



6.3 51-59 THISTLETHWAITE STREET & 476, 478, 480 AND 486  
CITY ROAD, SOUTH MELBOURNE

LOCATION/ADDRESS: 51-59 THISTLETHWAITE STREET & 476, 478, 480 AND 486 CITY  
ROAD, SOUTH MELBOURNE

EXECUTIVE MEMBER: LILI ROSIC, ACTING GENERAL MANAGER, PLACE STRATEGY  
& DEVELOPMENT

PREPARED BY: KATHRYN POUND, PRINCIPAL URBAN PLANNER

## 1. PURPOSE

- 1.1 To consider and determine application P39/2015/B, to amend existing permit P939/2015/A under s 72 of the *Planning and Environment Act 1987* to make a number of changes to the plans, conditions and preamble to demolish existing buildings, construct a mixed use 4, 6 and 8 level development plus basement, use the land for dwellings and alter access to a Road Zone Category 1.

## 2. EXECUTIVE SUMMARY

<b>WARD:</b>	Gateway
<b>TRIGGER FOR DETERMINATION BY COMMITTEE:</b>	Accommodation (dwellings) within the Fishermans Bend Urban Renewal Area
<b>APPLICATION NO:</b>	P39/2015/B
<b>APPLICANT:</b>	484 City Road Development Pty Ltd
<b>EXISTING USE:</b>	Retail, commercial (offices), warehouses and car park uses
<b>ABUTTING USES:</b>	One and two storey commercial and industrial uses
<b>ZONING:</b>	Capital City Zone – Schedule 1 (CCZ1) Abuts Road Zone Category 1 (RDZ1)
<b>OVERLAYS:</b>	Design and Development Overlay – Schedule 30 (DDO30) Development Contributions Plan Overlay – Schedule 2 (DCPO2) Parking Overlay (PO1) Special Building Overlay – Schedule 2 (SBO2)
<b>STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL</b>	Expired

- 2.1 On 19 February 2016, Council issued planning permit P39/2015 to demolish existing buildings, construct a mixed use, 4, 6 and 8 level development including



- dwelling, retail and commercial, and community spaces and alter access to a Road Zone Category 1 (i.e. remove an existing vehicle crossing on City Road).
- 2.2 On 30 August 2017, Council issued amended planning permit P39/2015/A to enable the development to be carried out in two stages.
- 2.3 Plans were subsequently endorsed in accordance with condition 1 of the permit (excluding condition 1g)) on 13 November 2017.
- 2.4 The development has not commenced. On 22 January 2018, Council granted a two-year extension of time to the permit, so that Stage 1 must be commenced by 19 February 2020.
- 2.5 The permit applicant is now seeking to amend the permit a second time to make changes to the plans, the permit preamble and permit conditions.
- 2.6 The key changes to the plans are:
- a) Consolidation of commercial tenancies, a reduction in commercial floor area of 416.4 sqm, and removal of the community spaces.
  - b) Changes to the dwelling configuration and layouts, with two additional dwellings overall.
  - c) Changes to the car and bicycle parking numbers and layout. This includes an increase of six car spaces (from a rate of 0.58 spaces per dwelling to 0.61 spaces per dwelling) and a reduction of 30 bicycle spaces (from 190 to 160).
  - d) Reduction in size of communal open space.
  - e) Minor changes to the built form envelope.
  - f) Changes to the external appearance, including to external materials (but no increase in height).
- 2.7 The Victorian planning system recognises that a permit holder's intentions may change over time. Rather than requiring a new permit application to be made every time a change is proposed, s 72 of the Planning and Environment Act allows applicants to apply to the responsible authority for an amendment to a permit.
- 2.8 An application to amend a permit under s 72, including any plans, drawings or other documents approved under a permit, follows the same process as an application for a permit. It has the same requirements for giving notice and referral. However, the assessment for an application to amend a permit focuses only on the amendment itself and avoids reopening all the issues associated with the approved use or development. It also avoids the proliferation over time of permits for different aspects of the use and development of a parcel of land.



- 2.9 The proposed development would remain consistent with the existing and proposed strategic policy framework for Fishermans Bend. In particular, both commercial and residential uses would be retained and dwelling diversity objectives would be achieved. Active frontages would also be retained.
- 2.10 The proposed changes would not result in any additional off-site amenity impacts, with no increase in height and only minor changes to the built form envelope.
- 2.11 The proposed dwellings would have an acceptable level of internal amenity.
- 2.12 The increase in parking provision would be generally minor, and the layout would remain functional.
- 2.13 While a number of sustainable design and water sensitive urban design initiatives were proposed to be removed from the development, the applicant has agreed to conditions to reinstate some of these and provide alternative initiatives, so that the overall ESD performance would not decrease.
- 2.14 For these key reasons, it is recommended that Council issues an Amended Planning Permit, with conditions.

