



8.6

**476-486 CITY ROAD AND 51-59 THISTLETHWAITE STREET, SOUTH MELBOURNE**

**LOCATION/ADDRESS:**

**476-486 CITY ROAD AND 51-59 THISTLETHWAITE STREET, SOUTH MELBOURNE**

**RESPONSIBLE MANAGER:**

**GEORGE BORG, MANAGER CITY DEVELOPMENT**

**AUTHOR:**

**SIMON GUTTERIDGE, PRINCIPAL PLANNER FBURA**

**TRIM FILE NO.:**

**PF16/671881**

**ATTACHMENTS:**

**NIL**

**WARD:**

Montague

**TRIGGER FOR DETERMINATION BY COUNCIL:**

Development and use for Accommodation in the Fishermans Bend Urban Renewal Area

**APPLICATION NO:**

P0039/2015/A

**APPLICANT:**

SPEC Property Developments Pty Ltd C/- Ratio Consultants

**EXISTING USE:**

Retail, Commercial (Offices), Warehouses, Car park

**ABUTTING USES:**

One and two-storey commercial and industrial uses

**ZONING:**

Capital City Zone (CCZ1)  
Abuts Road Zone Category I (RDZ1)

**OVERLAYS:**

Design and Development Overlay (DDO30)  
Development Contributions Plan Overlay (DCPO2)  
Parking Overlay (PO1)

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

Expired

## **PROPOSAL**

Amend Condition 42 of Planning Permit P0039/2015 and add a new Condition 43 to allow the staged development of the land in accordance with endorsed plans.

### **I. EXECUTIVE SUMMARY**

- 1.1 On 19 February 2016, Council issued Planning Permit P0039/2015 to Demolish existing buildings, Construct a mixed use, 4, 6 and 8 level development including dwellings, retail and commercial, and community spaces and alter access to a Road Zone Category I (i.e. remove an existing vehicle crossing on City Road) on the land.
- 1.2 The development has not started.
- 1.3 The permit applicants are seeking permission to amend the permit to allow the development to be carried out in two stages.



- 1.4 Stage 1 is proposed to comprise the eight level building to the north of the site facing Thistlethwaite Street.  
Stage 2 is proposed to comprise the four and six level building to the south facing City Road.
- 1.5 The amendments to the permit would be minor.
- 1.6 Council’s planning delegation requires any application for use and/or development of Accommodation in the Fishermans Bend Urban Renewal Area be reported to a Council meeting.
- 1.7 The subject site has frontages to two streets and is well suited to being developed in two stages.
- 1.8 It is recommended that Council approve the amendments.

<b>KEY ISSUES</b>
1. Nil

**2. RELEVANT BACKGROUND**

2.1 There are three previous permits recorded for the subject land as follows:

**51-59 Thistlethwaite Street**

Application No.	Proposal	Date of Decision
P1364/1994	Warehouse/light industry	No permit required - 15-Nov-1994
P0609/2005	Restaurant/ function centre / nightclub	Lapsed 26-Sep-2005

**51-59 Thistlethwaite Street and 476, 478, 480, 486 City Road**

Application No.	Proposal	Date of Decision
P0039/2015	Demolish existing buildings, Construct a mixed use, 4, 6 and 8 level development including dwellings, retail and commercial, and community spaces. Alter access to a Road Zone Category 1 (i.e. remove an existing vehicle crossing on City Road).	Approved by Council on 19 February 2016



