

## AGENDA - ORDINARY MEETING OF COUNCIL – 15 NOVEMBER 2017



8.13

**10 - 12 AND 14 - 16 BOUNDARY STREET, SOUTH MELBOURNE**

**LOCATION/ADDRESS:**

**10 - 12 AND 14 - 16 BOUNDARY STREET, SOUTH MELBOURNE**

**RESPONSIBLE MANAGER:**

**GEORGE BORG, MANAGER CITY DEVELOPMENT**

**AUTHOR:**

**ROSANNE MASSEY, SENIOR URBAN PLANNER**

**TRIM FILE NO.:**

**PF17/304343**

**ATTACHMENTS:**

- 1. Proposed Plans including Landscape Plans - pages 1 to 17**
- 2. Proposed Plans including Landscape Plans - pages 18 to 39**
- 3. Original Application Plans**
- 4. Council Report for Original Application**

**WARD:**

Gateway

**TRIGGER FOR DETERMINATION BY COUNCIL:**

Use and Development for accommodation in Fishermans Bend

**APPLICATION NO:**

293/2016/A

**APPLICANT:**

Beulah International Pty Ltd C-/ERM

**EXISTING USE:**

Warehouse/Industrial

**ABUTTING USES:**

Residential/Auto repair workshop

**ZONING:**

Capital City Zone (CCZ1)

**OVERLAYS:**

Design and Development Overlay – Schedule 30  
Parking Overlay – Schedule 1  
Special Building Overlay – Schedule 2  
Development Contributions Overlay – Schedule 2

**STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL**

Expired

### PROPOSAL

The application proposes to amend the existing planning permit by modifying the plans to reduce the number of dwellings from 30 to 27, layout and design changes to townhouses, and the deletion of the basement car park. Amendments to the permit preamble and permit conditions to reflect the amended design of the development.



**I. EXECUTIVE SUMMARY**

- 1.1 The site is located in the Montague Precinct of the Fishermans Bend Urban Renewal Area (FBURA) and is within a mandatory 4 storey maximum height area pursuant to the Design and Development Overlay (DDO30).
- 1.2 Council is the Responsible Authority for the applications in this part of the Montague Precinct, as designated in the map at Figure 2 of the Schedule to Clause 61.01 of the Port Phillip Planning Scheme.
- 1.3 The application is for a Section 72 Amendment to the Permit and Plans, including the reduction of dwellings from 30 to 27, deletion of the basement car park and replacement with at-grade car parking, reconfiguration and layout changes of Townhouses, and increase in car parking ratio from 0.9 to 1 (no change in the overall number of car spaces due to a reduction of the number of dwellings).
- 1.4 The Victorian planning system recognises that a permit holder's intentions may change over time. Rather than requiring a new permit application to be made every time a change is proposed. Section 72 of the Planning and Environment Act allows applicants to apply to the responsible authority for an amendment to a permit.
- 1.5 An application to amend a permit under Section 72, including any plans, drawings or other documents approved under a permit, follows the same process as an application for a permit. It has the same requirements for giving notice and referral. However, the assessment for an application to amend a permit focuses only on the amendment itself and avoids reopening all the issues associated with the approved use or development. It also avoids the proliferation over time of permits for different aspects of the use and development of a parcel of land.
- 1.6 The application would continue to provide an appropriate development outcome for the site. The amended architectural response includes a saw-tooth roof which plays on the industrial character and history of Fishermans Bend, and a mix of appropriate external materials.
- 1.7 No unreasonable off site amenity impacts would occur, subject to conditions clarifying views to the adjoining residential site at No. 8 Boundary Street are limited. Internal amenity would be appropriate with good sized living areas, increased private open space areas, and good ventilation and adequate daylight access.
- 1.8 The environmentally sustainable response could be improved and the current Sustainable Management Plan condition should be updated and amended to achieve a better outcome.
- 1.9 The car parking rate would be increased from 0.9/per dwelling to 1 per dwelling. This would meet the requirements of the Parking Overlay. Although the Fishermans Bend Strategic Framework encourages a rate of 0.5/per dwelling, the rate is considered acceptable due to the type of development proposed. Furthermore the overall number of car spaces would remain unchanged in comparison to the current approval.
- 1.10 Approval is recommended subject to conditions.



## 2. RELEVANT BACKGROUND

The following relevant applications have previously been considered for the subject site:

Application No.	Proposal	Decision	Date of Decision
293/2016	Demolition of the existing building, use of the land for accommodation and buildings and works to construct 30 townhouses with associated basement car park	Approved	26 October 2016

## 3. PROPOSAL

3.1 The application proposes;

- 3.1.1 A reduction in the number of dwellings from 30 to 27 dwellings.
- 3.1.2 Repositioning/siting of the townhouses from three rows of 10 running east/west to three rows of 5 to 6 running east/west and one row of 10 running north/south.
- 3.1.3 Deletion of the basement and replacement with at grade car parks to each townhouse.
- 3.1.4 Removal of a street tree to Thistlethwaite Street due to the repositioning of the crossover, and provision of a crossover to Boundary Street.
- 3.1.5 Increase in the car parking ratio from 0.9 to 1 (however no change or increase to the 27 car parking spaces approved, due to the proposed reduction of the number of dwellings).
- 3.1.6 Associated changes to the permit preamble and permit conditions.

3.2 The Permit preamble is proposed to be amended to delete the reference to the basement car park. The amended permit preamble is proposed to read as follows;

*Demolition of the existing building, use of the land for accommodation and buildings and works to construct townhouses generally in accordance with the endorsed plans and subject to the following conditions.*

3.3 The below table details Conditions proposed to be deleted or updated

Condition	Amendment or deletion proposed
All Conditions	All relevant conditions updated to refer to the amended plans for this application
Condition 1 - Amended Plans (a) A secure bicycle parking space for dwellings 16, 17 and 18; (b) A secure storage area of at least 6m <sup>3</sup> provided for dwellings 16, 17 and 18;	Condition 1 requirements proposed to be deleted.



<ul style="list-style-type: none"> <li>(c) Full details of materials at roof level to provide visual differentiation from the third floor walls;</li> <li>(d) Location of all mechanical plant to achieve minimal visibility from the street.</li> <li>(e) Convenient pedestrian access to the basement for dwellings 16, 17 and 18 to provide convenient access to the bin storage room;</li> <li>(f) External shading devices to the north-west facing glazing of all dwellings;</li> <li>(g) Notation on the basement plan that the 60,000 litre rainwater tank is connected to all toilets for flushing;</li> <li>(h) Clear glazing to the second and third floor stairwell windows on the south-east elevation of dwellings 26 — 30;</li> <li>(i) A south-east elevation for Block B;</li> <li>(j) A north-west elevation for Block C;</li> <li>(k) A north-east elevation;</li> <li>(l) A roof plan;</li> <li>(m) The development to include dual reticulation and a connection point to connect to a potential future precinct scale alternative water supply via a third pipe network to the satisfaction of the relevant water authority and the Responsible Authority (condition 12);</li> <li>(n) A Development Schedule including but not limited to GFA m2, No. car spaces / GFA m2, Commercial floor area / GFA m2 and NLA m2, General amenities, lobbies etc. m2, No. dwellings / m2 / No. bedrooms, No. bicycle spaces, No. stores / m3, No. motorcycle spaces and private and communal open space m2.</li> </ul>	
<p>Condition 2 – Submission of Landscape Plan</p>	<p>Deleted; provided with amendment application.</p>
<p>Condition 4 – Submission of Waste Management Plan</p>	<p>Deleted; provided with amendment application.</p>





<p>Condition 6 – Submission of Sustainable Management Plan</p>	<p>Deleted; provided with amendment application.</p>
<p>Condition 8 – Submission of Water Sensitive Urban Design (WSUD) Response</p>	<p>Deleted; provided within Sustainable Management Plan submitted with application</p>
<p>Condition 9 – Submission of Maintenance Manual for WSUD Initiatives</p>	<p>Deleted; provided within Sustainable Management Plan submitted with application</p>
<p>Condition 22 – No Damage to Existing Street Trees</p> <p>The proposed development and works must not cause any damage to any existing street tree. Root pruning of any adjacent street tree must be carried out to the satisfaction of the Responsible Authority prior to the construction of any crossover/works.</p> <p>All adjacent street trees will require a tree protection zone which complies with AS 4970-2009 at all times throughout the demolition and construction phase of the development. A tree protection fence is to be installed around any tree that is likely to be impacted by construction. The fence is to be constructed in a diamond or square position around each tree trunk from 4 panels of a minimum height 1.8m x minimum length 2.1m, interlocking by bolted clamps and concrete pads. No entry to this area is permitted without the consent of the Responsible Authority.</p>	<p>Amended</p> <p>The amendment seeks the removal of one existing street tree along Thistlethwaite Street. Condition No. 22 should be amended to reflect this.</p> <p>Suggested rewording:</p> <p>With the exception of the street tree to be removed along Thistlewaite Street, the proposed development and works must not cause any damage to any existing street tree. Root pruning of any adjacent street tree must be carried out to the satisfaction of the Responsible Authority prior to the construction of any crossover/works.</p> <p>All adjacent street trees will require a tree protection zone which complies with AS 4970-2009 at all times throughout the demolition and construction phase of the development. A tree protection fence is to be installed around any tree that is likely to be impacted by construction. The fence is to be constructed in a diamond or square position around each tree trunk from 4 panels of a minimum height 1.8m x minimum length 2.1m, interlocking by bolted clamps and concrete pads. No entry to this area is permitted without the consent of the Responsible Authority</p>





3.4 A summary of the key elements of the proposals and approval are listed within the below table. Townhouses are described as being within blocks for clarity, Block A includes TH 01 – TH06, Block B includes TH07 – TH12, Block C includes TH23 – TH27, Block D includes TH13 – TH22.