### 3. RECOMMENDATION

- 3.1 That in relation to Planning Permit Application P39/2015/A, the Council issues an Amended Planning Permit to demolish existing buildings, construct a mixed use 4, 6 and 8 level development plus basement, use the land for dwellings and alter access to a Road Zone Category 1 at 51-59 Thistlethwaite Street and 476, 478, 480 and 486 City Road, South Melbourne with the following amendments:

#### **Amended preamble**

The preamble to be:

*To demolish existing buildings, construct a mixed use 4, 6 and 8 level development plus basement, use the land for dwellings and alter access to a Road Zone Category 1.*

#### **Date issued**

The 'Date issued' (i.e. the date that the original permit P39/2015 was issued) to be 19 February 2016.

#### **Amended conditions**

Amend conditions 1, 16 and 32 and delete condition 19, so that the conditions are as follows (the amendments have been **bolded**):

##### **1 Amended plans required**

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 drawn to scale with dimensions and an electronic



copy must be provided. The plans must be generally in accordance with the plans received by Council on 22 May 2018 but modified to show:

- a) The “commercial” spaces annotation amended to state “Retail premises (other than a Supermarket, Adult sex bookshop, Hotel or Tavern) or Offices”.
- b) The grey face brick (BR01) (not the white glazed brick) replaced with red brick.
- c) The steel reveals (frames, feature fins, louvres and canopies) (AL02) replaced with a darker colour (such as charcoal/ monument).
- d) The light grey and pale yellow aluminium composite panels (AC01) replaced with darker panelling.
- e) The proposed stair and ramp adjacent to the lobby to the Stage 1 building located within the building line to provide a defined hard edge to the street.
- f) An accessible space in the Stage 2 building, if required under the relevant regulations.
- g) The roller doors to the waste rooms annotated on the plans.
- h) Annotate the intended use/ function of the “indoor amenities” areas.
- i) Remove all inconsistencies between the Finishes Schedule and the plans.
- j) Indicate the proposed finishes to balconies and soffits.
- k) One motor-cycle or scooter space.
- l) Separate residential and commercial bin rooms.
- m) Hard waste storage areas.
- n) The finished floor level of the substation/s being a minimum of 2.599 m to AHD.
- o) The height for installation of any electrical/ gas points or switches being a minimum of 0.6 m above the flood level (which is 2.449 m to AHD).
- p) A minimum of 190 Bicycle parking spaces for residents.
- q) A minimum of 34 bicycle parking spaces for visitors, including some on Thistlethwaite Street, some on or near City Road and some along the internal laneway/s.
- r) At least 20% of the bicycle parking spaces provided being horizontal.
- s) Improved access from Thistlethwaite Street and/ or City Road (via the internal laneway) into the bicycle storage area of Stage one.
- t) Direct access from City Road into the bicycle storage area of stage two.
- u) Provision of one communal roof terrace and one green roof area for each stage.
- v) Provision of other initiatives outlined by Council’s ESD Advisor, so that the nett sustainable design and water sensitive urban design outcome addresses Council’s requirements.



- w) Any changes required to meet the requirements of the Sustainable Management Plan (condition 2).
- x) Any changes required to meet the requirements of the Water Sensitive Urban Design response (condition 4).

## **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:

- a) 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;
- b) 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:

- a) Pay the costs of all alterations/reinstatement of Council and Public Authority assets necessary and required by such Authorities for development.
- 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 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 **for each stage of the development**. 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**

**Deleted.**

**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 owners wind climate experts, referencing 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 **150** 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.

**35 VicRoads Condition**

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.

**36 Melbourne Water Condition 1**

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 Melbourne Water Condition 2**

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 first stage is not started within two (2) years of the date of this permit.
- b) The 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.
- d) 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

**Expiry Date**

The words “date of this permit” in condition 42 refers to 19 February 2016 being the date of planning permit 39/2015. See attached “information about this permit” for expiry date relating to the approved amendments.

**Amendments to the endorsed plans**

Supersede the currently endorsed plans with amended plans which show the following changes:

- Consolidation of commercial tenancies, with total reduction in commercial floor area of 416.4 sqm, and removal of the community spaces.
- Changes to the dwelling configuration and layouts, with two additional dwellings overall.
- Changes to the car and bicycle parking numbers and layout. This includes an increase of 6 car spaces (from a rate of 0.58 spaces per dwelling to 0.61 spaces per dwelling).
- Changes to communal open space configuration.
- Minor changes to the built form envelope.
- Changes to the external appearance, including to external materials (but no increase in height).
- Various other changes.