**3. PROPOSAL**

3.1 It is proposed to amend Permit P0039/2015 as follows:

Existing preamble	Proposed amended preamble
<p>To develop and use the land for the purpose of Demolish existing buildings, Construct a mixed use, 4, 6 and 8 level development including dwellings, retail and commercial, and community spaces. Alter access to a Road Zone Category 1 (i.e. remove an existing vehicle crossing on City Road) generally in accordance with the endorsed plans and subject to the following conditions.</p>	<p>No change to preamble proposed</p>
Existing condition/s	Proposed amended condition/s
<p><b>42. Time for Starting and Completion</b>                      This permit will expire if one of the following circumstances applies:</p> <ul style="list-style-type: none"> <li>(a) The development is not started within two (2) years of the date of this permit.</li> <li>(b) The development is not completed within two (2) years of the date of commencement of works.</li> <li>(c) The use is not commenced within two (2) years of the completion of the development.</li> </ul> <p>The Responsible Authority may extend the periods referred to if a request is made in writing:</p> <ul style="list-style-type: none"> <li>(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</li> <li>(b) Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.</li> </ul>	<p><b>42. Time for Starting and Completion</b>                      This permit will expire if one of the following circumstances applies:</p> <ul style="list-style-type: none"> <li>(a) The development <u>first stage</u> is not started within two (2) years of the date of this permit.</li> <li>(b) <u>The development first stage</u> is not completed within two (2) years of the date of commencement of works.</li> <li>(c) <u>Subsequent stages of the development are not completed within four years from the completion of the first stage.</u></li> <li>(d) The use is not commenced within two (2) years of the completion of the development <u>in which the use is located.</u></li> </ul> <p>The Responsible Authority may extend the periods referred to if a request is made in writing:</p> <ul style="list-style-type: none"> <li>(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</li> <li>(b) Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.</li> </ul>
New condition/s proposed	
<p><b>43. Staging</b></p> <p><u>Any staging of the development is to be in accordance with a staging plan to the satisfaction of the Responsible authority. The staging plan must show the following:</u></p> <ul style="list-style-type: none"> <li>(a) <u>Details of the proposed staging;</u></li> <li>(b) <u>A requirement that the endorsed plans for that stage must show compliance with the conditions of the permit as appropriate to that stage; and</u></li> <li>(c) <u>The timing for construction of public works in relation to that stage and/or completion of the development to the satisfaction of the Responsible Authority.</u></li> </ul>	
Proposed amendments to plans (describe in detail)	
<p>No amendment to plans</p>	



#### 4. SUBJECT SITE AND SURROUNDS

- 4.1 The subject site is located on the south-east side of Thistlethwaite Street and the north-west side of City Road, between Ferrars Street and Montague Street, South Melbourne.
- 4.2 The site is irregular in shape and comprises two adjacent lots facing Thistlethwaite Street and five adjacent lots facing City Road.
- 4.3 The site has a frontage width to Thistlethwaite Street of 38.83m and a frontage width to City Road of 40.24m and a maximum depth of 93.07, for an overall area of approximately 3,513m<sup>2</sup>.
- 4.4 A 3.65m / 3.60m wide bluestone constructed lane (signed Arling Lane) runs along the eastern side of the Thistlethwaite Street property leading to the rear of the lots. Nos. 51-59 Thistlethwaite Street and 476, 478 and 480 City Road have a right of carriageway over the lane.
- 4.5 The rear of Nos. 476, 478, and 480-484 City Road include part of a former lane which was discontinued and sold to the current owners some years ago. It is proposed to reactivate this lane.
- 4.6 The land is generally flat with no discernible slope in any direction.
- 4.7 The subject site is currently developed as follows:
- Nos. 51-59 Thistlethwaite Street: A one and two storey brick office/warehouse.
  - No. 476 City Road: A single-storey saw-tooth roofed commercial/industrial building. This property has a single vehicle crossing onto City Road.
  - No. 478 City Road: An open asphalt car park for Nos. 480-484 City Road. This property also has a single vehicle crossing onto City Road.
  - Nos. 480-484 City Road: A two storey Victorian period shop with dwelling above and a single storey commercial building used for retail tyre sales. This property also has a single vehicle crossing onto City Road.
  - No. 486 City Road: A two storey commercial building facing City Road (which does not form part of the application site), and a single-storey commercial building and open car parking area at the rear facing Thistlethwaite Street (which does form part of the application site). This property has a single vehicle crossing onto Thistlethwaite Street.
- 4.8 Land surrounding the subject site along both City Road and Thistlethwaite Street is developed with one and two storey commercial and industrial buildings.



**5. PERMIT TRIGGERS**

The zone and overlay controls, planning permit requirements and notice and appeal exemptions for the subject site and the proposal are as follows:

