

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

ADMINISTRATIVE DIVISION

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P270/2017
PERMIT APPLICATION NO. 665/2016

CATCHWORDS

Section 77 of the *Planning and Environment Act 1987*, Port Phillip Planning Scheme, Seven storey building, Character, Policy context, Clause 21.04, 21.05 and 21.06, Amenity impacts, Loading Bay.

APPLICANT	Van Der Linden Pty Ltd
RESPONSIBLE AUTHORITY	Port Phillip City Council
SUBJECT LAND	1 Brighton Road, St Kilda
WHERE HELD	Melbourne
BEFORE	Tracey Bilston-McGillen, Member
HEARING TYPE	Hearing
DATE OF HEARING	26 June 2017
DATE OF ORDER	17 July 2017
CITATION	Van Der Linden Pty Ltd v Port Phillip CC [2017] VCAT 1018

ORDER

- 1 Pursuant to section 74 of the *Victorian Civil and Administrative Tribunal Act 1998*, leave is given to the objector Robin Grow on behalf of the Art Deco & Modernism Society to withdraw the application, and the application is withdrawn accordingly.
- 2 Pursuant to section 127 and clause 64 of Schedule 1 of the *Victorian Civil & Administrative Tribunal Act 1998*, the permit application is amended by substituting for the permit application plans, the following plans filed with the Tribunal:
 - Prepared by: Terry Harper Architects
 - Drawing numbers: TP01 – TP11, TP13 – TP27
 - Dated: 18.5.2017, Rev B
- 3 In application P270/2017 the decision of the responsible authority is set aside.
- 4 In planning permit application 665/2016 a permit is granted and directed to be issued for the land at 1 Brighton Road, St Kilda in accordance with the

endorsed plans and the conditions set out in Appendix A. The permit allows:

- Construct a building or construct or carry out works under the C1Z
- To use the land for a dwelling under the C1Z
- Construct a building or construct or carry out works in the SBO2
- A reduction in the statutory parking provision for shops under clause 52.06; and
- A reduction in the standard loading bay requirements under clause 52.07.

Tracey Bilston-McGillen
Member

APPEARANCES

For applicant

Mr Phil Bisset, Solicitor, Minter Ellison
Lawyers.

For responsible authority

Ms Teresa Bisucci, Solicitor, Best Hooper
Lawyers.

INFORMATION

Description of proposal	<p>Construction of a seven storey building over two basement levels.</p> <p>A street wall height of 11.29 metres (Brighton Road) and 11.1 metres to Blessington Street.</p> <p>A maximum overall building height of 23.29 metres (plus plant equipment).</p> <p>A total of 37 dwellings including 18 one bedroom and 19 two bedroom dwellings.</p> <p>Two shop tenancies on the ground floor.</p> <p>A total of 50 car parking spaces within a two level basement including 37 allocated to residents, 7 for residential visitors and 6 for the two shop tenancies. 17 bicycle spaces are provided.</p> <p>The façade treatment includes tiles, rendered finish and glazing.</p>
Nature of proceeding	<p>Application under section 77 of the <i>Planning and Environment Act 1987</i> – to review the refusal to grant a permit.</p> <p>Council refused the proposed development on a number of grounds relating to excessive height and massing, unreasonable amenity impacts to the residential area to the west, insufficient setbacks, potential heritage significance of the building, issues with the loading bay and flooding impacts.</p> <p>Following submission of the amended plans, Council did not pursue matters relating to the heritage significance (the building has since been demolished), flooding matters or the loading bay. Council also noted that the plans addressed matters of amenity impacts to the residential area to the west such as overshadowing and overlooking.</p>
Planning scheme	Port Phillip Planning Scheme
Zone and overlays	Commercial 1 Zone [C1Z] Special Building Overlay [SBO2]

