
> - Installation of passive solar shading devices to the first floor north facing habitable room windows of Dwellings 1-5
>
> **15**. **By 1 September 2026**, all landscaping works, including installation of automatic irrigation must be completed in accordance with the endorsed landscape plan to the satisfaction of the Responsible Authority.

None of these items were completed by 1 September 2026. My client intended (and intends) to paint the exterior of the building (which was constructed in 2011) prior to undertaking these exterior changes. The scaffolding that would be required for painting the three (3) storey building would have impacted on the frontage landscape strip and therefore that would have been the last condition addressed.

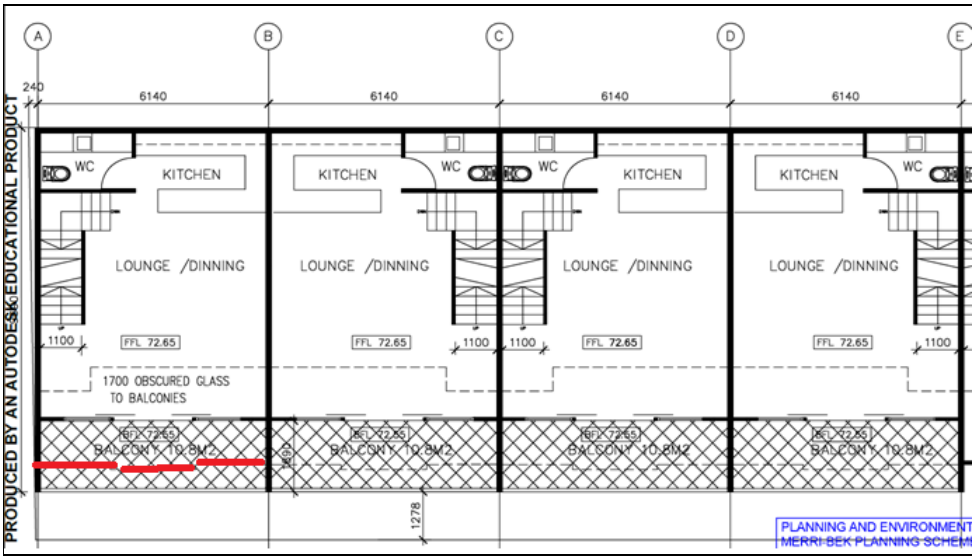
I am instructed that Mr. Farah has had illness and then had difficulty getting tradespeople and has difficulty sourcing *Alubattens*, which would have to come from overseas and then transported from Sydney (with a lengthy time period and large transport costs). Unfortunately, Mr. Farah left organizing these issues too late to meet the Planning Permit time requirement and **seeks a variation of conditions 1A and 15 for an extension of 6 months (to 1 March 2027) to undertake painting of the building and attending to the landscape condition**.

Condition 1A requires *"Installation of passive solar shading devices to the first floor north facing habitable room windows of Dwellings 1-5".* This was an added condition requested by Council as an unexpected and final request at the Compulsory Conference

and agreed to by Mr. Farah. Mr. Farah intended to install the retractable awnings shown on the endorsed plans pages 7 and 8 as he had used those awnings in other buildings. He was going to install the retractable awnings after the building was painted.

However, Mr, Farah did not realize at that time of agreeing to this condition that:

1. The first floor north-facing habitable windows were already shaded by the overhang of the second floor of the building. The balconies are 1.89m deep and the overhang of the upper floor varies from 1.16m to 1.296m.
2. The variations in the northern setbacks of the second floor would require three (3) retractable awnings for each Unit (see diagram below where overhang of upper floor is shown, with one dotted line highlighted in red).



Installing three (3) retractable awnings of 594mm and 730mm depth to entirely cover each balcony (which have a 1.7m high balustrade) is not only unnecessary for "passive shading" to the first floor north-facing windows/doors to the balcony, the multiple awnings would detract from, and clutter, the design of the building. My client made this last-minute agreement to Council's request without realizing that the windows/doors to the balcony were already shaded by the overhang of the second floor. **We therefore seek the removal of this condition**.

Condition 1A also requires *"Installation of Alubatten cladding façade, as shown on Decision Plan TP01, advertised on 31 October 2024."* The Alubatten cladding façade was included on the plans in response to Council's Urban Design Unit's recommendation in the preliminary stages of the amendment application. The reason given by Council's Urban Design Unit's recommendation was:

> *"Extensive rendering on Sheppard Street façade, lacks fine grain and creates commercial appearance."*

Council's Urban Design Unit also recommended *"Frosted glass balustrade is a poor outcome and recommend improving this material with timber batten to improve its appearance to be more residential-looking."* This recommendation was not taken-up by the amendment applicant nor was it required by Council. To replace the frosted glass balustrades with *"timber batten"* balustrades on a building constructed many years before was considered both onerous and unnecessary. However, my client considered at that time that the installation of the Alubattens was achievable and amended the plans accordingly.

My client intended to install the *Alubatten* cladding façade after the building was painted and the same scaffolding could be used. However, the installation of the *Alubattens* has raised two issues that had not been foreseen when responding to Council's Design Unit recommendation and amending the plans to show the *Alubattens*:

1. The installation of the *Alubattens* as a "cladding façade" as required by Condition 1A and as depicted on Sheet 4 of the Endorsed Plans (West Elevation) would prevent the west-facing windows of Bedroom 2 (second floor) and Lounge/Dining (first floor) of Unit 1 to be opened. This would adversely impact on cross-ventilation to these rooms and adversely impact on the internal amenity of the Unit.

   The *Alubattens* would have to be located **at least 450mm** from the western wall of the building to enable the windows to be fully opened. It is considered that having the *Alubattens* located at least 450mm from the building façade would not achieve the design outcome sought and would not be a "cladding façade" (as the Condition 1 requires) and would be detrimental to the front façade of the building.

2. Mr. Farah was advised when sourcing the *Alubattens* that these were out of stock in Melbourne. They would have to be imported from overseas (subject to a production run) and then transported from Sydney (with a lengthy time period and large transport costs).

We therefore seek the removal of this condition.

The only other issue that has been raised by Council is that the north-facing upper-level windows of Unit 1 have not been obscured to 1.7m above FFL as depicted on the endorsed West Elevation Plan. All other north-facing windows have been obscured in accordance with the endorsed plans. Mr. Farah considered that there was no overlooking from the Unit 1 windows to the SPOS or the habitable room windows of the dwelling to the north. However, I am instructed that Mr. Farah will immediately obscure the Unit 1 north-facing upper level windows rather than contest this issue.

Roz Wilson
1 October 2026