Planning Scheme Provision	Why is a planning permit required?
<p><b>Clause 37.04 - Capital City Zone (CCZ1)</b></p>	<p>Pursuant to Clause 37.04-1 of the CCZ1 and Clause 1 of the Schedule to the CCZ1, a planning permit is not required to use land for Accommodation (including a dwelling) in the CCZ1 provided the use meets the threshold distance from industrial and/or warehouse uses referred to in the table to Clause 52.10. The subject site does not meet the threshold distance from a number of nearby warehouse and manufacturing premises. A planning permit is therefore required to use the land for Accommodation.</p> <p>A planning permit is not required to use the land for a Retail premises (other than an Adult bookshop, Hotel or Tavern) in the CCZ1.</p> <p>Pursuant to Clause 37.04-4 of the CCZ1 and Clause 3.0 of the Schedule to the CCZ1, a permit is required to construct a building or construct or carry out works in the Capital City Zone.</p> <p>An application to use land (other than for a nightclub, a tavern, a brothel or an adult sex bookshop), or construct a building or construct or carry out works 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 the review rights of Section 82(1) of the Act.</p> <p>Pursuant to Clause 37.04-4 of the CCZ1, a permit is required to demolish or remove a building if specified in the Schedule to the zone. Pursuant to Clause 4.0 of Schedule 1 to the CCZ1, a permit and prior approval for the redevelopment of the site is required to demolish or remove a building or works.</p> <p>An application to demolish or remove a building or works 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 the review rights of Section 82(1) of the Act.</p> <p>Pursuant to Clause 6.0 of Schedule 1 to the CCZ1:</p> <p><i>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;</i></p> <ul style="list-style-type: none"> <li>• <i>A certificate of environmental audit issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or</i></li> <li>• <i>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.</i></li> </ul> <p>A planning permit is not required under this clause.</p>



<p><b>Clause 43.02 - Design and Development Overlay (DDO30)</b></p>	<p>The land is in Area A1 (4-storey max. height) of the DDO facing City Road and Area A2 (8-storey max. height) facing Thistlethwaite Street..</p> <p>Pursuant to Clause 43.02-2 of the DDO and Clause 2.0 of Schedule 30 to the DDO, a permit is required to construct a building or construct or carry out works in the Design and Development Overlay.</p> <p>An application 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 the review rights of Section 82(1) of the Act.</p>
<p><b>Clause 45.06 - Development Contributions Plan Overlay (DCPO2)</b></p>	<p>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 a boundary realignment.</li> </ul> <p>A permit is not required under this clause.</p>
<p><b>Clause 45.09 - Parking Overlay (PO1)</b></p>	<p>Schedule 1 to the Parking Overlay specifies that a maximum of one car space should be provided for each Dwelling and a maximum of one car space per 100m<sup>2</sup> of gross floor area for Office and Retail premises uses. A permit is required to exceed these rates.</p> <p>A permit is not required under this clause.</p>
<p><b>Clause 52.06 - Car Parking</b></p>	<p>The car parking requirements for Dwelling, Office and Retail premises under this Clause do not apply because a car parking requirement for these uses is specified in the Schedule to the Parking Overlay.</p> <p>Car parking should meet the design requirements of Clause 52.06-8.</p> <p>A permit is not required under this clause.</p>



<p><b>Clause 52.07 - Loading and unloading of vehicles</b></p>	<p>A planning permit is required to reduce or waive the requirement to provide space on the land for loading and unloading vehicles for a building or works for the manufacture, servicing, storage or sale of goods or materials (i.e. for the retail tenancies).</p> <p>A permit is required under this clause.</p> <p>An application under this clause is not exempt from the notice requirements of the Act.</p>
<p><b>Clause 52.10 - Uses with Adverse Amenity Potential</b></p>	<p>The threshold distances from industrial and/or warehouse uses referred to in the table to Clause 52.10 are required to be met.</p> <p>A permit is required under this clause.</p>
<p><b>Clause 52.29 - Land adjacent to a Road Zone, Category I, or a Public Acquisition Overlay for a Category I road.</b></p>	<p>A planning permit is required to create or alter access to a road in a Road Zone Category I.</p> <p>A permit is required under this clause.</p>
<p><b>Clause 52.34 - Bicycle Facilities</b></p>	<p>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.</p> <p>A planning permit is required to vary, reduce or waive any bicycle facilities requirement of Clause 52.34-3 and Clause 52.34-4.</p> <p>A permit is not required under this clause.</p>
<p><b>Clause 52.35 - Urban Context report and Design response for residential development of five or more storeys</b></p>	<p>An application for a residential development of five or more storeys must be accompanied by:</p> <ul style="list-style-type: none"> <li>• An urban context report.</li> <li>• A design response.</li> </ul>

**6. PLANNING SCHEME PROVISIONS**

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

Provisions of the SPPF of particular relevance to the application include:

Clause 9: Plan Melbourne

Clause 11: Settlement, inc. 11.02 Urban Growth, and 11.04 Metropolitan Melbourne

Clause 15: Built Environment and Heritage inc. 15.01-1 and 15.01-2 Urban Design and 15.02-1 Energy and resource efficiency. Clause 15.01-2 requires consideration be given to the Design Guidelines for Higher Density Residential Development (*Department of Sustainability and Environment, 2004*)



Clause 17: Economic Development

Clause 18: Transport

Clause 22.15: Employment and Dwelling Diversity Within The Fishermans Bend Urban Renewal Area.