Permit requirements	<p>Clause 34.01-4 - Construct a building or construct or carry out works under the C1Z</p> <p>Clause 34.01-1 - To use the land for a dwelling under the C1Z</p> <p>Clause 44.05-1 - Construct a building or construct or carry out works in the SBO2</p> <p>Clause 52.06 - A reduction in the statutory parking provision for shops.</p> <p>Clause 52.07 - A reduction in the standard loading bay requirements.</p>
Relevant scheme policies and provisions	Clauses 11, 15, 16, 21.02, 21.04, 21.06, 22.06, 22.12, 22.13 and 65.
Land description	<p>The review site is located on a corner with a frontage of 29.62 metres to Brighton Road and 30.54 metres to Blessington Street with an overall site area of approximately 911 square metres. The site also shares a boundary with a laneway, also referred to as Moroney Street.</p> <p>To the north on the opposite side of Blessington Street is a car wash with café.</p> <p>To the south at 7 Brighton Street is a five storey mixed-use development.</p> <p>To the west is 79 Blessington Street containing a double storey residential development.</p> <p>To the east on the opposite side of Brighton Road is the St Kilda Town Hall and the Carlisle Street Activity Centre.</p> <p>Brighton Road is a major road with many lanes of traffic including a centre tram line.</p> <p>The review site has excellent access to services and facilities.</p>
Tribunal inspection	I inspected the site and surrounds.

REASONS¹

WHAT IS THIS PROCEEDING ABOUT?

- 1 There was agreement between the Parties that the review site is an excellent site for intensive redevelopment. The review site is located with access to all services and facilities including public transport and the Carlisle Street and Acland Street activity centres.
- 2 As noted, Council did not address issues of amenity impacts or matters of heritage or the loading bay.
- 3 Ms Bisucci put to me that the key issues include:
 - Whether the proposal has planning policy support?
 - Whether the proposed height, setbacks, massing and built form response is acceptable?
 - Whether the proposal produces an acceptable amenity outcome?
- 4 It became evident during the hearing that the key issue was a ‘public realm visual bulk case’. I have decided to set aside the decision of the Council and grant a planning permit subject to conditions. My reasons follow.

PLANNING POLICY

- 5 In terms of policy, there was no debate as to the support of the State Planning Policy Framework (SPPF) for redevelopment. Mr Bisset referred me to a decision *Chocolate Tower Pty v Glen Eira CC*.² Members Rundell and Chase made the following relevant observations of the SPPF that relates to this case:

[35] We think that *Plan Melbourne 2017-2050* referenced in clause 9 identifies activity centres as preferred locations for intensive development compatible with the role and character of the centre. This is supported by clauses 11.03, 11.06, and 16.01 that include the following policy directives that we think are relevant to this review:

- Include the aspirational target of accommodating 75 percent of future dwellings (more than one million new dwellings in Melbourne and 220,000 in the inner southeast suburbs) in established suburbs, particularly in and near activity centres.
- Build up activity centres as a focus for high quality development and living.

¹ The submissions and evidence of the parties, any supporting exhibits given at the hearing and the statements of grounds filed have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all of this material will be cited or referred to in these reasons.

² *Chocolate Tower Pty v Glen Eira CC* [2017] VCAT 891.

- Encourage a concentration of major uses including housing into activity centres that are highly accessible.
- Encourage a diversity of housing types at higher densities in and around activity centres.
- Facilitate increased housing in established areas to create 20 minute neighbourhoods, and support housing growth in defined change areas.
- Locate new housing in and close to activity centres that offer good access to services and transport.

6 As the above summary of the SPPF relates to this case, I make the following observations:

- The site is located within a C1Z.
- Whilst the review site is not located within an activity centre, it is located within close proximity to the Carlisle Street and Acland Street Activity Centres.
- The site has direct access to public transport and a range of services and facilities.
- The proposed development offers a diversity of housing types within close proximity to an activity centre.
- The proposed development facilitates the policy to increase housing within established areas and to further the creation of the 20 minute neighbourhoods.

7 Where Council and the Applicant for Review differed, there was the issue of two levels on the building. Council put that the building should be reduced to five levels with some increase in setbacks whilst the Applicant for Review put that the building is appropriate at seven storeys. During the hearing I enquired where the two levels should be reduced from (i.e. top two levels or middle levels), and whilst Council's Urban Design did not provide comment on this matter, Ms Bisucci advised that one middle level and the top level should be deleted.