**4. RELEVANT BACKGROUND**

4.1 Two historic permit applications are recorded for the subject land:

Application No.	Proposal	Decision	Date of Decision
<b>51-59 Thistlethwaite Street</b>			
P1364/1994	Warehouse/ light industry	No permit required	15 November 1994
P609/2005	Restaurant/ function centre/ nightclub	Lapsed	26 September 2005

4.2 On 19 February 2016, Council issued planning permit P39/2015 to demolish existing buildings, construct a mixed use, 4, 6 and 8 level development including



dwelling, retail and commercial, and community spaces. Alter access to a Road Zone Category 1 (i.e. remove an existing vehicle crossing on City Road).

- 4.3 On 30 August 2017, Council issued amended planning permit P39/2015/A, to enable the development to be carried out in two stages.
- 4.4 Plans were subsequently endorsed in accordance with condition 1 of the permit (excluding condition 1g)) on 13 November 2017.
- 4.5 A Remediation Works Plan was endorsed in accordance with condition 16 of the permit on 30 May 2018, for Stage 1.
- 4.6 The development has not commenced. On 22 January 2018, Council granted a two-year extension of time to the permit, so that Stage 1 must be commenced by 19 February 2020.

## 5. PROPOSAL

- 5.1 It is proposed to amend permit P39/2015 under s 72 of the *Planning and Environment Act 1987* as follows:

Existing preamble	Proposed amended preamble
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).	To demolish existing buildings, construct a mixed use 4, 6 and 8 level development plus basement, use the land for dwellings and alter access to a Road Zone Category 1.
Existing conditions	Proposed conditions
1j) Replacement of the trees raised planters in the laneway with evergreen shrub blocks.	Delete.
1k) 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.	Changes to the Level 2 north apartments in accordance with the plan referred to as Project No. 1020, Drawing No. VCAT02 Rev D dated 13 January 2016.
<ul style="list-style-type: none"> <li>• <b>19 Agreement under Section 173 of the Planning and Environment Act 1987 Re: Windows on Boundaries</b> Before the development starts (other than demolition or works to remediate contaminated land), the applicant must:                             <ul style="list-style-type: none"> <li>(a) Enter into an agreement under Section 173 of the Planning and Environment Act 1987 with the Responsible Authority;</li> </ul> </li> </ul>	Delete (no windows are proposed on the boundary on the amended plans).



<p>(b) Register the agreement on the title(s) for the land in accordance with Section 181 of the Planning and Environment Act 1987; and</p> <p>(c) Provide the Responsible Authority with the dealing number confirming the registration of the title.</p> <p>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:</p> <p>(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;</p> <p>(b) That the windows must be fire rated in accordance with the requirements of the Building Code of Australia;</p> <p>(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</p> <p>(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.</p>													
<ul style="list-style-type: none"> <li>• <b>32 Number of Dwellings</b></li> </ul> <p>Without the further written consent of the Responsible Authority, no more than 161 dwellings may be constructed on the land.</p>	<p>Without the further written consent of the Responsible Authority, no more than 150 dwellings may be constructed on the land.</p>												
<p><b>Proposed changes to endorsed plans</b></p>													
<p>A number of changes are proposed to the endorsed plans, as shown on the plans prepared by Bruce Henderson Architects and received by Council on 22 May 2018.</p> <p>It is proposed to consolidate the ground floor commercial tenancies and remove the first floor commercial tenancies, with a total reduction in commercial floor area of 416.4 sqm. It is also proposed to remove the community spaces. These changes are summarised in the following table:</p> <table border="1" data-bbox="284 1839 1155 2042"> <thead> <tr> <th>Approved</th> <th>Shops</th> <th>Offices</th> <th>Community space</th> </tr> </thead> <tbody> <tr> <td>Stage 1</td> <td>254 sqm</td> <td>114 sqm (SOHO)</td> <td>53 sqm</td> </tr> <tr> <td>Stage 2</td> <td>278 sqm</td> <td>265 sqm + 196 sqm (SOHO)</td> <td>6 sqm</td> </tr> </tbody> </table>		Approved	Shops	Offices	Community space	Stage 1	254 sqm	114 sqm (SOHO)	53 sqm	Stage 2	278 sqm	265 sqm + 196 sqm (SOHO)	6 sqm
Approved	Shops	Offices	Community space										
Stage 1	254 sqm	114 sqm (SOHO)	53 sqm										
Stage 2	278 sqm	265 sqm + 196 sqm (SOHO)	6 sqm										