## 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

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: Fisherman's Bend Urban Renewal Area

The following clauses of the LPPF are also relevant:

Clause 22.06 Urban Design Policy for Non - Residential Development and Multi - Unit Residential Development

Clause 22.12 Stormwater Management (Water Sensitive Urban Design)

Clause 22.13 Environmentally Sustainable Development

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

## 6.3 Fishermans Bend Strategic Framework Plan

The *Fishermans Bend Strategic Framework Plan* July 2014 (Amended September 2016) (FBSFP) is an incorporated document in and pursuant to Clause 81 and the Schedule to Clause 81.01 of the Planning Scheme. Any decision within the FBURA must have regard to the Framework Plan including the Design Guidance provisions.

The Framework Plan does not identify the subject land for a particular use, but does recommend the existing abutting lane off Thistlethwaite Street be activated, and extended to run through to City Road.

## 6.4 Fishermans Bend Vision

The *Fishermans Bend Vision* September 2016 sets out the State Governments ambitions for the whole of the FBURA and the individual precincts.

The subject site is in the Montague Precinct of the FBURA. The vision for Montague is:

- A diverse and well-connected mixed-use precinct celebrating its significant cultural and built heritage, and network of gritty streets and laneways.
- A strong mixed use focus including office and residential use and co-located





community services north of the light rail line, with buildings carefully designed to achieve human scale at street level.

- Normanby Road developed as a vibrant boulevard with a cycling connection.
- A range of building types and a network of streets and lanes south of the light rail line, including retail, food and drink, and creative industry uses, and a strong pedestrian focus, with heritage and character buildings adapted to provide housing and commercial opportunities.
- Lower scale residential and commercial buildings along City Road and Boundary Street.
- Light rail and bus public transport linkages to the CBD and surrounding areas.
- A community hub including a park and school around the Buckhurst Street and Ferrars Street intersection.

**7. REFERRALS**

**7.1 Internal referrals**

The amendment application was not required to be internally referred.

**7.2 External referrals**

The amendment application was not required to be externally referred. The original application was referred as follows:

Referral Authority	Response
<b>Public Transport Victoria</b> (referral required pursuant to S55 of the Act and Clause 52.36-01 of the Scheme because the proposal is for a residential development of 60 or more dwellings)	No objection
<b>Roads Corporation / VicRoads</b> (Referral required pursuant to S55 of the Act and Clause 52.29 of the Scheme because it is proposed to alter access to a road in a Road Zone Category 1 [i.e. remove existing vehicle crossings on City Road])	No objection subject to conditions.
<b>Melbourne Water (Note: Not a referral authority - informal referral only)</b>	No objection subject to conditions.

**8. PUBLIC NOTIFICATION/OBJECTIONS**

- 8.1 Notice of the amendment 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 for a nightclub, tavern, brothel or adult sex bookshop) in the Capital City Zone, and development and use under the relevant Planning Scheme Overlays and provisions 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 The proposed changes to the permit conditions and consequences of the changes would be minor.



- 9.2 The subject site and approved development faces two street frontages, which makes it suitable for development in two independent or co-ordinated stages.

**10. COVENANTS**

The applicant has completed a declaration that the subject land, being all that land contained within:

- Volume 07939 Folio 020, commonly known as Lot 1 on TP 409314K (476 City Road);
- Volume 01193 Folio 454, commonly known as Lot 1 on TP 749722U (478 City Road);
- Volume 09067 Folio 940, commonly known as Lots 1 & 2 on TP 823899K, Volume 09067 Folio 940, commonly known as Lot 1 on TP 875315D, and Volume 08856 Folio 002, commonly known as Lot 1 on TP 875316B (480 City Road); and
- Volume 08461 Folio 433, commonly known as Lots 1 and 2 on Title Plan 836581B (51-59 Thistlethwaite Street and 486 City Road);

is not encumbered by a restrictive covenant or Section 173 Agreement or other obligation such as an easement or building envelope.