8 The Local Planning Policy Framework (**LPPF**) of the Port Phillip Planning Scheme gives limited specific guidance as to what is anticipated for the review site. As stated above, in a location sense the review site has all the attributes for more intensive development and that was not disputed by Council. However, there has been no strategic planning work undertaken applying to the review site, such as the preparation of Amendment C122 applying to St Kilda Road (to the north of Carlisle Street. This section is referred to as the southern section of St Kilda Road). This amendment proposes to apply a Design and Development Overlay 27 (**DDO27**) establishing discretionary heights. The area closest to the review site is proposed as Area 1, proposing a discretionary height of five storeys or 17 metres. Amendment C122 provides some useful background information

relating the future direction of the St Kilda Road south precinct, but it does not directly apply to the site. Ms Bisucci submitted that the Panel Report had been released to the Council, but has not been publicly released. The parties did not rely on this amendment to support their case for either a five or seven storey building.

- 9 Therefore, if the key issue is height, what policies provide guidance? Ms Bisucci put to me that the proposal at seven storeys does not have planning support and relied on the provisions of clauses 21.04, 21.05 and 22.06.³
- 10 Clause 21.04 Land Use, provides a number of broad housing strategies. It seeks to *‘provide significant opportunities for new residential development in designated locations which have the capacity for change, and which offer highest accessibility to public transport, shops, and social infrastructure’*. It does this by identifying areas for Substantial Residential Growth, Moderate Residential Growth, Incremental Residential Growth and Limited Residential Growth. What the policy fails to do is include a map identifying these areas. Ms Bisucci referred to the City of Port Phillip Housing Strategy 2017 including a Framework Map putting to me that the review site is included within the Moderate Residential Growth area defined as:

Moderate residential growth within the established retail / commercial strips of the Major Activity Centres, the Glen Huntly Road / Ormond Road Neighbourhood Activity Centre and the St Kilda Road Business 2 Zone. New housing will generally be housing above or to the rear of retail / commercial premises, or as part of more intensive mixed use developments on selected larger sites. The intensity and scale of new development must respect the existing streetscape character and commercial context of the centre.

- 11 Having regard to the above, Ms Bisucci put that the emphasis of a moderate change site is on ‘respecting’ as opposed to ‘creating a new built form’ character. It was further submitted that the development of the site should be tempered due to policy outcomes sought, the residential zone to the west, the heritage precincts to the east and further west along Carlisle Street.
- 12 Ms West in her evidence put that the review site is more likely to be considered as a Substantial Residential Growth site described as:

Substantial residential growth within strategic sites and precincts located within or in close proximity to a Major Activity Centre or the Fisherman’s Bend Urban Renewal Area. New housing will generally be in the form of higher density development, including tower-podium developments. The height, scale and massing of new development must be in accordance with any Design and Development Overlay for the area, the urban design local policy or must respect the surrounding built form context or in the case of the Fisherman’s Bend Urban

³ Clause 21.04 Land Use, clause 21.05 Built Form and clause 22.06 Urban Design policy for non-residential development and multi-unit residential development.

- 13 Ms West added that even if the review site was 'defined' as an area, it is a moot point as the policy fails to further identify any development parameters or guidance. I agree with Ms West that the difficulty of the site being included in the moderate growth area is that the review site is not within an established residential area. The residential area is to the west in Blessington Street but the review site is within a C1Z on the corner of Blessington Street and Brighton Road. It is not an established residential area. If I refer to the substantial residential growth area above, the site is not included within a DDO and there are limited urban design local policies.
- 14 To look for further policy guidance, reference was made to clause 21.05 and 22.06. Clause 21.05 is a Built Form policy that seeks to ensure that the design of new development is of a high quality and enhances the amenity, comfort, safety and visual amenity of the public realm.
- 15 Clause 22.06 is the urban design policy for non-residential development and multi-unit residential development. Clause 22.06-3 specifically deals with the public realm establishing Performance Measure 1 stating:

New development may meet the above policy for the public realm if, as appropriate:

The building does not exceed 3 storeys in height adjacent to a public space, including a footpath (unless otherwise specified in a DDO),