<b>Total</b>	<b>532 sqm</b>	<b>575 sqm</b>	<b>59 sqm</b>
<b>Total commercial</b>	<b>1107 sqm</b>		
<b>Proposed</b>	<b>Commercial</b>		<b>Community space</b>
Stage 1	250.9 sqm		0 sqm
Stage 2	439.7 sqm		0 sqm
<b>Total</b>	<b>690.6 sqm</b>		<b>0 sqm</b>
<b>Change</b>	<b>- 416.4 sqm</b>		<b>- 59 sqm</b>

It is proposed to alter the dwelling configuration and layouts (with two additional apartments). Changes include the removal of the SOHO apartments at ground level and level one, and inclusion of double storey apartments at the upper levels. The changes to the dwelling mix is summarised in the following table:

ITEM	ENDORSED	AMENDED	CHANGE
Apartments	148	150	+2
1BR	62	30	-32
2BR	80	112	+32
3BR	6	8	+2

It is proposed to add six car parking spaces and remove 30 bicycle parking spaces, as summarised in the following table:

Approved	Car parking	Bicycle Parking
Stage 1	50	122
Stage 2	36	68
<b>Total</b>	<b>86</b>	<b>190</b>
Proposed	Car parking	Bicycle parking
Stage 1	73	98
Stage 2	19	62
<b>Total</b>	<b>92</b>	<b>160</b>
<b>Change</b>	<b>+ 6</b>	<b>- 30</b>

Other changes proposed to the plans are itemised as follows:

**Basement level**

- Indicate car stacker pits and storage
- Water tanks provided under both buildings

**Ground level**

Stage 1:

- Area of services reduced to Thistlethwaite Street frontage, with substation relocated to eastern laneway
- Car and bicycle parking layout revised
- Deletion of community terrace to southern laneway
- Provision of residential lobby and lounge to laneway (replacing courtyard and communal room)



- Relocation of waste room from eastern to southern laneway and provision of second waste room to street frontage
- Rationalisation of lift and stair layout
- Variations to building envelope, with approved envelope shown with dotted blue line

Stage 2:

- Circulation area/ lobby reduced in area to City Road frontage
- Car and bicycle parking layout revised
- Removal of one scooter parking space
- Provision of residential lobby and resident lounge and laneway
- Visitor bicycle parking at ground floor reduced from 15 hoops to 5 hoops

**Level one**

Stage 1:

- Deletion of central car stackers and storage area and replacement with landscaped courtyard and additional apartments
- Setbacks of balconies to southern boundary/ laneway reduced to 2.65 m

Stage 2:

- Deletion of central car stackers and storage area and replacement with landscaped courtyard and additional apartments with new lightcourt to eastern boundary
- Deletion of offices and replacement with apartments fronting City Road

**Level two**

Stage 1:

- Deletion of central courtyard
- Minor reduction in size of central lightcourt
- Urban art relocated to underside of slab connecting the two buildings

Stage 2:

- Deletion of central courtyard
- Minor reduction in size of central lightcourt

**Level four**

Stage 2:

- Deletion of green roof

**Level five**

Stage 1:

- Deletion of green roof and expansion of balconies to apartments fronting Thistlethwaite Street

**Level six**

Stage 2:

- Deletion of green roof and residents terrace

**Roof level**

- Deletion of landscaped roof and residents lounge

**Elevations**

- Changes to reflect floor plans
- Maximum building height reduced to reflect changes to building core design
- Materials revised completely in accordance with revised materials schedule





- 5.2 The following documentation has been submitted as part of this amendment application:
- a) A Sustainable Management Plan (version 3) dated April 2018 prepared by Sustainability Development Consultants.
  - b) A Waste Management Plan dated 23 April 2018 prepared by Leigh Design.
  - c) A Daylighting Assessment dated 23 April 2018 prepared by Sustainability Development Consultants.
  - d) A Traffic Engineer Assessment dated 8 March 2018 prepared by Ratio Consultants.
  - e) A Landscape Design Statement (revision 8) dated 14 March 2018 prepared by Tract.