<b>Site area</b>	2096m <sup>2</sup> approx.																							
<b>No. dwellings</b>	<ul style="list-style-type: none"> <li>• 27 dwellings (all 3 Bedrooms)</li> <li>• Approved: 30 dwellings (21 x 4 BR &amp; 9 x 3BR)</li> </ul>																							
<b>Height</b>	<ul style="list-style-type: none"> <li>• Four (4) storeys;                             <ul style="list-style-type: none"> <li><b>Block A:</b> Top of third floor = 12.8m / Top of stairs to roof terrace = 15.3m approx.</li> <li><b>Block B:</b> Top of third floor = 12.5m approx. / Top of stairs to roof terrace = 15.07m approx.</li> <li><b>Block C:</b> Top of third floor = 13.04m approx. / Top of stairs to roof terrace = 15.9m approx.</li> <li><b>Block D:</b> Top of third floor = 13.97m / Top of stairs to roof terrace = 15.4m</li> </ul> </li> <li>• Approved: Four (4) storeys                             <ul style="list-style-type: none"> <li><b>Block A:</b> Top of third floor = 13.7m / Top of stairs to roof terrace = 15.5m</li> <li><b>Block B:</b> Top of third floor = 13.8m / Top of stairs to roof terrace = 15.5m</li> <li><b>Block C:</b> Top of third floor = 13.8m / Top of stairs to roof terrace = 15.5m</li> </ul> </li> </ul>																							
<b>Setbacks</b>	<ul style="list-style-type: none"> <li>• Setbacks to Thistlewaite and Boundary Streets would be similar to original approval, and range from 0m to 1.3m.</li> <li>• A row of townhouses is now proposed along the north-eastern boundary with minimum setbacks of 1.685m at Level 1 to 3 (ground floor located on the shared boundary).</li> </ul>																							
<b>Townhouse Separations</b>	<p>Note: where measurements are not dimensioned on plans, separations are measured and approximates noted.</p> <p>Proposed:</p> <table border="1"> <thead> <tr> <th>Block</th> <th>Ground Floor</th> <th>First Floor</th> <th>Second Floor</th> <th>Third Floor</th> <th>Roof Terrace</th> </tr> </thead> <tbody> <tr> <td><b>A</b></td> <td>6.47m to Block B. 7.049m to Block D.</td> <td>3.205m to Block B. 6.325 - 7.26m to Block D.</td> <td>Same as FF.</td> <td>Same as FF &amp; SF</td> <td>Same as FF, SF &amp; TF</td> </tr> <tr> <td><b>B</b></td> <td>6.47m to Block A.</td> <td>3.205m to Block A. 9.055m to Block C.</td> <td>Same as FF.</td> <td>Same as FF &amp; SF</td> <td>Same as FF, SF &amp; TF</td> </tr> </tbody> </table>						Block	Ground Floor	First Floor	Second Floor	Third Floor	Roof Terrace	<b>A</b>	6.47m to Block B. 7.049m to Block D.	3.205m to Block B. 6.325 - 7.26m to Block D.	Same as FF.	Same as FF & SF	Same as FF, SF & TF	<b>B</b>	6.47m to Block A.	3.205m to Block A. 9.055m to Block C.	Same as FF.	Same as FF & SF	Same as FF, SF & TF
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		7.049m to Block D. 9.72m to Block C	6.325m – 7.26m to Block D.			
<b>C</b>		9.72m to Block B. 7.049m to Block D.	9.055m to Block B. 5.585m – 6.585m to Block D	Same as FF.	Same as FF & SF	Same as FF, SF & TF
<b>D</b>		7.049m to Blocks A, B, and C.	6.325m – 7.26m to Block A and B. 5.585m – 6.585m to Block C.	Same as FF.	Same as FF & SF	Same as FF, SF & TF
<p>Approved:</p> <ul style="list-style-type: none"> <li>A and B would have the following separation distances: 3.55 Ground floor: 5.4m 3.56 First, second and third floor: 7.5m narrowing to 4m between dwellings 1 and 19 adjacent to Boundary Street. 3.57 Roof terraces: 7.5m narrowing to 4.4m between dwelling 1 and 19.</li> <li>Blocks B and C would have the following separation distances: Ground floor: 5.2m First, second and third floor: 7.5m, narrowing to 3.5m between dwellings 20 and 21 adjacent to Boundary Street. 3.61 Roof terraces: 7.5m, narrowing to 4.9m between dwellings 20 and 21.</li> </ul> <p><b>Note:</b> Sheets TP404 – TP408 of the attached plans (attachment 2), detail the approved townhouse separations and setbacks overlaid with the proposed amendments.</p>						
<b>Car parking</b>	<ul style="list-style-type: none"> <li>27 spaces / 1 per dwelling</li> <li>Approved: 27 car spaces / 0.9 per dwelling</li> </ul>					
<b>Bicycle parking</b>	<ul style="list-style-type: none"> <li>1 per dwelling &amp; 6 visitor</li> <li>Approved: 1 per dwelling &amp; 8 visitor as per Condition 6</li> </ul>					
<b>Stores</b>	<ul style="list-style-type: none"> <li>Within garages, and under staircase, cubic meters unknown.</li> <li>Previous app: 6m<sup>3</sup> per dwelling as per Condition 1</li> </ul>					



<b>Vehicle access</b>	<ul style="list-style-type: none"> <li>• One 3.5m wide crossover to Thistlethwaite St and one 3.5m wide crossover to Boundary St. One street tree to Thistlethwaite required to be removed.</li> <li>• Approved: one 5.8m wide crossover to Thistlethwaite St. No street trees to be removed.</li> </ul>
<b>Pedestrian path access</b>	<ul style="list-style-type: none"> <li>• Existing concrete footpaths along Thistlethwaite St and Boundary St</li> <li>• Approved: same as above</li> </ul>
<b>Gross floor area / Floor area ratio</b>	<ul style="list-style-type: none"> <li>• 5881.85m<sup>2</sup></li> <li>• Approved: 6470.01m<sup>2</sup></li> </ul>

- 3.5 The amendment application and approval both did not include commercial uses, communal areas, community facilities, public open space, a formal loading/unloading bay, or motorcycle spaces.

#### 4. SUBJECT SITE AND SURROUNDS

- 4.1 The site and surrounds have not changed significantly since the time of the Council Report for the original application, which were described as;
- 4.2 *The site is located on the south-eastern corner of the intersection of Boundary Street and Thistlethwaite Street, South Melbourne in the Montague Precinct of the FBURA.*
- 4.3 *The site is located within a four storey mandatory maximum height limit area (A1 in Figure 2 of Schedule 1 to the Capital City Zone).*
- 4.4 *The site has a 44.3m frontage to Boundary Street and a 49m frontage to Thistlethwaite Street, with a site area of 2096m<sup>2</sup>.*
- 4.5 *The site contains a double storey brick warehouse and office building. The building is constructed to all site boundaries except for a partial setback from the north-east side boundary containing a driveway from Thistlethwaite Street.*
- 4.6 *The north-eastern site boundary abuts 133 Thistlethwaite Street, which contains a single storey building with no boundary setbacks that is used for auto repairs.*
- 4.7 *The south-western site boundary abuts 8 Boundary Street and a bluestone laneway. 8 Boundary Street contains a single storey dwelling with a rear courtyard. The laneway connects to Boundary Street via a dog-leg and abuts the boundaries of 2, 4, 6 & 8 Boundary Street and 588 – 590, 592, 600, 602 and 604 City Road. There are a number of roller doors and fences along the laneway.*
- 4.8 *The surrounding land to the east of Boundary Street contains single and double storey warehouse type buildings with high site coverage. Surrounding land uses include warehouses,*







*auto repairs, gyms, a bakery, offices, showrooms and residential uses (namely 2, 4, 6 and 8 Boundary Street). Landscaping is generally confined to street trees.*

- 4.9 *Land to the west of Boundary Street predominantly contains residential development on smaller lots, typically between one and two storeys with some small landscaped front and rear setbacks. Directly opposite the subject site on Boundary Street is a development containing four storey townhouses with minimal street setbacks.*
- 4.10 *The subject site is located within close proximity of two lightrail stops served by two separate tram routes to the CBD. The Montague Street lightrail stop is 0.5km from the site. The 109 service stops here, connecting Port Melbourne to Box Hill via the CBD. The South Melbourne Market lightrail stop is located within 0.6km of the site. The 96 services stops here, connecting St Kilda to East Brunswick via the CBD.*
- 4.11 *The Bay Street Activity Centre is located within 0.25km of the site and the South Melbourne Market and the South Melbourne Central Activity Centre are located 0.65km away.*

**5. PERMIT TRIGGERS**

- 5.1 The following zone and overlay controls apply to the site, with planning permission required as described within the below table.
- 5.2 Since the issue of the permit the Design and Development Overlay – Schedule 30 (DDO30) has been incorporated into the Port Phillip Planning Scheme, further details will be provided at Section 6.4 of this report. The DDO30 is the only new permit trigger for the amendment application.