Elements of the buildings greater than 3 storeys in height are set back behind the 3rd storey level (unless otherwise specified in a DDO).
- 16 This policy further identifies that "development at increased densities needs to be appropriately managed to ensure that the scale and amenity of adjoining low scale buildings is protected". A recurring theme of this policy is to ensure that the height and scale of new development is appropriate and that new development minimises impacts on neighbouring properties.
- 17 The issue is a five-storey building opposed to a seven-storey building. Mr Sheppard in his evidence put to me that:
 - a. a seven-storey building sits comfortably on the site due to the design;
 - b. the width of Brighton Road;
 - c. the five storeys typical height emerging within the surrounding area;
 - d. that seven storeys does not overwhelm the context and the intersection warrants the creation of a 'marker'.
- 18 I am persuaded by the Applicant for Review that it is appropriate for the proposed development to create its own character as opposed to respecting

the existing residential character of Blessington Street. The review site is not located within an established residential area and even a building of five levels creates its own character. I am further persuaded by Mr Sheppard that the following contextual factors allow for a seven-storey building:

- The review site is located ‘at the bottom of the hill’ as you drive south down St Kilda Road. This intersection is wide and open and can accommodate a building that is a ‘marker’. The building will be highly visible from certain viewing points such as driving west crossing Brighton Road. The building will appear as the corner building of the intersection despite this not being the case (there is a site located on the corner of Blessington Street and Carlisle Street).
- The building at five or seven storeys has limited, if any, impact on the St Kilda Town Hall as the Town Hall is recessed into its own site.
- There is a number of five-storey buildings either constructed or approved at a height of five storeys emerging within the surrounding area.
- The three-level podium to Brighton Road respects the adjoining building. The podium level is reduced to two levels on its north-west corner on Blessington Street (closest to the residential properties) to provide an appropriate transition to the residential area of Blessington Street.
- The building has minimal impact on adjoining properties (discussed in further detail below).
- As a result of the sixth level (seventh-storey) being recessed from all boundaries, it reduces its visibility. Given that it is a glazed element, this upper level will appear visually recessive and not a dominant element.
- The western setbacks of the building increase at each level from partly on the boundary at the ground and level one, a 3 metre setback at level two, 7.5 metres to the building line (excluding the terrace) at levels three to five and 10.4 metres at level six. The result of the setbacks is a building that visually moves away from the residential area of Blessington Street.

19 Mr Bisset put to me that simply because you see a built form is ‘not enough’ reason to refuse it. He put to me that the possible reasons why it might be justifiable to reduce the proposed seven storeys to five storeys may include:

- a it blocks views to a major civic landmark;
- b it overshadows an important part of the public realm;
- c it creates unreasonable wind conditions for pedestrians;
- d it can’t manage its interfaces;

- e it can't deliver an acceptable level of internal amenity;
 - f it can't accommodate storage, parking and loading requirements;
 - g it would cause unreasonable traffic impacts;
 - h it would overtax constrained services; and
 - i it would be out of context with smaller buildings nearby that may not change over time.
- 20 If I refer to the criteria above, I note that the building does not block any views or overshadow an important part of the public realm, it manages its interfaces, it provides adequate parking and storage and given the context of five storeys emerging, it is not out of context with its surroundings.
- 21 Given that there is little guidance from the planning scheme as to the future of this site and immediately surrounding area, Ms Bisucci put to me that an assessment of the building needs to be considered as a 'planning 101' exercise. Relevant factors include the development within its policy and built form context as well as the impact of the building on its neighbours. I agree that such an assessment is necessary. Having regard to the policy and built form context, I am persuaded by Mr Bisset that I see no detrimental impacts of the proposed building in its policy or physical context. The proposed building, whilst highly visible is not out of context.