## 6. SUBJECT SITE AND SURROUNDS

- 6.1 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.
- 6.2 The site is irregular in shape and comprises two adjacent lots facing Thistlethwaite Street and five adjacent lots facing City Road.
- 6.3 The site has a frontage to Thistlethwaite Street of 38.83 m, a frontage to City Road of 40.24 m, a maximum depth of 93.07 m and an overall area of 3,513 sqm.
- 6.4 A 3.60-3.65 m wide bluestone constructed lane (signed Arling Lane) runs along the eastern side of the Thistlethwaite Street property leading to the rear of the lots. 51-59 Thistlethwaite Street and 476, 478 and 480 City Road have a right of carriageway over the lane.
- 6.5 The rear of 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.
- 6.6 The land is generally flat with no discernible slope in any direction.
- 6.7 The subject site is currently developed as follows:
- a) 51-59 Thistlethwaite Street: one and two storey brick office/ warehouse building.
  - b) 476 City Road: single-storey saw-tooth roofed commercial/ industrial building. This property has a single vehicle crossing onto City Road.
  - c) 478 City Road: open asphalt car park for 480-484 City Road. This property also has a single vehicle crossing onto City Road.



- d) 480-484 City Road: two storey Victorian era shop with dwelling above and a single storey commercial building used for tyre sales. This property also has a single vehicle crossing onto City Road.
- e) 486 City Road: 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.

6.8 Land surrounding the subject site along both City Road and Thistlethwaite Street is developed with one and two storey commercial and industrial buildings.

## 7. PERMIT TRIGGERS

7.1 The following zone and overlay controls apply to the site, with planning permission required as described.

Zone or Overlay	Why is a permit required?
<ul style="list-style-type: none"> <li>• <b>Clause 37.04 - Capital City Zone (CCZ1)</b></li> </ul>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• A planning permit is not required to use the land for a Retail premises (other than an Adult bookshop, Hotel or Tavern) or an Office in the CCZ1.</li> <li>• 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.</li> <li>• 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.</li> <li>• An application to use land (other than for a nightclub, a tavern, a brothel or an adult sex bookshop), construct a building or construct or carry out works or 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.</li> <li>• Pursuant to Clause 6.0 of Schedule 1 to the CCZ1:</li> <li>• <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></li> </ul>



	<ul style="list-style-type: none"> <li>• A certificate of environmental audit issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or</li> <li>• A statement in accordance with Part IXD of the Environment Protection Act 1970 by an accredited auditor approved under that Act that the environmental conditions of the land are suitable for the sensitive use.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Clause 43.02 - Design and Development Overlay (DDO30)</b></li> </ul>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> </ul> <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>
<ul style="list-style-type: none"> <li>• <b>Clause 45.06 - Development Contributions Plan Overlay (DCPO2)</b></li> </ul>	<ul style="list-style-type: none"> <li>• 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: <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> </li> </ul>
<ul style="list-style-type: none"> <li>• <b>Clause 45.09 - Parking Overlay (PO1)</b></li> </ul>	<ul style="list-style-type: none"> <li>• 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 100 sqm of gross floor area for</li> </ul>



	Office and Retail premises uses. A permit is required to exceed these rates. A permit is not required under this clause, since these rates would not be exceeded.
<ul style="list-style-type: none"> <li>• <b>Clause 52.29 - Land adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 road</b></li> </ul>	<ul style="list-style-type: none"> <li>• A planning permit is required to create or alter access to a road in a Road Zone Category 1.</li> <li>• A permit is required under this clause.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Clause 52.34 - Bicycle Facilities</b></li> <li>•</li> </ul>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• A planning permit is required to vary, reduce or waive any bicycle facilities requirement of Clause 52.34-3 and Clause 52.34-4.</li> <li>• A permit is not required under this clause.</li> </ul>

## 8. PLANNING SCHEME PROVISIONS

### State Planning Policy Frameworks (SPPF)

- 8.1 The following State Planning Policies are relevant to this application:
- Clause 9 Plan Melbourne
  - Clause 11 Settlement, including 11.02 Urban Growth and 11.06 Metropolitan Melbourne
  - Clause 15 Built Environment and Heritage, including 15.01-1 and 15.01-2 Urban Design and 15.02-1 Energy and Resource Efficiency
  - Clause 17 Economic Development
  - Clause 18 Transport

### Local Planning Policy Framework (LPPF)

- 8.2 The Municipal Strategic Statement (MSSS) contains the following clauses of relevance to this application:
- Clause 21.03 Ecologically Sustainable Development, including 21.03-1 Environmentally Sustainable Land Use and Development and 21.03-2 Sustainable Transport
  - Clause 21.04 Land Use, including 21.04-1 Housing and Accommodation, 21.04-3 Office and Mixed Activity Areas and 21.04-4 Industry
  - Clause 21.05 Built Form, including 21.05-2 Urban Structure and Character, 21.05-3 Urban Design and the Public Realm and 21.05-4 Physical Infrastructure



Clause 21.06 Neighbourhoods, including 21.06-8 Fishermans Bend Urban Renewal Area

8.3 The following local policies are of relevance to this application:

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

#### **Particular and General Provisions**

8.4 The following particular and general provisions are of relevance to this application:

Clause 52.06 Car Parking

Clause 52.10 Uses with Adverse Amenity Potential

Clause 52.29 Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road

Clause 52.34 Bicycle Facilities

Clause 61.01 Administration and Enforcement of this Scheme

Clause 65 Decision Guidelines

#### **Reference Documents**

8.5 The Fishermans Bend Strategic Framework Plan July 2014 (Amended September 2016) (FBSFP) is an incorporated document pursuant to Clause 81 and is relevant to this application.