Zone or Overlay	Why is a permit required?
Clause 37.04 Capital City Zone Schedule 1 (CCZI)	<p>Pursuant to Section 2 of the Table of uses at Clause 37.04-1 of the CCZI and Clause 1 of the Schedule to the CCZI, a planning permit is required to use land for use not in Section 1 or 3 of the Schedule to the zone, including Accommodation if it does not meet the threshold distance from industrial and/or warehouse uses referred to in the Table to Clause 52.10. The land abuts warehouse and industrial uses and thus requires a permit under this clause.</p> <p>Pursuant to Clause 37.04-4 of the CCZI and Clause 3.0 of the Schedule to the CCZI, a permit is required to construct a building or construct or carry out works in the Capital City Zone.</p>



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	<p>Pursuant to Clause 37.04-4 of the CCZ1, and Clause 4.0 of Schedule 1 to the CCZ1, a permit and prior approval for the redevelopment of the site are required to demolish or remove a building or works.</p> <p>Pursuant to Clause 6.0 of Schedule 1 to the CCZ1:</p> <p>Before a sensitive use (residential use, child care centre, pre-school centre, primary school, education centre or informal outdoor recreation) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, the developer must obtain either;</p> <ul style="list-style-type: none"> <li>• A certificate of environmental audit issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or</li> <li>• A statement in accordance with Part IXD of the Environment Protection Act 1970 by an accredited auditor approved under that Act that the environmental conditions of the land are suitable for the sensitive use.</li> </ul> <p>A planning permit is required under this clause.</p>
<p>Clause 43.02 Design and Development Overlay Schedule 30 (DDO30)</p>	<p>Pursuant to Schedule 30 to the DDO a permit is required to construct a building or construct and carry out works.</p> <p>The site is located in Area A1 (4 storey height maximum) within Map 1 to Schedule 30 of the DDO30.</p>
<p>Clause 45.06 - Development Contributions Plan Overlay Schedule 2 (DCPO2)</p>	<p>Pursuant to Schedule 2 to the DCPO, a permit may be granted to subdivide land, construct a building or construct or carry out works before a precinct wide development contributions plan has been prepared to the satisfaction of the responsible authority if any of the following apply:</p> <ul style="list-style-type: none"> <li>• A site specific development contributions plan has been prepared by the developer to the satisfaction of the Minister for Planning;</li> <li>• An agreement under Section 173 of the Planning and Environment Act 1987 has been entered into with the responsible authority that makes provision for development contributions.</li> <li>• The permit contains a condition requiring an agreement under Section 173 of the Planning and Environment Act 1987 that makes provision for development contributions to be entered into before the commencement of development.</li> <li>• The permit allows for the construction of a building or construction or carrying out works for; <ul style="list-style-type: none"> <li>- Additions or alterations to a single dwelling or development ancillary to use of land for a single dwelling.</li> <li>- A single dwelling on a lot</li> <li>- An existing use of land provided the gross floor of the existing use is not increased by more than 1000 square metres.</li> <li>- A sign.</li> </ul> </li> <li>• The permit only allows the consolidation of land or boundary realignment.</li> </ul> <p>A permit is required under this clause.</p>
<p>Clause 44.05 Special Building Overlay Schedule 2 (SBO2)</p>	<p>A permit is required to construct a building or to construct or carry out works, pursuant to Clause 44.05-1.</p> <p>An application must be referred to the relevant floodplain management authority under Section 55 of the Act unless in the opinion of the responsible authority the proposal satisfies requirements or conditions previously agreed to in writing between the responsible authority and the floodplain management authority.</p> <p>Schedule 2 to the Special Building Overlay relates to the Port Phillip City Council local drain. There is no referral authority specified. An application will be considered by the City of Port Phillip as the authority responsible for local drains, pursuant to Clause 2.0 of Schedule 2.</p>



Clause 45.09 - Parking Overlay Schedule 1 (PO1)	Uses including Dwelling, Office, and Retail premises are listed in Schedule 1 to the Parking Overlay. The proposed parking provision would not exceed the measures set out in the Overlay (1 space per dwelling). A permit is not required under this clause.
Clause 52.06 Car Parking	Car parking should meet the design requirements of Clause 52.06-8. A permit may be granted to vary any dimension or requirement of Clause 52.06-8 (Design standards for car parking). A permit is required under this clause.
Clause 52.10 – Uses with Adverse Amenity Impacts	The threshold distances from industrial and/or warehouse uses referred to in the table to Clause 52.10 are required to be met in order for accommodation to be a Section 1 (Permit not required) use pursuant to Schedule 1 of the Capital City Zone. The site abuts warehouse and industrial uses therefore the Clause 52.10 threshold distances are not met and a permit is required for the proposed use for accommodation, pursuant to Schedule 1 of the Capital City Zone.
Clause 52.34 Bicycle Facilities	A new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities have been provided on the land pursuant to Clause 52.34-1. A planning permit is required to vary, reduce or waive any bicycle facilities requirement of Clause 52.34-3 and Clause 52.34-4. The proposal complies with the requirements of this Clause.

## **6. PLANNING SCHEME PROVISIONS**

### **6.1 State Planning Policy Frameworks (SPPF)**

The following State Planning Policies are relevant to this application:

Clause 11 Settlement, including

Clause 11.02 Urban Growth

Clause 11.04 Metropolitan Melbourne

Clause 15 Built Environment and Heritage, including

Clause 15.01-1 Urban Design

Clause 15.01-5 Cultural Identity and Neighbourhood Character

Clause 15.02-1 Energy and resource efficiency

Clause 18 Transport

### **6.2 Local Planning Policy Framework (LPPF)**

The Municipal Strategic Statement (MSS) contains a number of clauses that are relevant to these applications as follows:

Clause 21.03 Ecologically Sustainable Development, including

Clause 21.03-1 Environmentally Sustainable Land Use and Development

Clause 21.03-2 Sustainable Transport

Clause 21.04 Land Use, including

Clause 21.04-1 Housing and Accommodation

Clause 21.05 Built Form, including





- Clause 21.05-2 Urban Structure and Character
- Clause 21.05-3 Urban Design and the Public Realm
- Clause 21.05-4 Physical Infrastructure

Clause 21.06 Neighbourhoods, including

- Clause 21.06-8 Fishermans Bend Urban Renewal Area

The following local planning policies are relevant to this application:

Clause 22.12 Stormwater Management (Water Sensitive Urban Design)

Clause 22.13 Environmentally Sustainable Design

Clause 22.15 Employment and Dwelling Diversity within the Fishermans Bend Urban Renewal Area

### 6.3 Other relevant provisions

Clause 52.06 Car Parking

Clause 52.10 Uses with Adverse Amenity Potential

Clause 52.34 Bicycle Facilities

### 6.4 Relevant Planning Scheme Amendment/s

The Planning Scheme controls affecting the site were changed by Amendments GC50 and GC59 on 14 and 29 November 2016 respectively. The Amendments introduced:

- A new Local Planning Policy, Clause 22.15 Employment and Dwelling Diversity within the Fishermans Bend Urban Renewal Area, which specifies discretionary targets for dwelling diversity (a percentage of apartments with three or more bedrooms), affordable housing, and minimum floor areas for employment uses.
- A new Design and Development Overlay, Schedule DDO30, which specifies mandatory maximum street wall and tower heights, and mandatory minimum tower street, side and rear boundary setbacks and tower separation distances. The height and setback controls apply on an interim basis until 31 March 2018 to allow time for permanent controls to be developed and tested by the Fishermans Bend Taskforce.
- An update to the Fishermans Bend Strategic Framework Plan, July 2014 (Amended September 2016). The Framework is an incorporated document to the Port Phillip Planning Scheme.
- The draft Fishermans Bend Framework was released on 21 October 2017 for consultation. The draft framework identifies a four storey height maximum for the site.

## 7. REFERRALS



## 7.1 Internal referrals

The application was referred to the following areas of Council for comment, consideration of comments is provided at Section 11 of this report.

### ▪ Urban Design

Council's Urban Design Officer has recommended a number of changes. A summary of the recommended changes are provided below;

- *Provide a consistent street wall to Boundary Street to reinforce the corner and street edge*
- *Locate dwelling entrances and openings (windows and balconies) along Boundary Street.*
- *Consider equitable development and provide as part of their proposal an analysis of the impact of this proposal on the neighbouring properties – in particular 133 Thistlewaite Street.*
- *Consider reorienting most blocks north south to improve daylight and sunlight access.*
- *Consider the built form transition to the single storey terraces along the south east boundary and investigate a reduction in height.*
- *Provide 3d views of the proposed development in Boundary and Thistlewaite Streets to illustrate how the proposed façade integrates with the surrounding context, in particular the finer grain buildings along Boundary Street.*
- *Demonstrate how amenity impacts between the two blocks separated by 3m have been addressed.*
- *Consider removing the crossover to Boundary Street and utilising the proposed crossover on Thistlewaite Street and the existing laneway.*
- *Strengthen the legibility of all dwelling entrances by providing direct access off Boundary Street and improving the defensible space at the dwelling entries off the internal access way with planting and paving treatment.*
- *Demonstrate the impact of the proposed rain garden areas and consider increasing permeability in the ground surface treatment.*
- *Demonstrate how the planting on the proposed arbour trellis between the blocks will grow.*
- *It is questionable what the outlook of the properties located along the two side boundaries will be. The applicant is requested to consider providing additional planting to improve the outlook for townhouses located within the site.*
- *Consider replacing the dark glazing with more transparent glazing to soften the façade and increase activation in the façade.*
- *Improve the transparency and permeability of the fencing material to provide a more active interface to the street.*
- *Requested to relocate the main comms. and elec. cupboards to a less prominent location away from the corner of Boundary and Thistlewaite Streets.*



- Review the internal layout of TH 23-27 to improve circulation.