BUILT FORM

- 22 Whilst I have concluded that the review site can host a building of seven storeys, Council also raised concerns with the form of the building. Council's Urban Designer also raised concern with the scale and massing and the materiality of the building. The Urban Designer commented that "an increase to five storeys visible at street level with a recessive sixth level would present a more gradual increase in height and provide a more suitable built form contextual response".
- 23 The building is designed with a base (two/three storey podium), a mid-section or floating levels at four and five and a recessive upper level. The building materiality lightens as the building rises with a 'negative' level of glazing at level four.
- 24 This is not a building of a tiled roof and red bricks, but nor should it be. It is adjoined to the south by a rendered building at five levels and a two storey dwelling to its west in Blessington Street. It must be remembered that the context of the site is defined by the physical context as well as the zoning and policy context. In this case, the site is within a C1Z, not a residential zone. The proposed building uses materials that are found in the newer developments to the north of Carlisle Street.
- 25 I find that the building appears to be more commercial than residential in materiality and form, but given the zoning of the site and its location to busy Brighton Road, it is an acceptable design outcome.

IMPACT ON ADJOINING PROPERTIES

- 26 Council's grounds of refusal raised concern with the impact on residential properties to both the south and west.
- 27 To the south at 7 Brighton Road is a five-level residential development (with commercial at ground level). The greatest impact of the proposed development is to the first floor north facing balconies of apartments 8, 9 and 10. In response to these balconies, the building has increase its southern setbacks to 2 metres.
- 28 The proposed development will have a visual impact on these three north facing balconies. I am persuaded by the evidence of Ms West that on balance, the amended southern interface treatment is appropriate. I have had regard to the fact that these apartments 8, 9 and 10 previously had an eight-metre high wall on the boundary directly adjoining the balconies. A cross section prepared details the outline of the previous boundary wall (of the Hotel). The notable difference with the proposed development is the reduction of the height of the wall on the boundary. But it is noted that the proposed wall at a 2 metre setback increases for two levels then the building increases a further five levels increasing the setback to 4.5 metres and 7 metres. I also note that during the hearing, this issue was not raised as a concern by Council.
- 29 As to potential off site impacts to the residential properties to the west in Blessington Street, I am comfortable that the combination of the setback created by the laneway has minimised any overshadowing impact. Any potential for overlooking is also addressed through the introduction of overlooking techniques.

ARE THERE ANY OTHER ISSUES?

Projections beyond title boundary

- 30 The proposed development includes a number of window box treatments that project beyond the title boundary. Council opposes this treatment but submitted that if I considered the projections appropriate, then the following condition should be included on the permit:

Section 173 Agreement

Before the development starts, the owner of the land must enter into an agreement with the Responsible Authority pursuant to Section 173 of the *Planning and Environment Act 1987*. The agreement must provide the following:

- Liability and maintenance of those parts of the development projecting into airspace or sub-soil of the land under the care and maintenance of Council and disclaiming any right or intention to make or cause to be made at any time any claim or application relating to adverse possession of the land;

- Liability and maintenance of those parts of the development projecting into airspace or sub-soil of land under the care and maintenance of Council, including proviso of an indemnity and comprehensive insurance cover against damage and injury resulting from the erection and use of the projection, to the satisfaction of the Responsible Authority;
- Providing for the payment to the Council of one lump sum licence fee of such amount as may be reasonably determined by a certified practising valuer appointed by the Council for that purpose.

The owner of the property to be developed must pay all of Council's reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title.

- 31 Mr Bisset opposed the inclusion of the condition and requirement for a Section 173 Agreement citing *Pace Development Group Pty Ltd v Kingston CC* and *Domus Design PL v Kingston CC*.⁴ Both decisions conclude that the matter of the airspace licence and public liability insurance is not a planning matter and are matters that should be dealt with at the building approval stage. I agree that these matters are not a matter to be dealt with at the planning stage. From a design perspective, I agree with Mr Sheppard that the protrusions add visual interest to the building. I also consider that they protrude less than the proposed canopy at the first floor level. I will delete the requirement for a Section 173 Agreement.

Bicycle store entrance

- 32 The minor matter of relocating the entrance to bicycle store room was raised. I agree that the door should move closer to the laneway in line with the wall of the bicycle store room.