**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.

REFERENCE ONLY - NOT TO BE REMOVED



**13. RECOMMENDATION - APPROVE**

**13.1** It is recommended that in relation to Application No. P0039/2015/A, the Council issues an Amended Planning Permit to Demolish existing buildings, Construct a mixed use, 4, 6 and 8 level development including dwellings, retail and commercial, and community spaces. Alter access to a Road Zone Category 1 (i.e. remove an existing vehicle crossing on City Road) at 51-59 Thistlethwaite Street and 476-486 City Road, South Melbourne with the following amendments:

**Amended conditions**

The amended condition will read as follows:

**42. Time for Starting and Completion**

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

- (a) The development first stage is not started within two (2) years of the date of this permit.
- (b) The development first stage is not completed within two (2) years of the date of commencement of works.
- (c) Subsequent stages of the development are not completed within four years from the completion of the first stage.
- (ed) The use is not commenced within two (2) years of the completion of the development in which the use is located.

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. **New conditions**

The following condition will be added:

**43. Staging**

Any staging of the development is to be in accordance with a staging plan to the satisfaction of the Responsible authority. The staging plan must show the following:

- (a) Details of the proposed staging;
- (b) A requirement that the endorsed plans for that stage must show compliance with the conditions of the permit as appropriate to that stage; and

The timing for construction of public works in relation to that stage and/or completion of the development to the satisfaction of the Responsible Authority. **13.2** That the decision be subject to the following conditions:

**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 amended plans proposed to be substituted at the Tribunal, being the plans referred to as



Project No. 1020, Drawing Nos. TPI00 Rev C, TPI01 Rev C, TPI02 Rev C, TPI03 Rev C, TPI04 Rev C, TPI05 Rev C, TPI06 Rev C, TPI08 Rev C, TPI07A Rev C, TPI08 Rev C, TPI09 Rev C, TPI09A Rev C, TPI10 Rev C, TPI11 Rev C, TPI12 Rev C, TPI12A Rev C, TPI13 Rev C, TP 200 Rev C, TP 201 Rev C, TP 202 Rev C, TP 203 Rev C, TP204 Rev C, TP205 Rev C, and TP 300 Rev C, all dated 20/11/2015, prepared by Inhabit Design, but modified to show:

- (a) All structures over the vehicle carriageway and loading bay to have a minimum underside clearance of 4.5m.
- (b) Any changes required to meet the requirements of the Sustainable Management Plan (Condition 2).
- (c) Any changes required to meet the requirements of the Water Sensitive Urban Design Response (Condition 4).
- (d) Any changes required to meet the wind mitigation requirements of the Environmental Wind Assessment (Condition 22).
- (e) Any changes required to meet the requirements of Vic Roads (Condition 35).
- (f) Any changes required to meet the requirements of Melbourne Water (Conditions 36 and 37).
- (g) Before the development starts (other than demolition or works to remediate contaminated land) an appropriate daylight modeling assessment, conducted by a suitably qualified lighting consultant, must be submitted to and approved by the Responsible Authority.
- (h) Revised ground floor layout to ensure appropriate sight triangles for the exit side of both car park access points into the laneway.
- (i) Replacement of the trees raised planters in the laneway with evergreen shrub blocks.
- (j) Enlarged raised planters on level 7 to ensure there is adequate space for fruit trees to be planted in these planters.
- (k) Changes to the Level 2 north apartments and courtyard in accordance with the plan referred to as Project No. 1020, Drawing No. VCAT02 Rev D dated 13 January 2016.
- (l) Details of Urban Art in accordance with Council's Urban Art Strategy.
- (m) Plan notations for lighting to main building entries, pedestrian areas & car parks.
- (n) All plant, equipment and services (including air conditioning, heating units, hot water systems, etc.) which are to be located externally.
- (o) 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.
- (p) All plan and elevation drawings to be fully dimensioned, including natural ground level, floor levels, and incremental and total wall and building heights and lengths, with heights to be expressed to Australian Height Datum (AHD) and/or reduced levels.
- (q) A coloured schedule (2 copies in a form that are able to be endorsed and held on file) of the materials, colours and finishes to be used on the main external surfaces, including roofs, walls, windows, doors of the proposed building.
- (r) One bedroom dwellings having a minimum 50m<sup>2</sup> internal floor area and a minimum 8m<sup>2</sup> balcony.