▪ Subdivision Officer

*If the roads were to become Council assets, an assessment against clause 56.06-8 (Standard 21) is required. However, it can be useful for looking at common property driveways.*

*The proposed widths of the driveways exceeds the width required for an access lane, which requires a 5.5m wide road width for a shared space (pedestrian and vehicular) with no on street parking. However, please note that an access lane is meant to service vehicles facing another street, not be sole access to the dwellings.*

*They do not meet the requirements for an access place, which is defined as “A minor street providing local residential access with shared traffic, pedestrian and recreation use, but with pedestrian priority” and a road width of 7.5m.*

▪ Waste Officer

*The amended WMP hasn't taken into account that bins cannot be stored on Thistlewaite St (regardless of Council or private collection) for consideration to current and future amenity as a walking thoroughfare to Bay St. Collection must occur within the development.*

▪ Open Space Planner

*Council's Greening Port Phillip – An Urban Forest Approach 2010 relates to Council's requirements for the removal of trees from private and public land. Existing trees are encouraged to be protected, however if trees are proposed to be removed the document identifies how Council choses replacement trees.*

▪ Heritage Advisor

*No heritage issues.*

▪ Traffic & Parking Management

*Parking layout, access arrangements, and pedestrian sight triangles are acceptable.*

*The FBURA target rate for the provision of residential parking is 0.5 spaces/dwelling.*

*It is proposed to provide 27 resident parking spaces, which equates to a rate of 1 space/dwelling. This level of parking for residents is considered high and not in line with the FBURA target rate. It is recommended reducing the level of off-street parking for residents.*

*Traffic generation assumptions of 3 inbound and 11 outbound movements during the AM peak and 10 inbound and 4 outbound movements during the PM peak.*

*The total traffic generation from the proposal is 14 movements for entry and exit volumes during peak hours. This is considered satisfactory.*

*Please note that 0.5 trips per dwelling has been used. No cumulative trip generation for other developments have been considered.*

*A Loading Zone is not required under Clause 52.07 of the Planning Scheme. However, all buildings should cater for the loading/unloading requirements including that of removalists relating to residential occupation and waste.*



*Given the proposed internal access ways I am satisfied that all potential loading associated with the proposal can be contained wholly within the site. However, can the applicant please provide additional information regarding the loading/unloading relating to residential occupation including a swept path assessment of a typical loading vehicle.*

*The FBURA target rate for the provision of residential bicycle parking is 1 space/dwelling. 27 residential bike spaces and 6 visitor bike spaces are proposed. This level of parking is in line with the FBURA target rate and considered acceptable.*

▪ **Sustainable Design**

Council's Sustainable Design Officer has recommended a number of changes to achieve a better environmentally sustainable outcome. The recommendations relate to the following;

- *BESS report to be published*
- *Improved dwelling ventilation and cross-ventilation*
- *Provision of retractable or fixed clotheslines*
- *Thermal performance levels*
- *Shading*
- *Commitment to installation of WELS rated fixtures and appliances within one star of best available.*
- *Note third pipe connection on drawings*
- *Rainwater tank locations and capacity required to be indicated on plans. Note required to ensure rainwater tanks are connected to toilets for flushing.*
- *Permeability*

The recommendations are appropriately addressed through recommended Conditions 1g 1m, 1s, 1y, 1aa, and Condition 6 to 12.

**7.2 External referrals**

The application was not required to be externally referred.

**8. PUBLIC NOTIFICATION/OBJECTIONS**

- 8.1 Notice of the application was not required to be given because an application to demolish or remove a building or works, construct a building or carry out works, or use land (other than a nightclub, tavern, brothel or adult sex bookshop) in the Capital City Zone, and an application affected by the Design and Development Overlay and Special Building Overlay, is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and review rights of Section 82(1) of the Act.



## 9. OFFICER'S ASSESSMENT

### 9.1 Fishermans Bend Strategic Framework Plan (FBSFP)

- 9.1.1 The FBSFP identifies the site as located within the Montague Precinct. Boundary Street is nominated as a green link, being a street with a linear park, however the delivery of this is not specified. It is considered that the reduced width crossover to Boundary Street would not compromise a future green link.
- 9.1.2 The FBSFP identifies the existing laneway to the rear of the adjoining single storey dwellings to the south of the site (No. 2, 4, 6 & 8 Boundary Street) as having potential for an extension. The amendment would not inhibit this.
- 9.1.3 The relevant design guidance sections of the FBSFP will be considered in below sections of this report.

### 9.2 Clause 22.15 Employment and Dwelling Diversity within the Fishermans Bend Urban Renewal Area (FBURA)

- 9.2.1 Since the issue of the permit Clause 22.15 has been incorporated into the Planning Scheme. The policy aims to ensure the Vision for Fishermans Bend is achieved, a full range of local services and facilities are provided, a mix of uses offering a mix of housing and employment opportunities are provided, and integrated high amenity mixed use neighbourhoods are comprehensively planned.
- 9.2.2 Dwelling diversity and affordable housing requirements of this Policy are not applicable to the development due to the scale (less than 3'000m<sup>2</sup> in area and less than 300 dwellings proposed).
- 9.2.3 The amendment includes street level home office areas which aligns with the policy requirement to *Encourage all development to provide opportunities for street level home occupation and non-residential use.*

### 9.3 Building Height

- 9.3.1 Since the issue of the permit the Design and Development Overlay – Schedule 30 (DDO30) has been incorporated into the Planning Scheme. The site is identified as being located within area A1, which is a four storey mandatory height maximum. At the time of the consideration of the original application the preferred heights within the FBSFP identified the site as four storeys. Some minor changes to building height are proposed, however no change to the number of storeys is proposed within the amendment application. The height and number of storeys complies with the DDO30.





## 9.4 Urban Design

9.4.1 As the application is for an amendment to an approved permit, as opposed to a fresh application, the specifics of the amendment should be considered rather than the original components of the development. It is considered that the amended proposal would provide an appropriate Urban Design outcome, subject to conditions, as discussed below.

9.4.2 Council's Urban Designer has provided a number of comments, concerns, and recommendations for the proposed amendment application. A response to the referral comments is provided below which identifies the suitability of the application in regards to Urban Design.

9.4.2.1 Street wall consideration at Boundary Street: the approved application does not include a consistent street wall the approved development includes small variations along Boundary Street similar to the proposed amendment.

9.4.2.2 Integration with Boundary Street: the proposal includes habitable room windows facing Boundary Street, the balconies have been replaced with rooftop terraces which improve amenity for occupants by providing a larger more usable space. The ground floor level facing Boundary Street is now occupied by car parking, entries, and home office spaces; this provides a similar level of activation as the approved application.

9.4.2.3 Height transition to adjoining developments:

The approved development provides four storey walls on the boundaries at the south-east boundary, and a recessed section to No. 8 Boundary Street. Whilst the recessed section has been deleted, from the amendment proposal, and replaced with a four storey wall on boundary opposite No. 8 Boundary Street, it can be reasonably anticipated that the site will also be redeveloped in the future due to the four storey height maximum and strategic intentions of the Urban Renewal Area.

The height transition to No. 133 Thistlethwaite Street would be acceptable. The approved development included a four storey wall on boundary opposite the site. The current application proposes the ground floor on the boundary, and upper levels setback from the boundary by 1.758m to 2.685m. No. 133 Thistlethwaite St is single storey, however is an industrial building and the height is more akin to a double storey development. The height transition would be acceptable, and again it can be reasonably assumed that the site would be redeveloped in the future.



- 9.4.2.4 Townhouse orientations: townhouses were all previously approved in an east/west configuration. Furthermore the orientation of the site provides a north-east/south-west configuration rather than a strict east/west.
- 9.4.2.5 Landscaping: Each townhouse is provided with an adequate sized garden bed around to the front of the pedestrian entry. The proposal has been submitted with a Landscape Plan prepared by a suitably qualified Landscape Architect. Standard landscaping conditions apply to the current permit which would be carried over to the amended permit.
- 9.4.2.6 Crossover to Boundary Street: two 3.5m wide crossovers would be appropriate for the site which is generous in area and has an interface to two streets. Furthermore the site currently contains two crossovers. The existing crossover to Boundary St is approximately 8.2m wide, and the existing crossover to Thistlethwaite Street is approximately 4.5m (total 12.7m). The existing crossovers would be reinstated and the proposal would result in an overall reduction in crossovers of 5.7m.
- 9.4.2.7 Dark Glazing: the dark glazing has been included as part of the overall design, and assists to provide a suitable sustainable development outcome.
- 9.4.2.8 Front Fencing: the previous application included front fencing comprising 1.8m high decorative screening (steel and perforated sheet), with a permeability level of 25% to Thistlethwaite Street, and fencing to Boundary Street ranging in height from 1.9m to 2.5m (including the planter). The proposed amendment includes fencing with a height of 2.01m to Thistlethwaite Street, and 1.8 to 2.01m to Boundary Street comprising rendered concrete and spaced battens. The proposed fence height is similar and would include a level of permeability, however it is considered that the fence height should not be increased to Thistlethwaite Street, and should continue to be 1.8m in height. (Refer to conditions 1o and 1p for fencing).
- 9.4.2.9 Services (main communications & main electricity): the previous application involved a substation (5m long) and services (6m long) along Boundary Street with a length of approximately 11m (with a small planter to the front of the services). The proposal involves the mains electricity and main communications located towards the corner of Boundary Street and Thistlethwaite Street for a length of approximately 5.8m. This is less than the total length of services approved at this interface, and similar to the length of the substation which did not have a planter to soften it. It is considered that the mains communications and main electricity would be similar to the services already approved at the Boundary Street Interface.