Equitable development

- 33 The issue of equitable development was raised to the extent that the Parties acknowledged that the proposed development should have regard to the potential for redevelopment on the property to the west in Blessington Street. Currently, 79 Blessington Street is a relatively small site that would have limited development potential. If the site was consolidated with others, there would be greater opportunity for redevelopment. Compared to the review site however, I consider any development would be of a lesser scale due to the zoning of the land (it is a residential zone) and location. I consider the proposed development has had due regard to the development potential of 79 Blessington Street.

⁴ *Pace Development Group Pty Ltd v Kingston CC* [2004] VCAT 2124; *Domus Design PI v Kingston CC* [2005] VCAT 621.

Loading Bay

- 34 Clause 52.07 requires the provision of a loading bay with dimensions 7.6 metres length, 3.6 metres width and 4 metre height. The submitted evidence statement of Mr Fairlie noted that a loading bay could be provided adjacent to the bin room on the laneway with a length of 10 metres and a width of 2.7 metres. It was his written submission that this area, whilst not meeting the dimensions of the loading bay, could be considered appropriate. It would be useful in particular for moving vans and any trade that has a small van. It could also serve as a passing bay to the right of way. Despite the non compliance with the size of the loading bay, I find it acceptable and consider that it will likely be a highly used bay.

CONCLUSION

- 35 For the reasons given above, the decision of the responsible authority is set aside. A permit is granted subject to conditions.

Tracey Bilston-McGillen
Member

APPENDIX A – PERMIT CONDITIONS

PERMIT APPLICATION NO	665/2016
LAND	1 Brighton Road, St Kilda

WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

- Construct a building or construct or carry out works under the C1Z;
- To use the land for a dwelling under the C1Z;
- Construct a building or construct or carry out works in the SBO2;
- A reduction in the statutory parking provision for shops under clause 52.06; and
- A reduction in the standard loading bay requirements under clause 52.07.

CONDITIONS

- 1 Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the 'VCAT hearing' plans prepared by Terry Harper Architects dated 18 May 2017 (Revision B), forming part of the application but modified to show the following:
 - (a) Reduction in the width of car spaces 2-5 (north elevation) from 2.8 to 2.6 metres.
 - (b) Ramp modifications for a 6.4 metre aisle at the bottom of the basement ramp.
 - (c) Provision of thirteen (13) vertical bicycle rails and two (20) double-sided horizontal rails within the secure bicycle room for use by residents and shop staff.
 - (d) Car stackers with a minimum height clearance of 1.8 metres.
 - (e) A note indicating that the water tank/s is connected to all toilets for flushing.
 - (f) All plant, equipment and domestic services (including air conditioning, heating units, hot water systems, etc) which are to be located externally.

- (g) Relocation of the bicycle storage room entrance to be in line with the western wall of the bicycle store room.
- (h) A schedule of external materials and colours, including samples in a form capable of being endorsed and placed on Council's file, for all external surfaces.
- (i) The Sustainable Management Plan amended to:
 - Incorporate at least 10% improvement on National Construction Code (NCC) minimum standards for the building fabric of the commercial area.
 - Provide a preliminary Section J report or provide information on how energy efficiency requirements will be achieved.
 - Efficient heating and cooling commitments to apply to shops as well.
 - Maximum power density (w/m²) of all lighting to be 20% more efficient than minimum NCC section J6 requirements.
 - Any other changes required by condition 6 (Sustainable Management Plan).
- (j) Any changes required by condition 19 (Waste Management Plan).

No layout alteration

- 2 The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

No change to external finishes

- 3 All external materials finishes and paint colours are to be to the satisfaction of the Responsible Authority and must not be altered without the written consent of the Responsible Authority.

Plant and Equipment

- 4 Any plan, equipment or domestic services visible from a street (other than a lane) or public park must be located and visually screened to the satisfaction of the Responsible Authority.

Outdoor lighting

- 5 Outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.

Sustainable Management Plan

- 6 Before the development starts (other than demolition or works to remediate contaminated land) an amended Sustainable Management Plan that outlines proposed sustainable design initiatives must be submitted to, be to the satisfaction of and approved by the Responsible Authority. When

approved, the Plan will be endorsed and will then form part of the permit and the project must incorporate the sustainable design initiatives listed.