#### **Planning Scheme Amendments**

##### Amendment GC81: Draft Fishermans Bend Framework

8.6 On 21 October 2017, a draft revised Fishermans Bend Framework was released by the State Government for consultation in October 2017. Subsequently, on 31 October 2017, associated draft Planning Scheme Amendment GC81 setting out revised State and Local policy, zone, overlay and general provisions for Fishermans Bend was released for consultation.

8.7 Key strategies/ guidelines proposed in the draft Framework Plan (relative to the subject site and surrounds) are:

a) A bus route on Ingles Street to the west and cycling corridors on Ingles Street to the west and Buckhurst Street and Bay Street to the north.

b) New open space along the tram line to the north and near Montague Street.



- c) The site and surrounds (the non-core Montague precinct) having a Floor Area Ratio (FAR) of 3.0:1 and discretionary height control of eight storeys for the northern part of the site and mandatory height control of four storeys for the southern part.
- d) The site and surrounds being a Mixed-use medium (non-core activity) area.

8.8 Key matters introduced in the draft controls (relative to the subject site and surrounds) are:

- The submission of a green travel plan for all applications in Fishermans Bend, under Clause 21.03-2.
- Substantial residential growth encouraged in Fishermans Bend, particularly in the Montague, Sandridge and Wirraway precincts, under Clause 21.04-1.
- The identification of key built form elements in each precinct, and the introduction of preferred future precinct character guidelines for each precinct, under Clause 21.06-8. The northern part of the subject site would be located in Sub-precinct M4, while the southern part would be located in Sub-precinct M5.
- For Montague, the following local strategies are of relevance to this application:
  - 6.8.14 Encourage infill, row/terrace and shoptop housing. Perimeter block, hybrid or podium/tower development is supported in core locations.*
  - 6.8.15 Encourage low to mid rise built form of up to 8 storeys is preferred, except in the 'core' where a preferred maximum height of 12 or 20 storeys applies. Low rise, mandatory maximum 4 storeys at City Road and Boundary Street interfaces.*
  - 6.8.16 Encourage new laneways to complete 'missing links' between primary and secondary active frontages/retail streets and provide rear/side lane access to buildings.*
  - 6.8.17 Encourage smaller building footprints to add to the fine grain character.*
  - 6.8.18 Encourage commercial/retail uses at ground level to activate streets*
  - 6.8.19 Encourage continuation of built form to create defined street edges with upper level setbacks providing for outlook and internal amenity and protecting amenity of streets and laneways.*
- Area M4 has the following preferred character:
  - Generally a mid-rise scale of development with opportunities for additional upper levels that are visually recessive from the street and do not result in podium-tower forms.*





*A variety of street wall heights between 4 and 8 storeys to contribute to architectural diversity within the street.*

*Adaptive reuse of existing heritage and characterful buildings.*

- Area M5 has the following preferred character:

*A range of mid-rise and tower buildings, including hybrid developments on larger sites.*

*Well-space, slender tower that provide sunlight access to streets and neighbouring residences.*

*Location and design of towers to minimise overshadowing of Buckhurst Street spine. Activation of new laneways.*

*Lower street wall heights on the north of Buckhurst Street spine.*

- Clause 22.15 sets out a range of relevant policies for new development, including a dwelling density for the Montague Non-core area of 198 per hectare.
- Schedule 1 to the Capital City Zone sets out a range of matters that must be considered, including conditions that must be included on any permit that issues, information that must be provided and decision guidelines. City Road South is designated as a Secondary active frontage.
- The Table of uses at Section 1.0 of Schedule 1 to the Capital City Zone would be amended. Relevant to this proposal, a Retail premises would be a Section 2.0 use where it is not located in a core area.
- Schedule 30 to the Design and Development Overlay sets out numerous built form requirements including for height, setbacks, street wall height, walls on boundaries, adaptable buildings, finishes and landscaping.
- The application of the Environmental Audit Overlay to the site and surrounds.
- Schedule 1 to the Parking Overlay specifies a maximum parking rate of 0.5 spaces per dwelling and 1 space per 100 sqm of gross floor area for a retail premises. A permit must not be granted to exceed the maximum parking provision.