- (s) Two bedroom dwellings having a minimum 65m<sup>2</sup> internal floor area and a minimum 10m<sup>2</sup> balcony.
- (t) Three bedroom dwellings having a minimum 90m<sup>2</sup> internal floor area and a minimum 12m<sup>2</sup> balcony.
- (u) To meet the requirements of Conditions 1.(r), (s) and (t), any consequential changes to the layout of the car parking, bicycle and storage areas.

**2. Sustainable Management Plan**

Before the development starts (other than demolition or works to remediate contaminated land) a Sustainable Management Plan that outlines proposed sustainable design initiatives must be submitted to and approved by the Responsible Authority. Upon approval the Plan will be endorsed as part of the planning permit and the project must incorporate the sustainable design initiatives listed.

**3. Incorporation of Sustainable Design initiatives**

Prior to the occupation of the building(s) allowed by this permit, the project must incorporate the sustainable design initiatives listed in the endorsed Sustainable Management Plan.

**4. Water Sensitive Urban Design Response**

Before the development starts (other than demolition or works to remediate contaminated land) a Water Sensitive Urban Design Response must be submitted to and approved by the Responsible Authority. The Response must:

- Set out proposed stormwater treatment measures for the development and how they would meet the relevant Policy objectives of Clause 22.12 Stormwater Management (Water Sensitive Urban Design) of the Planning Scheme;
- Include justification for how the development meets the objectives of Clause 22.12 if the water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999 (or as amended) are not met.

Upon approval the Response will be endorsed as part of the planning permit and the project must incorporate the Water Sensitive Design initiatives listed.

**5. 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.

**6. Landscape plan**

Prior to the commencement of the development hereby permitted, a landscape plan and schedule must be submitted to and approved by the responsible authority. When approved the plan will be endorsed and will then form part of the permit. Landscaping in accordance with such approved plan and schedule must be completed before the commencement of the occupation of the building hereby permitted, and thereafter maintained (including replacement of any dead, diseased or damaged plants) to the satisfaction of the Responsible Authority.

**7. Noise Attenuation for Apartments**

Before the building allowed by this permit is occupied, the applicant/owner must ensure that external noise intrusion into apartment 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:

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

**8. 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.

**9. 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.

**10. Alteration/Reinstatement of Council or 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:

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

**11. 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.

**12. Urban Art Plan**

Before the occupation of the development *allowed by this permit*, an urban art plan in accordance with Council's Urban Art Strategy must be submitted to, be to the satisfaction of and approved by the Responsible Authority. The value of the urban art must be at least 0.5% of the total building cost of the development to the satisfaction of the Responsible Authority. Urban art in accordance with the approved plan must be installed prior to the occupation of the building to the satisfaction of the Responsible Authority.



**13. Incorporation of Urban Art Plan Measures**

Prior to the occupation of the building(s) allowed by this permit, urban art in accordance with the endorsed Urban Art Plan must be installed to the satisfaction of the Responsible Authority.

**14. 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.

**15. 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).

**16. 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.

**17. Lane Widening, Construction and Transfer**

Prior to the use and occupation of the development allowed by this permit, the owner/developer of the land must provide or cause to be provided to the satisfaction of the Responsible Authority:



- (a) The land along the westerly side of Arling Lane measuring not less than 1.6m width by not less than 43.33m length be set aside as Road for widening of the carriageway;
- (b) Full construction of the carriageway widening to Council's specifications, at cost of the developer;
- (c) The carriageway widening vested in Council as a Road on a plan of subdivision.

**18. 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 Metropolitan Planning Authority.
- (f) Confirm that the contributions will be used by the Development Agency as stipulated by the Metropolitan 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.

**19. Agreement under Section 173 of the Planning and Environment Act 1987 Re: Windows on Boundaries**

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) That the windows on the south-west side boundary of the Thistlethwaite Street building approved by this permit are acknowledged as being "non-required windows", pursuant to the light and ventilation requirements of the Building Code of Australia;
- (b) That the windows must be fire rated in accordance with the requirements of the Building Code of Australia;
- (c) That in the event of the redevelopment of the adjacent property at 67-69 Thistlethwaite Street to generally level with, and/or taller than the height of the proposed window(s), the window(s) must be removed and the wall made good at the expense of the owner; and
- (d) That any Vendor Statement pursuant to Section 32 of the Sale of Land Act 1962 with respect to the subject property must advise that the use of the windows on the south-west side boundary of the Thistlethwaite Street building may be lost in the event that the adjacent property at 67-69 Thistlethwaite Street is developed.



**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 and 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 be to the satisfaction of the Responsible Authority in conformity with the Department of Planning and Community Development 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.