Furthermore the external material proposed to be used (black powdercoat metal) would tie in with the overall development.

## 9.5 Internal Amenity

### 9.5.1 Townhouse separation:

The level of separation between the rows of townhouses would be acceptable. While block A and B would be setback a minimum of 3.205m (at level 1 to 3), the remaining blocks of townhouses would be setback from one another by 6.47m to 9.72m. This would not be dissimilar to the approved development which has townhouses separated on average by 6.44m to 7.5m, and 4 townhouses facing Boundary Street separated by a minimum of 3.5m.

Whilst it is acknowledged that a larger separation distances improve amenity through increased privacy without the need for screening, and reduced noise impacts, the townhouses within 3.205m of each other would provide an acceptable level of amenity subject to a condition regarding the type of obscured glazing discussed within the below paragraph. (Refer to recommended condition 1q).

Level 1 of block A would include the kitchen windows setback 3.205m from the Level 1 kitchens windows of block B townhouses. The kitchens are connected to the open plan living and dining area, and the living rooms of each townhouse would have full height windows (clear glazing with spandrel sections). The kitchen windows would be obscured to protect amenity for the full height of the window. Full height obscured windows can result in a sense of enclosure, although it is noted that the main windows to the open plan area would be those to the living rooms which are not obscured. The obscured glazing proposed for these windows is not a typical frosted glass, and is proposed to be rippled glass, as detailed on TP304 within the images, which would provide a better internal amenity outcome while providing for an adequate level of privacy. A permit condition should be included to clarify the type of obscured glazing and to provide the specifications. (Refer to recommended condition 1q).

At level 2 and 3 of townhouses within Block A and Block B the layouts would ensure bedrooms are not orientated directly opposite each other. Windows for the rooms to the south of Block A and the north of Block B are proposed to be fully obscured. In accordance with the above comments the obscured glazing/screening should be limited to a height of 1.7m above the finished floor level.

- 9.5.2 Daylight: habitable room windows would receive adequate daylight, no borrowed light or snorkel windows are proposed. Light courts at Level 2 and 3 are proposed opposite No. 8 Boundary Street, which would have adequate dimensions.



- 9.5.3 Room dimensions: habitable rooms would have appropriate dimensions encouraging a good level of internal amenity.
- 9.5.4 Internal Layout of TH 23 - TH 27 (block C): Council's Urban Designer has raised concerns with the internal layout of TH23 – TH27. It is understood that this concern is due to the three bedrooms (TH4, TH5 and TH5) which are located on the southern boundary and rely on light courts for daylight access. While this is not an ideal situation, the light courts have dimensions large enough to provide adequate daylight (3.44m L x 1.594m W), and are located at Level 3 with only the rooftop terrace above. Furthermore the adjoining site is located within a four storey height maximum area of the DDO30.
- 9.5.5 Private Open Space: all townhouses would continue to have individual rooftop terraces. On average the roof terraces would be larger in area in comparison to the approved development improving the level of amenity of the POS areas. Rooftop terraces would have areas ranging from approximately 18m<sup>2</sup> to 22m<sup>2</sup>. The submitted development schedule should be updated to include rooftop terrace areas within the POS calculations.
- 9.5.6 Cross ventilation: Council's Sustainable Design Officer has advised that cross-ventilation options should be maximised. The plans detail operable sash windows for living room windows and a number of bedroom windows. Cross-ventilation could be improved through providing operable bathroom windows throughout the development; the applicant has agreed to a condition requiring this. (Refer recommended condition 1s).
- 9.5.7 Storage: the applicant has advised that additional space is provided within the garages to accommodate storage, however the car spaces are 6.2m x 3.2m and 6m x 3.2m in dimension and it is unclear where the storage area would be whilst accommodating a car space. A small storage area under the stairs would be provided for bins. A condition should be included on the permit to ensure a dedicated storage area is provided. (Refer recommended condition 1t).

## 9.6 External Amenity

- 9.6.1 Overlooking to adjoining and nearby sites would be limited through the provision of obscured glazing, window positioning and the layouts of the townhouses. However further information is required to ensure that TH22 does not result in any overlooking of No. 8 Boundary Street (single storey dwelling), otherwise privacy screening would be required. This could be addressed through a condition; (refer recommended condition 1u).
- 9.6.2 Overshadowing to adjoining properties would be reduced by a total of 101.12m<sup>2</sup> due to the revised positioning of the rows of townhouses. The below table taken from the applicants overshadowing diagrams detail the extent of approved shadows, proposed shadows, and the area of reduced overshadowing. The extent of shadows cast by the proposed amended



development would be an improvement in comparison to the approved arrangement.

SEP 22nd	OVERSHADOWING AREA OF APPROVED DESIGN	OVERSHADOWING AREA OF PROPOSED DESIGN	AREA OF REDUCED OVERSHADOWING
9am	0 m <sup>2</sup>	0 m <sup>2</sup>	0 m <sup>2</sup>
10am	0 m <sup>2</sup>	0 m <sup>2</sup>	0 m <sup>2</sup>
11am	61.35 m <sup>2</sup>	47.81 m <sup>2</sup>	13.54 m <sup>2</sup>
12am	120.72 m <sup>2</sup>	105.16 m <sup>2</sup>	15.56 m <sup>2</sup>
1pm	183.24 m <sup>2</sup>	178.65 m <sup>2</sup>	4.59 m <sup>2</sup>
2pm	334.41 m <sup>2</sup>	276.07 m <sup>2</sup>	58.34 m <sup>2</sup>
3pm	313.46 m <sup>2</sup>	304.37 m <sup>2</sup>	9.09 m <sup>2</sup>
TOTAL	1013.18 m <sup>2</sup>	912.06 m <sup>2</sup>	101.12 m <sup>2</sup>

9.6.3 Equitable development opportunities, particularly to No. 133 Thislethwaite Street, have been questioned by Council’s Urban Designer. An assessment of equitable development is provided below;

The approved development involves two townhouses located on the shared boundary associated with the first and last row of townhouses. The middle row was setback from the shared boundary by 4.258m and no windows were directly orientated towards No. 133 Thislethwaite Street. The amended proposal involves a row of north/south townhouses on the shared boundary opposite No. 133 Thislethwaite Street with windows facing the adjoining site.

The subject windows are setback from the eastern boundary by 1.685m to 2.685m from the first floor upwards.

At Level 1 the window services an open plan kitchen, dining and living area which has a main window facing west. The room depths are 10.932m, should the daylight access to these windows be reduced by a future development at No. 133 Thislethwaite Street it would not be detrimental due to the main window facing west, the setback would provide an adequate light court opposite a potential four storey boundary wall.

At Level 2 bathroom windows would face east, this does not raise concerns in regards to equitable development, as bathroom windows are non-habitable which do not require natural daylight access.

At Level 3 a bedroom would face east, these windows are shown as clear glazing on the eastern elevation, however to protect future development on the adjoining site it is considered that the windows should be screened to limit views to the site. Refer recommended condition 1v. Furthermore with the bedrooms at Level 3 there would be less impact on daylight access by any future development on the adjoining site which, under the current controls, only be able to develop up to four storeys.





The proposed amendment involves a three storey boundary wall opposite No. 8 Boundary Street with setbacks to provide light courts for the townhouse development. This arrangement is similar to the approved development, however provides a 6.585m break opposite the rear lane. The bedroom window treatments must be identified and further details ensuring no overlooking to No. 8 Boundary Street are required. Refer recommended condition 1w.

Townhouse TH22 located on the southern boundary includes windows on the boundary associated with the ground level staircase, Level 1 living room and staircase, Level 2 bedroom windows, and staircase, Level 3 bathroom, staircase, and bedroom window, and at the rooftop terrace level. The windows are located on a boundary which abuts a laneway. The approved development included windows on this boundary at Level 2 and Level 3 associated with a staircase. The elevations detail these windows as being spandrel and clear glazing in response to the current conditions. Although this may respond to the current conditions which include a laneway, car park and commercial building, the land is within an urban renewal area which encourages mixed use development, including residential uses. To ensure the development opportunities for the land to the south is not unreasonably limited these windows should be screened for privacy. (Refer recommended condition 1x).

## 9.7 Traffic/Parking

9.7.1 Car park and access design: the design of the car parking and access ways have been reviewed by Council's Traffic Engineer who has advised that they meet requirements.

9.7.2 Parking provision: the Parking Overlay Schedule 1 (PO1) prescribes that maximum of 1 car space should be allocated per dwelling, and the FBURA target rate for the provision of residential parking is 0.5 spaces/dwelling (refer to Objective 6.4 of FBSFP). It is proposed to provide 27 resident parking spaces, which equates to a rate of 1 space per dwelling. This level of parking responds to the PO1, however is higher than the rate listed within the FBSFP. The approved development had a rate of 0.9 spaces per dwelling due to the three townhouses without a space.