- 8.9 Submissions on the draft Framework and Planning Scheme provisions closed on 15 December 2017 and were referred to an independent panel. It is not known when the new Framework and controls will be resolved and/ or implemented. Regardless, the assessment of this application must have regard to the draft controls.



## 9. REFERRALS

### Internal referrals

9.1 The application was referred to the following areas of Council for comment. The comments are discussed in detail in Section 9.

#### Heritage Advisor

9.2 Council's Heritage Advisor stated that there were no heritage issues arising from this application. Further *'there is a Victorian era shop and residence at no.484 City Road, but it is much altered and is not recommended for inclusion in a heritage overlay'*.

#### Urban Design Officer

9.3 Council's Urban Design Officer provided the following relevant comments:

- a) *No issues with increase or change in apartment mix. Support additional 3 bedroom apartments and the increase in 2 bedroom apartments proposed, as these will provide the Fishermans Bend residential market with greater housing diversity.*
- b) *No issues with the removal of office use in favour of retail/shops as Thistlethwaite Street is outside of the core retail area identified by Council's Precinct Planning team in its Urban Design Report submission.*
- c) *The proposed material palette is very monotonous. Suggest red brick application to ground floor in lieu of grey face brick (BR01). This would provide visual warmth to the streetscape and is in keeping with the existing character of Montague South. Additionally, it is suggested the steel reveals (AL02) which frame levels 2-4 are a darker colour (charcoal/monument) to contrast the render finish and white glazed brick, providing greater visual depth to the façade. Likewise, to emphasise the base, middle and crown composition of the development, it is suggested a darker panelling (AC01) is applied to levels 6 &7.*
- d) *Confirm dimensions for bedrooms in apartment no. TS-L1-01, TS-L1-07 & TS-L2-07 – these appear constrained due to configuration/ shape of bedroom.*
- e) *No issues with minor changes proposed to building envelope. These have resulted in a generally more rationalised building footprint and form.*
- f) *The proposed stair and ramp adjacent to the lobby to the Stage 01 building along the widened laneway, is currently located external to the building and is not supported. It is preferred that changes in level occur within the building line, providing a defined hard edge to the street.*
- g) *Confirm whether an accessible space is also required in the Stage 02 building.*



- h) *Roller doors to waste rooms should be annotated on plans. These appear on elevations.*
  - i) *Confirm intended use within indoor amenities labelled areas on ground floor. Is this a communal lounge? What is the purpose? Support in principle just need to better understand the function.*
  - j) *Material MC1 does not appear on the Finishes Schedule but is indicated in the Finishes Legend on the title block and there are other inconsistencies regarding the Finishes legend on the title blocks between drawings.*
  - k) *Confirm proposed finishes to balconies and soffits.*
- 9.4 The applicant has agreed to address all these matters, so they have been required through the recommended conditions. **Refer recommended conditions 1b)-j).**
- 9.5 The only issue identified that is not recommended to be addressed through a condition is the dimensions of bedrooms in apartments TS-L1-01, TS-L1-07 and TS-L2-07. While it is acknowledged that these bedrooms are oddly shaped and in part less than 2.9 m in width, they would still be able to accommodate a double bed and walk-in-robe.

#### Transport Engineer

- 9.6 Council's Transport Engineer provided the following advice:
- *Overall I am generally satisfied with the proposed changes which mainly relate to internal car park reconfiguration as detailed in Ratio's letter and as shown in the latest drawings. The proposed changes, including revised car and bicycle parking provisions and modified mechanical car parking arrangement, are considered satisfactory and consistent with the endorsed scheme. However a minimum of one motorcycle parking space should be provided on-site in accordance with Schedule 1 of the Parking Overlay PO1.*
- 9.7 Section 2.0 of Schedule 1 to the PO states that all buildings that provide on-site car parking must provide motor-cycle parking for the use of occupants and visitors, at a minimum rate of one motor-cycle parking space for every 100 car parking spaces, unless the Responsible Authority is satisfied that a lesser number is sufficient.
- 9.8 The approved proposal includes one scooter space, and none is proposed now.
- 9.9 Therefore, a condition is recommended to require the provision of a motor-cycle or scooter space. The applicant has agreed to this. **Refer recommended condition 1k).**



Waste Officer

9.10 Council's Waste Officer provided the following advice:

- *The City Rd and Laneway entrance bin rooms need to be separated into separate residential and commercial bin rooms.*
- *Hard waste storage needs to be drawn into the plans.*