Incorporation of Sustainable Design Initiatives

- 7 The project must incorporate the sustainable design initiatives listed in the endorsed Sustainable Management Plan to the satisfaction of the Responsible Authority.

Implementation of Sustainable Design Initiatives

- 8 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.

Maintenance Manual for Water Sensitive Urban Design Initiatives (Stormwater Management)

- 9 Before the development starts (other than demolition or works to remediate contaminated land) a Maintenance Manual for Water Sensitive Urban Design (WSUD) 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 Builder User's Guide or a Building Maintenance Guide.

Incorporation of Water Sensitive Urban Design Initiatives

- 10 Before the occupation of the development approved under this permit, the project must incorporate the water sensitive urban design initiatives listed in the endorsed Water Sensitive Urban Design Report to the satisfaction of the Responsible Authority, and thereafter maintained to the satisfaction of the Responsible Authority.

Vehicle Crossings – Removal

- 11 Before the occupation of the development allowed by this permit all disused or redundant vehicle crossings must be removed and the area re-instated with footpath, nature strip and kerb and channel at the cost of the applicant/owner and to the satisfaction of the Responsible Authority.

Applicant to Pay for Reinstatement

- 12 The Applicant/Owner must do the following things prior to the completion of the development to the satisfaction of the Responsible Authority:
 - (a) Pay the costs of all alterations/reinstatement of Council and Public Authority assets necessary and required by such Authorities for the development, including the electricity pole.
 - (b) Obtain the prior written approval of the Council or other relevant Authority for such alterations/reinstatement.
 - (c) Comply with conditions (if any) required by the Council or other relevant Authorities in respect of alterations/reinstatement.

Public Services

- 13 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.

Works to convert laneway to one-way

- 14 Before the occupation of the development, the developer must undertake the works necessary to convert the laneway to one-way, as agreed to with Council's Traffic Department, to the satisfaction of the Responsible Authority.

Car parking allocation

- 15 Without the further written consent of the Responsible Authority, car parking for the approved development must be allocated on any Plan of Subdivision as follows:
 - Not less than 1 space for each one and two bedroom dwelling.
 - At least 7 car spaces allocated to visitors to be held in common property.
 - At least 3 spaces for each commercial (shop) premises.

Parking and Loading Areas Must be Available

- 16 Car and bicycle parking and loading areas and access lanes must be developed and kept available for those purposes at all times and must not be used for any other purpose such as storage to the satisfaction of the Responsible Authority.

Roads/lanes to remain open

- 17 During the construction of the buildings and works allowed by this permit, the roads, streets and lanes adjacent to the subject land must be kept free of parked or standing vehicles or any other obstruction, including building materials, equipment etc, so as to maintain free vehicular passage to abutting benefiting properties at all times, unless with the written consent of the Responsible Authority.

Urban Art

- 18 Before completion of the building allowed by this permit, the permit holder must incorporate Urban Art in the development, in accordance with Council's Urban Art Strategy, viewable from the frontage/public realm, to a value of at least 0.5% of the total building cost of the development to the satisfaction of the Responsible Authority.

Waste Management Plan

- 19 Prior to the commencement of the development, an amended Waste Management Plan must be submitted to the Responsible Authority and if satisfactory, endorsed as part of this permit. Once submitted and approved, the waste management plan must be carried out to the satisfaction of the Responsible Authority.

Architectural Intent

- 20 As part of the consultant team Terry Harper Architects or an experienced architect must be engaged to oversee the design intent and construction quality to ensure that the design and quality is to the satisfaction of the Responsible Authority.

Privacy screens must be installed

- 21 Prior to the occupation of the development, privacy screens as shown on the endorsed plans must be installed and maintained thereafter to the satisfaction of the Responsible Authority.

VicRoads

- 22 The buildings and works must be undertaken to ensure that the development does not compromise the operational efficiency of Brighton Road, St Kilda and other infrastructure of VicRoads.

Time Limit

- 23 This permit will expire if one of the following circumstances applies:
- (a) The development is not started within two (2) years of the issue date of this permit.
 - (b) The development is not completed within two (2) years of the issue date of this permit.

In accordance with section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

– End of conditions –