The parking rate within the FBSFP is more suited to a tower development which comprises a high number of dwellings, including dwellings with lower numbers of bedrooms. The overall number of car parks on the site would not be increased, and the rate per dwelling would be increased slightly from 0.9 to 1 per dwelling. It is considered that the minor increase in the parking provision could be justified through the relatively low density and style of the development proposed.

9.7.3 Traffic generation would be acceptable, as noted by Council's Traffic Engineer. Furthermore the traffic generation would be the same as the approved development.



9.8 **Loading/Waste Management**

- 9.8.1 A Loading Zone is not required under Clause 52.07 of the Planning Scheme. However, all buildings should cater for the loading/unloading requirements including that of removalists relating to residential occupation and waste (refer to Standard 3 of Objective 6.1).
- 9.8.2 Council's Traffic Engineer has advised that, in light of the internal access way design and dimensions, all potential loading associated with the proposal could be contained wholly within the site. In addition the applicant has now provided swept path diagrams which detail that a loading vehicle can access the site.
- 9.8.3 Council's Waste Management Officer has advised that the Waste Management Plan (WMP) submitted has not taken into account that the bins cannot be stored on Thistlethwaite Street. The WMP should be updated if a permit is to issue. (Refer recommended condition 1z and Condition 4).

9.9 **Bike Parking**

- 9.9.1 The FBURA target rate for the provision of residential bicycle parking is 1 space/dwelling (refer to Standard 1 of Objective 6.2). A total of twenty-seven residential bike spaces and 6 visitor bike spaces are proposed. This level of parking is in line with the FBURA target rate and considered acceptable.

9.10 **Sustainable Design**

- 9.10.1 Sustainable Design: Council's Sustainable Design Officer has recommended a number of changes to achieve a better environmentally sustainable outcome. These items/areas are noted with the internal referral comment section of this report. An amended SMP should be required by condition if a permit is issued. (Refer to recommended conditions 1g, 1m, 1aa, and Condition 6).

9.11 **Changes to the Permit**

- 9.11.1 Preamble: the permit preamble would need to be amended to delete the references to the basement level, no concerns are raised with this and the amended permit preamble would read as follows '*Demolition of the existing building, use of the land for accommodation and buildings and works to construct townhouses generally in accordance with the endorsed plans and subject to the following conditions*'.
- 9.11.2 Deleted conditions:
- 9.11.2.1 The applicant proposed to delete all of Condition 1 which requires amended plans as they consider that all of the requirements have been met by the section 72 amended plans. This is the case for the majority of the Condition 1 requirements, with the exception of Condition 1g, and Condition 1m.



- 9.11.2.2 Condition 1g, requiring the location and connections for the water tank, is required as this information has not been provided. Furthermore the location of the dual reticulation point, for the future third pipe network required by condition 1m is required, as this information has not been clearly provided on the plans.
- 9.11.2.3 The existing condition 1f requires the provision of external shading devices to the north-west facing glazing of all dwellings. It is agreed that this condition can be deleted on the proviso that thermal comfort/energy efficiency are assessed in more detail within the SMP which may result in the provision of shading devices.
- 9.11.2.4 Condition 2 requiring the provision of a landscape plan is proposed to be deleted. The applicant has provided a landscape plan which would provide a suitable landscape contribution for the site. Council's Sustainable Design Officer and Urban Designer have questioned the level of permeability as discussed previously. The landscape plan should be amended to increase the level of permeability, therefore it is considered that rather than deleting the Condition it should be amended.
- 9.11.2.5 Condition 4 requiring the provision of a Waste Management Plan is proposed to be deleted as one has been submitted with the amendment application. Council's Waste Management Officer has noted that the WMP requires modifications for it to be suitable for approval. Therefore rather than deleting the condition, it is recommended that it be amended in accordance with the referral comments.
- 9.11.2.6 Condition 6 requiring the submission of a Sustainable Management Plan is proposed to be deleted, however Council's Sustainable Design Officer has advised there are a number of insufficiencies. It is recommended that the condition be amended in accordance with the referral response, and to include those requirements stipulated within the existing condition and not addressed within the submitted SMP.
- 9.11.2.7 Condition 8 and Condition 9 requiring the submission of a WSUD response and maintenance manual are proposed to be deleted. The submitted SMP details a WSUD response and maintenance manual, however the level of permeability should be increased which would alter the WSUD report/response. Therefore Condition 8 should be amended. Condition 9 could be deleted as it has been satisfied.
- 9.11.3 Amended conditions:
- 9.11.3.1 As discussed earlier, Condition 1 is recommended to be amended. The Condition should be amended to reference the plans assessed





within this report, conditions no longer required should be deleted (a to f & h to l), lg should be updated to reference the amended water tank capacity, lm should be maintained, and new requirements lm to lbb) included.

9.11.3.2 The application proposes to amend Condition 22 (No Damage to Existing Street Trees) to allow for the removal of the Thistlethwaite street tree. The amended wording is provided within the recommended conditions. This is considered acceptable provided it is replaced with a semi-mature street tree, therefore the landscape condition should be amended to include this requirement. Furthermore a standalone condition should be included requiring the payment of the amenity value, removal, and replacement is the responsibility of the applicant. (Refer recommended condition 36).

9.11.3.3 Condition 31 of the permit currently prescribes a maximum number of dwellings for the site (30 dwellings), this should be amended to reflect the amended proposal which comprises 27 dwellings.

9.11.4 New conditions proposed by Council Planning Officer:

9.11.4.1 A new condition is recommended (Refer condition 35), wording would be as follows;

*Before the development starts, the amenity value and removal and replacement cost of the street tree must be paid by the applicant/owner to the satisfaction of the Responsible Authority. Removal and replacement, including 24 month maintenance of the street tree, may only be undertaken by the Responsible Authority.*

## 10. COVENANTS

The applicant has completed a restrictive covenant declaration form declaring that there is no restrictive covenant on the titles for the subject site known as Units 1 and 2 on Strata Plan 022237R [Parent Title Volume 09763 Folio 725].

## 11. OFFICER DIRECT OR INDIRECT INTEREST

11.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.

## 12. OPTIONS

- 12.1 Approve as recommended
- 12.2 Approve with changed or additional conditions
- 12.3 Refuse - on key issues



### 13. CONCLUSION

- 13.1 Having regard to the above assessment the proposed amendments would be suitable for support subject to the below recommended set of conditions. The amended townhouse development would continue to provide an appropriate response to Planning Policy, including the Design and Development Overlay (Schedule 30) which was introduced into the planning scheme following the original approval.
- 13.2 Townhouses would provide a good level of internal amenity and would not unreasonably impact the amenity of surrounding properties, or reduce development opportunities, subject to conditions.
- 13.3 The parking provision would be acceptable in light of the minor increase to the rate from 0.9 spaces per dwelling to 1 space per dwelling, compliance with the POI requirements, and due to the type of development.
- 13.4 The amended design would provide an appropriate architectural contribution to the semi-industrial area. This would be achieved through the saw-tooth roofline and combination of materials which pay respect to the industrial elements of the surrounding land within Fishermans Bend.
- 13.5 The urban design response has been considered in detail at Section 12.4 of this report and it is concluded that the response would be adequate, subject to a condition regarding the front fencing permeability and height.
- 13.6 In summary the proposed amendment would provide an appropriate built form outcome in terms of the surrounds, in regards to the strategic intentions of the FBURA, and would provide townhouses with appropriate internal amenity and limited external amenity impacts.

### 14. RECOMMENDATION - Approve

- 14.1 That the Responsible Authority issue an Amended Planning Permit for 'Demolition of the existing building, use of the land for accommodation and buildings and works to construct townhouses generally in accordance with the endorsed plans and subject to the following conditions, at 10 – 12 and 14 – 16 Boundary Street, South Melbourne.
- 14.2 That the decision be issued as follows:
  - I **Amended Plans Required**

Before the development and/or use 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 and three copies must be provided. The plans must be generally in accordance with the plans submitted on 22/08/2017, prepared by DKO Architecture, but modified to show:

    - a) Deleted.
    - b) Deleted.
    - c) Deleted.