**22. 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 to the satisfaction of the Responsible Authority.

**23. Environmental Wind Assessment**

Before the development starts, a suitably qualified person must undertake a comprehensive wind tunnel test of the entire development and a Wind Climate Assessment Report to the satisfaction of the Responsible Authority must be provided for the written endorsement of the Responsible Authority. Any modifications required to the development in order to ensure acceptable wind conditions must be submitted to and approved by the Responsible Authority as part of the plans for endorsement. The design details of any wind mitigation works must receive the endorsement of the owner's wind climate experts, preferencing the use of architectural features and planting to resolve any issues identified, to the satisfaction of the Responsible Authority.

**24. 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.

**25. Satisfactory continuation**

Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.



**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. Lighting baffled**

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

**28. 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.

**29. Building equipment and services**

No external plant, equipment, services and exhausts other than those shown on the endorsed plans may be constructed unless otherwise agreed to in writing by the Responsible Authority.

Any satellite dishes, antennas or similar structures associated with the development must be designed and located at a single point on each building in the development to the satisfaction of the Responsible Authority, unless otherwise approved to the satisfaction of the Responsible Authority.

**30. Parking and bicycle areas must be available**

Car parking and bicycle areas and access lanes must be kept available for those purposes at all times and must not be used for any other purpose such as storage.

**31. Mechanical Car Parking Stacker Maintenance and Provision**

The mechanical car stackers are to be maintained in a good working order and be permanently available for the parking of vehicles in accordance with their purpose, to the satisfaction of the Responsible Authority.

Prior to the occupation of the approved development, the owner/permit holder must prepare and have approved in writing by the Responsible Authority, a car stacker system management plan including but not limited to the following:

- (a) Allocation of car parking spaces according to vehicle size and type;
- (b) Ongoing maintenance of the car stacker system;
- (c) Instructions to owners/occupiers about the operation of the car stacker system; and
- (d) Communicating to prospective residents about the availability of car stacker spaces and sizes.

Once approved this document must be complied with to the satisfaction of the Responsible Authority and must not be varied except with the written approval of the Responsible Authority.

**32. Number of Dwellings**

Without the further written consent of the Responsible Authority, no more than 161 dwellings may be constructed on the land.



**33. 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.

**34. 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.

**VicRoads Condition**

- 35.** All existing vehicle crossing/s along City Road must be removed and the area reinstated to kerb, channel and footpath to the satisfaction of and at no cost to VicRoads (the Roads Corporation) prior to occupation of the buildings hereby approved.

**Melbourne Water Conditions**

- 36.** The ground floor must be constructed with finished floor levels no lower than 3.0 metres to Australian Height Datum (AHD), unless otherwise agreed in writing by Melbourne Water. Entryways may be constructed at street level, rising to 3.0m to AHD.
- 37.** The internal building car parking area is to be constructed with driveway rising to a minimum of 3.0 metres Australian Height Datum (AHD) to ensure all car parking, services and storage areas are protected from flooding. Any openings to the car parking area must be no lower than 3.0 metres to AHD.
- 38. Glazing Reflectivity**  
Glazing materials used on all external walls must be of a type that does not reflect more than 15% of visible light, when measured at an angle of 90 degrees to the glass surface, to the satisfaction of the Responsible Authority.
- 39. 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.
- 40. No Damage to Existing Street Tree(s)**  
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.

**41. Laneway Management**

The 'stop linemarking and detector loop' arrangement proposed at the exit of each car park in order to assist in managing potential vehicle conflicts within the laneway should be installed to provide only additional warning to drivers of vehicles exiting the carparks as demonstrated in Figure 17 of Ms Charmaine Dunstan's of the Traffix Group evidence statement dated 4 November 2015.

**42. Time for Starting and Completion**

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

- (a) The development first stage is not started within two (2) years of the date of this permit.
- (b) The development first stage is not completed within two (2) years of the date of commencement of works.
- (c) Subsequent stages of the development are not completed within four years from the completion of the first stage.
- (ed) The use is not commenced within two (2) years of the completion of the development in which the use is located.

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.

**43. Staging**

Any staging of the development is to be in accordance with a staging plan to the satisfaction of the Responsible authority. The staging plan must show the following:

- (a) Details of the proposed staging;
- (b) A requirement that the endorsed plans for that stage must show compliance with the conditions of the permit as appropriate to that stage; and
- (c) The timing for construction of public works in relation to that stage and/or completion of the development to the satisfaction of the Responsible Authority.