- d) Deleted.
- e) Deleted.
- f) Deleted.
- g) Notation on the basement plan that the 46,000 litre rainwater tank is connected to all toilets for flushing, and location of the water tank identified.
- h) Deleted.
- i) Deleted.
- j) Deleted.
- k) Deleted.
- l) Deleted.
- m) The development to include dual reticulation and a connection point to connect to a potential future precinct scale alternative water supply via a third pipe network to the satisfaction of the relevant water authority and the Responsible Authority (condition 12).
- n) Deleted.
- o) The fence facing Thistlethwaite Street reduced to a maximum height of 1.8m.
- p) Details (percentage) of the fence to Thistlethwaite Street and Boundary Street permeability, and details of the material utilised for the permeable section of fencing.
- q) Clearly detail specifications of the type of obscured glazing to be used. Obscured habitable room windows within Townhouses 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, and 12, must use obscured glazing in accordance with 'obscure glazing' images on Drawing No. TP304, not frosted glass.
- r) Correct POS allocations to each townhouse within the Development Schedule.
- s) Operable bathroom windows.
- t) A total of 6 cubic meters of storage for each townhouse.
- u) Confirmation that the south west facing L1 living room windows, L2 bedroom 2 window, L3 master bedroom window, and roof terrace of TH22 do not overlook the rear SPOS of No. 8 Boundary Street, or privacy screening to windows which would overlook the SPOS, with a minimum height of 1.7m from the finished floor level of the room, with a maximum permeability level of 25%.
- v) Level 3 east facing bedroom windows to townhouses 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 to be screened to a minimum height of 1.7m from the finished floor level, with a maximum permeability level of 25%.
- w) Confirmation that the L2 & L3 bedroom windows facing light courts of townhouses 23, 24, 25, 26, and 27 do not overlook the rear SPOS or habitable room windows of No. 8 Boundary Street, or privacy screening to windows which would overlook, with a minimum height of 1.7m from the finished floor level of the room, with a maximum permeability level of 25%.
- x) South facing habitable room windows on the boundary (within 170mm), at all levels, to townhouse 22 screened to a minimum height of 1.7m from the finished floor level of the room.
- y) Provision of clotheslines for all townhouses.
- z) Any changes associated with the amended Waste Management Plan (WMP) required by Condition 4 of this permit.



- aa) Any changes associated with the amended Sustainable Management Plan (SMP) required by Condition 6 of this permit.
- bb) Any changes associated with the amended Landscape Plan required by Condition 2 of this permit.

## **2 Landscape Plan**

Before the development starts (other than demolition or works to remediate contaminated land), a detailed Landscape Plan must be submitted to, approved by and be to the satisfaction of the Responsible Authority. When the Landscape Plan is approved, it will become an endorsed plan forming part of this Permit. The Landscape Plan must be generally in accordance with the Landscape Plan submitted on 16/06/2017 and prepared by John Patrick Landscape Architects Pty Ltd, but amended to incorporate:

- a) An increase in permeable surfaces and associated reduction in impermeable surfaces.
- b) A semi-mature street tree to replace the existing tree to be removed from the Thistlethwaite Street nature strip.

All species selected must be to the satisfaction of the Responsible Authority.

## **3 Completion of Landscaping**

The landscaping as shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority before the occupation of the development and/or the commencement of the use or at such later date as is approved by the Responsible Authority in writing.

## **4 Waste Management Plan**

Before the development starts (other than demolition or works to remediate contaminated land) an updated Waste Management Plan (WMP) must be submitted to and be to the satisfaction of the Responsible Authority. The WMP must detail an adequate waste management arrangement must be provided for the premises, in accordance with Council's Local Law No. 1 (Community Amenity) 2013 to the satisfaction of the Responsible Authority. The WMP must be generally in accordance with the WMP submitted on 22/08/2017 but modified to;

- Detail on site collection, bins must not be stored on Thistlethwaite Street.

Once submitted and approved, the Waste Management Plan must be carried out to the satisfaction of the Responsible Authority.

## **5 Waste Management**

An adequate waste management arrangement must be provided for the premises, in accordance with Council's Community Amenity Local Law No: 3.

Without the further written consent of the Responsible Authority, waste management for the proposal must be in accordance with the endorsed Waste Management Plan to the satisfaction of the Responsible Authority.

## **6 Sustainable Management Plan**

Before the development starts (other than demolition or works to remediate contaminated land) an amended Sustainable Management Plan (SMP) that outlines proposed sustainable design initiatives must be submitted to and approved by the



Responsible Authority. The SMP must be generally in accordance with the SMP submitted on 16/06/2017, but modified to:

- c) Detail the BESS Assessment as published.
- d) Include appendix 7: 'Energy Modelling Report'.
- e) Further details regarding how the development will achieve a high level of thermal comfort.
- f) A commitment to a minimum average energy rating to an equivalent of 6.5 stars and 5.0 star minimum NatHERS rating.
- g) Glazing specification, including type, U-value and Solar Heat Gain Co-efficient (SHGC).
- h) Details regarding how energy would be reduced in peak demand through design measures to glazed surfaces, including details of external shading to north, west and east appropriate to the angle of the sun.
- i) Commitment to installation of WELS rated fixtures and appliances within one star of best available.
- j) Efficiency of appliances provided as part of the base build including heating and cooling systems, washing machines, dryers and dishwashers.
- k) Commitment to a lighting efficiency of 4w/m<sup>2</sup> in habitable rooms.
- l) Detail the location of the Third Pipe Supply.
- m) Detail location, capacity, and connections, for the rainwater tank.
- n) The number of visitor bicycle parking spaces increased to a minimum of 8.
- o) Replacing portions of impermeable paving with porous paving where appropriate, and associated changes to the STORM report.
- p) A maintenance manual for all water sensitive design initiatives.

Once submitted and approved, the Sustainable Management Plan must be carried out to the satisfaction of the Responsible Authority.

## **7 Implementation of Sustainable Design Initiatives**

Before the occupation of the development approved under this permit, a report from the author of the Sustainable Management Plan approved pursuant to this permit, or similarly qualified person or company, must be submitted to the satisfaction of the Responsible Authority. The report must confirm that all measures and recommendations specified in the Ecologically Sustainable Design report have been implemented and/or incorporated in accordance with the approved report to the satisfaction of the Responsible Authority.

## **8 Water Sensitive Urban Design Response**

Before the development starts (other than demolition or works to remediate contaminated land) a Water Sensitive Urban Design Report that outlines proposed water sensitive urban design initiatives must be submitted to, be to the satisfaction of and approved by the Responsible Authority. The report must be generally in accordance with the report submitted on 16/06/2017 but amended to:

- a) Detail an increase in porous paving and any subsequent changes to the STORM rating.

## **9 Maintenance Manual for Water Sensitive Urban Design Initiatives**

Before the development starts (other than demolition or works to remediate contaminated land) a Maintenance Manual for Water Sensitive Urban Design



Initiatives must be submitted to and approved by the Responsible Authority. The manual must set out future operational and maintenance arrangements for all WSUD (stormwater management) measures. The program must include, but is not limited to:

- inspection frequency
  - cleanout procedures
  - as installed design details/diagrams including a sketch of how the system operates
- The WSUD Maintenance Manual may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Building User's Guide or a Building Maintenance Guide.

#### **10 Incorporation of Water Sensitive Urban Design Initiatives**

Prior to the occupation of the building(s) allowed by this permit, the project must incorporate the water sensitive design initiatives listed in the endorsed Water Sensitive Urban Design Response.

#### **11 Incorporation of Water Sensitive Urban Design Initiatives**

The developer must ensure that:

- q) No water containing oil, foam, grease, scum or litter will be discharged to the stormwater drainage system from the site;
- r) All stored wastes are kept in designated areas or covered containers that prevent escape into the stormwater system;
- s) The amount of mud, dirt, sand, soil, clay or stones deposited by vehicles on the abutting roads is minimised when vehicles are leaving the site.
- t) No mud, dirt, sand, soil, clay or stones are washed into, or are allowed to enter the stormwater drainage system;
- u) The site is developed and managed to minimise the risks of stormwater pollution through the contamination of run-off by chemicals, sediments, animal wastes or gross pollutants in accordance with currently accepted best practice.

#### **12 Dual Water Reticulation**

Before the occupation of the development allowed by this permit, the development must include dual reticulation and a connection point to connect to a potential future precinct scale alternative water supply via a third pipe network to the satisfaction of the relevant water authority and to the satisfaction of the Responsible Authority.

#### **13 Contaminated Land**

Before the development starts (other than demolition or works to remediate contaminated land), the Responsible Authority must be provided with:

- (a) A certificate of Environmental Audit for the land issued in accordance with Section 53Y of the Environment Protection Act 1970; or
- (b) A Statement of Environmental Audit for the land issued under Section 53Z of the Environment Protection Act 1970 confirming that the environmental conditions of the land are suitable for the use and development allowed by this permit.



#### **14 Compliance with Statement of Environmental Audit**

Where a Statement of Environmental Audit is issued for the land, the buildings and works and the use(s) of the land that are the subject of this permit must comply with all directions and conditions contained within the statement.

Where a Statement of Environmental Audit is issued for the land, before the commencement of the use, and before the issue of a Statement of Compliance under the Subdivision Act 1988, and before the issue of an occupancy permit under the Building Act 1993, a letter prepared by an Environmental Auditor appointed under Section 53S of the Environment Protection Act 1970 must be submitted to the Responsible Authority to verify that the directions and conditions contained within the statement have been satisfied.

Where a Statement of Environmental Audit is issued for the land, and any condition of that statement requires any maintenance or monitoring of an on-going nature, the owner(s) must enter into an agreement with the Responsible Authority pursuant to Section 173 of the Planning & Environment Act 1987, which must be executed before the commencement of the permitted use and before the certification of the Plan of Subdivision under the Subdivision Act 1988. All such expenses related to the Section 173 Agreement including drafting, negotiating, lodging, registering, execution and ending of the Agreement, including those incurred by the Responsible Authority, must be met by the owner(s).

#### **15 Remediation Works Plan**

Before any remediation works are undertaken in association with the environmental audit, a 'remediation works plan' must be submitted to and approved by the Responsible Authority. The plan must detail all excavation works as well as any proposed structures such as retaining walls required to facilitate the remediation works. Only those works detailed in the approved remediation works plans are permitted to be carried out before the issue of a Certificate or Statement of Environmental Audit.

#### **16 Agreement Under Section 173 of the Planning and Environment Act 1987 Re: Developer Contribution**

Before the development starts (other than demolition or works to remediate contaminated land), the applicant must:

- (a) Enter into an agreement under Section 173 of the Planning and Environment Act 1987 with the Responsible Authority;
- (b) Register the agreement on the title(s) for the land in accordance with Section 181 of the Planning and Environment Act 1987; and
- (c) Provide the Responsible Authority with the dealing number confirming the registration of the title.

The agreement must be in a form to the satisfaction of the Responsible Authority, and the applicant must be responsible for the expense of the preparation and registration of the agreement, including the Responsible Authority's reasonable costs and expense (including legal expenses) incidental to the preparation, registration, enforcement and ending of the agreement.

The agreement must contain covenants to be registered on the Title of the property so as to run with the land, and must provide for the following:

- (a) The developer to pay a development contribution of:



- \$15,900 per dwelling
  - \$180 per sqm of gross commercial floor area;
  - \$150 per sqm of gross retail floor area;
- or other amount outlined within an approved development contribution plan to the satisfaction of the Responsible Authority.
- (b) Require that development contributions are to be indexed quarterly from 1 July 2015 using the Price Index of Output of the Construction Industries (Victoria) by the Australian Bureau of Statistics.
  - (c) Require registration of the Agreement on the titles to the affected lands as applicable.
  - (d) Include a schedule of the types of infrastructure to be delivered by the Development Agency using development contributions.
  - (e) Confirm that contributions will be payable to the Victorian Planning Authority.
  - (f) Confirm that the contributions will be used by the Development Agency as stipulated by the Victorian Planning Authority to deliver the schedule of types of infrastructure.
  - (g) Require that a bank guarantee to the value of 50% of the development contribution must be deposited with the Responsible Authority prior to the commencement of any works. The bank guarantee will be returned upon full payment of the development contribution.
  - (h) Confirm the procedure for reducing the contribution paid if the permanent development contributions plan for the area is less than the amount stipulated in the Section 173 Agreement.
  - (i) Require that payment of 10% of the contribution is at the time of issue of the building permit and 90% to be made prior to the issue of a Statement of Compliance in accordance with the Subdivision Act 1988.
  - (j) The agreement must make provision for its removal from the land following completion of the obligations contained in the agreement.

#### **17 Noise Attenuation for Dwellings**

Prior to the occupation of the buildings allowed by this permit, the applicant/owner must ensure that external noise intrusion into dwelling bedroom and living areas (upon completion; with furnishing within the spaces and with windows and doors closed) and measured in accordance with AS/NZS2107/2000 Acoustics - Recommended Design Sound levels and Reverberation Times for Building Interior shall comply with the following:

- v) Between 10pm and 7am in bedrooms areas must not exceed LAeq (9 hour) 40dB(A);
- w) Between 7am and 10pm in living rooms must not exceed LAeq (15 hour) 45dB(A).

#### **18 Incorporation of Noise Attenuation Measures**

Prior to the occupation of the building(s) allowed by this permit, the project must incorporate the noise attenuation measures listed in the endorsed Acoustic Report and shown on the endorsed plans to the satisfaction of the Responsible Authority.





**19 Privacy Screens Must be Installed**

Privacy screens as required in accordance with the endorsed plans must be installed prior to occupation of the building and thereafter maintained to the satisfaction of the Responsible Authority.

**20 Walls on or Facing the Boundary**

Before the occupation of the development allowed by this permit, all new or extended walls on or facing the boundary of adjoining properties and/or a laneway must be cleaned and finished to a uniform standard to the satisfaction of the Responsible Authority. Unpainted or unrendered masonry walls must have all excess mortar removed from the joints and face and all joints must be tooled or pointed also to the satisfaction of the Responsible Authority. Painted or rendered or bagged walls must be finished to a uniform standard to the satisfaction of the Responsible Authority.

**21 3D Model**

Before the development starts (other than demolition or works to remediate contaminated land in accordance with an Auditor's direction, or site preparation works), a 3D digital model of the overall development and its immediate surrounds, as appropriate, must be submitted to the Responsible Authority and the City of Port Phillip and be to the satisfaction of the Responsible Authority and the City of Port Phillip in conformity with the Department of Environment, Land, Water and Planning Advisory note 3D Digital Modelling.

In the event that substantial modifications are made to the overall development a revised 3D digital model must be submitted to and be to the satisfaction of the Responsible Authority and the City of Port Phillip.

The 3D model must be accompanied by a signed statement declaring that by submitting the model, the applicant / owner grants, and warrants they are authorised to grant, the State of Victoria and the City of Port Phillip free of charge a sub-licensable, irrevocable, non-exclusive worldwide licence to use the model for any planning related purpose, and that further the applicant / owner indemnifies the State of Victoria and the City of Port Phillip against any loss, damage, claim, action or expense which the State of Victoria and the City of Port Phillip (including their officers, employees and agents) suffer as a direct result of a breach of this warranty.

**22 No Damage to Existing Street Trees - Amended**

With the exception of the street tree to be removed along Thistlewaite Street, the proposed development and works must not cause any damage to any existing street tree. Root pruning of any adjacent street tree must be carried out to the satisfaction of the Responsible Authority prior to the construction of any crossover/works.

All adjacent street trees will require a tree protection zone which complies with AS 4970-2009 at all times throughout the demolition and construction phase of the development. A tree protection fence is to be installed around any tree that is likely to be impacted by construction. The fence is to be constructed in a diamond or square position around each tree trunk from 4 panels of a minimum height 1.8m x minimum length 2.1m, interlocking by bolted clamps and concrete pads. No entry to this area is permitted without the consent of the Responsible Authority.



**23 Vehicle Crossings**

Prior to the occupation of the building(s) allowed by this permit, vehicle crossings must be constructed in accordance with Council's current Vehicle Crossing Guidelines and standard drawings and all redundant crossings must be removed and the footpath, naturestrip, kerb and road reinstated as necessary at cost of the applicant/owner to the satisfaction of the responsible authority.

**24 Alteration/ Reinstatement of Council of Public Authority Assets**

Prior to the occupation of the building(s) allowed by this permit, the Applicant/ Owner shall do the following things to the satisfaction of the Responsible Authority:

- x) Pay the costs of all alterations/reinstatement of Council and Public Authority assets necessary and required by such Authorities for development.
- y) Obtain the prior written approval of the Council or other relevant Authority for such alterations/reinstatement.
- z) Comply with conditions (if any) required by the Council or other relevant Authorities in respect of reinstatement.

**25 Public Services**

Before the occupation of the development allowed by this permit, any modification to existing infrastructure and services within the road reservation (including, but not restricted to, electricity supply, telecommunications services, gas supply, water supply, sewerage services and stormwater drainage) necessary to provide the required access to the site, must be undertaken by the applicant/owner to the satisfaction of the relevant authority and the Responsible Authority. All costs associated with any such modifications must be borne by the applicant/owner.

**26 Services to be Underground**

All new services to the property including water, electricity, gas, sewerage, telephone and telecommunications (whether by means of a line or cable) must be installed underground and located in a position approved by the Responsible Authority. All costs associated with any such works must be borne by the applicant / owner.

**27 No Alterations**

The layout of the site and the size, levels, design and location of buildings and works, and external materials, finishes and colours shown on the endorsed plans must not be modified for any reason without the prior written consent of the Responsible Authority, unless the Port Phillip Planning Scheme exempts the need for a permit.

**28 Lighting Baffled**

All lighting of external areas must be suitably baffled so as not to cause nuisance or annoyance to nearby properties or roads.



**29 No Equipment and Services**

No equipment, services and exhausts other than those shown on the endorsed plan must be erected above the roof level of the building unless otherwise agreed to in writing by the Responsible Authority.

**30 No Change to External Finishes**

All external materials, finishes and colours as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

**31 Number of Dwellings**

Without the further written consent of the Responsible Authority, no more than 27 dwellings may be constructed on the land.

**32 Water Supply/ Recycled Water/ Sewerage Provision**

The construction of the development must comply with the provisions of any agreements between the owner and the relevant water authority relating to the supply of water, recycled water or the provision of sewerage as appropriate. All works in relation to the supply of water, recycled water or sewerage must be completed prior to the issue of a Statement of Compliance unless an alternative arrangement is set out in any agreement with the relevant water authority.

**33 Energy Supply Provision**

The construction of the development must comply with the provisions of any agreements between the owner and the relevant energy authority relating to the supply of energy as appropriate. All works in relation to the supply of energy must be completed prior to the issue of a Statement of Compliance unless an alternative arrangement is set out in any agreement with the relevant energy authority.

**34 Time for Starting and Completion**

This permit will expire if one of the following circumstances applies:

- aa) The development is not started within three years of the date of this permit.
- bb) The development is not completed within two years of the date of commencement of works.
- cc) The use is not commenced within two years of the completion of the development.

The Responsible Authority may extend the periods referred to if a request is made in writing:

- a) Before or within 6 months after the permit expiry date, where the use or development allowed by the permit has not yet started; and
- b) Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

**35 Street Tree Removal**

Before the development starts, the amenity value and removal and replacement cost of the street tree must be paid by the applicant/owner to the satisfaction of Responsible Authority. Removal and replacement, including 24 month maintenance of the street tree, may only be undertaken by the Responsible Authority.