**Permit Notes:**

**Building Approval Required**

This permit does not authorise the commencement of any building construction works. Before



any such development may commence, the applicant must apply for and obtain appropriate building approval.

**Building Works to Accord With Planning Permit**

The applicant/owner will provide a copy of this planning permit to any appointed Building Surveyor. It is the responsibility of the applicant/owner and Building Surveyor to ensure that all building development works approved by any building permit is consistent with this planning permit.

**Due Care**

The developer must show due care in the development of the proposed extensions so as to ensure that no damage is incurred to any dwelling on the adjoining properties.

**Days and Hours of Construction Works**

Except in the case of an emergency, a builder must not carry out building works outside the following times, without first obtaining a permit from Council's Local Laws Section:

- Monday to Friday: 7.00am to 6.00pm; or
- Saturdays: 9.00am to 3.00pm.

An after hours building works permit cannot be granted for an appointed public holiday under the Public Holidays Act, 1993.

**Drainage Point and Method of Discharge**

The legal point of stormwater discharge for the proposal must be to the satisfaction of the responsible authority. Engineering construction plans for the satisfactory drainage and discharge of stormwater from the site must be submitted to and approved by the responsible authority prior to the commencement of any buildings or works.

**Permit required for signs**

This permit relates only to the use and development of the land and does not comprise an approval for the erection of any advertising signs. The location and details of any advertising signs to be erected on the land and not exempt pursuant to the Port Phillip Planning Scheme, must be the subject of a separate planning permit application.

**Waste Collection**

The applicant must consult with Council's Waste Management Department regarding the location of waste bins and collection options. Waste management must be in accordance with Council's Community Amenity Local Law No. 3.

**Roads and laneways to be kept clear**

During the construction of the buildings and works allowed by this permit, the roads and laneway(s) 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.

**Parking Infringements**

Any parking infringement relating to the proposed development may be reported to Council's Parking Enforcement Section on 9209.6751 (B.H.) or 9209.666 (A.H.)

**No resident or visitor parking permits**

The owners and occupiers of the development allowed by this permit will not be eligible for Council resident or visitor parking permits.

**Cross-over Permit Required**

A cross-over permit must be obtained from Council (contact 9209.6216) prior to the carrying out of any vehicle crossing works (including removal of a redundant crossing).

**Air Conditioning Plant**

Any air conditioning plant must be screened and baffled and/or insulated to minimise noise and



vibration to other residences in accordance with Environmental Protection Authority Noise Control Technical Guidelines as follows:

- (a) Noise from the plant during the day and evening (7.00am to 10.00pm Monday to Friday, 9.00am to 10.00pm Weekends and Public Holidays) must not exceed the background noise level by more than 5 dB(A) measured at the property boundary;
- (b) Noise from the plant during the night (10.00pm to 7.00am Monday to Friday, 10.00pm to 9.00am Weekends and Public Holidays) must not be audible within a habitable room of any other residence (regardless of whether any door or window giving access to the room is open).

**Construction Management Plan**

Before the development starts, a Construction Management Plan in accordance with Council's Local Law, must be submitted to and approved by Council.

**Building Projections Beyond Site Boundaries**

Any building projection beyond the site boundary may require the developer / property owner to enter into a S173 Agreement and/or licence with the Council to authorise occupation of Council land, and may be subject to an annual license fee.

**Broadband, Communications and Digital Economy**

The development must provide for and meet the requirements of the Australian Government Department of Broadband, Communications and Digital Economy publication Fibre in new developments; policy update updated dated 22 June 2011 (as amended).

**Vic Roads notes**

The proposed development requires reinstatement of disused crossovers to kerb and channel. Separate approval under the Road Management Act for this activity may be required from VicRoads (the roads Corporation). Please contact VicRoads prior to commencing any works.

Separate consent may be required from VicRoads (the Roads Corporation) under the Road Management Act 2004 for all buildings and works (including canopies and bicycle crossovers) undertaken outside the title boundary within a Road Zone Category 1.

**Council contacts**

Approval may be required from other Council Departments (where relevant) before the proposal may commence, and discussion with Council's Development Engineer is recommended prior to the submission of plans for standards of construction of crossovers and stormwater drains. The following contact details are provided for your assistance:

- Building Department 9209.6253
- Health Department (Community Amenity) 9209.6262
- Local Laws 9209.6852
- Development Engineer 9209.6774