9.11 These matters can be addressed through conditions. The applicant has agreed to this. **Refer recommended conditions 1l)-m).**

Drainage Engineer

9.12 Council's Drainage Engineer advised that:

- *The minimum Finished Floor Level (FFL) is 2.449m AHD + 300mm = 2.749m AHD.*
- *The minimum non habitable Finished Floor Level (FFL) is 2.449m AHD + 150mm = 2.599m AHD.*
- *The FFLs for the commercial, lobby, amenities and waste room areas proposed at 3.00m AHD is above the minimum required finished floor level.*
- *The proposed FFL for the substation appears to be below the required minimum non-habitable floor level (AHD 2.599m).*
- *Access to the basement should include an apex or flood barrier that is above the flood level to avoid flood water entering the basement.*
- *The height for installation of any electrical/gas points or switches should be a minimum of 600mm above the flood level.*

9.13 This advice is generally consistent with the Melbourne Water conditions that were included on the original permit, based on their then blanket recommendations for Fishermans Bend. All vehicle access into the basement would be via an upwards ramp and the other entries would be at a level above the flood level, so further modifications are not required to address the basement issue.

9.14 The outstanding matters regarding the floor level of the substation and height of electrical/ gas points can be addressed through conditions. The applicant has agreed to this. **Refer recommended conditions 1n)-o).**

Sustainable Design

9.15 Council's Sustainable Design Advisor reviewed the proposal and identified a number of concerns, particularly where approved ESD and WSUD related initiatives, such as the green roofs, roof terraces and bicycle parking are proposed to be pared back.



9.16 He advised that:

*The major redesign of the building does see some areas improve, though also contains changes which will see significant losses in environmental performance and amenity over the previous scheme:*

- *Communal roof terraces – These offered considerable social and wellness benefits as well as environmental benefits but have been removed entirely.*
- *Central courtyards – Though creating a pleasant outlook, these provide poor spaces for social congregation, and are far less likely to be useful to residents due to potential visual and acoustic privacy conflict.*
- *Building separation – The two building blocks are joined with a bridge, even though there is no corridor connecting the buildings. Should the units here be moved elsewhere, northern sun and increased daylight could penetrate the space between the buildings, which is currently an undercroft.*
- *Bicycle facilities – These have poor access routes for occupants and limited amenity as noted below.*
- *Waste areas – These have no resident access, no hard waste provision, and nothing offered for the varied waste streams likely to be encountered by commercial premises, such as large volumes of glass, and/or cardboard as distinct from comingled recycling*
- *Back-of-house – Commercial access to bins, bicycle parking, car parking and loading docks are poor.*

9.17 Council's Sustainable Design Advisor also identified numerous areas where improvement could be made.

9.18 In response to these concerns, the applicant has agreed to provide additional bicycle facilities, improve access into the bicycle storage area, provide one communal roof terrace and one green roof for each stage and reconfigure the waste areas. These have been required through conditions. In addition, amended Sustainability Management Plan will be required, with commitments to respond to the other issues identified in the above advice. Subject to these conditions, the overall sustainable design and water sensitive urban design performance would not decrease. **Refer recommended conditions 1p)-x).**

9.19 The issue raised in relation to building separation is not something that has come about through this amendment, being a feature of the approved development. Similarly, the location of the loading bay has already been approved and would be difficult to relocate. Therefore, it is not appropriate these issues be addressed, as long as Council is satisfied that there would be no nett decrease in sustainable design and stormwater design initiatives overall.

#### **External referrals**

9.20 The application was not required to be externally referred.



**10. PUBLIC NOTIFICATION/ OBJECTIONS**

- 10.1 The application was not put on public notification.
- 10.2 The application is exempt from the notice and review 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 in relation to the use and development of the land in the CCZ1, DDO30 and SBO2.
- 10.3 The application is not exempt from the notice and review provisions of the Act in relation to works to alter a Road Zone Category 1 under Clause 52.29. However no changes are proposed to the access arrangement as part of this amendment application.

**11. OFFICER'S ASSESSMENT**

**Key Considerations**

- 11.1 This application to amend existing planning permit P39/2015 seeks to make a number of design and layout changes to the endorsed plans. Associated changes are also proposed to some of the permit conditions and the permit preamble.
- 11.2 The key changes proposed are:
  - 11.2.1 Consolidation of commercial tenancies, a reduction in commercial floor area of 416.4 sqm, and removal of the community spaces.
  - 11.2.2 Changes to the dwelling configuration and layouts, with two additional dwellings overall.
  - 11.2.3 Changes to the car and bicycle parking numbers and layout. This includes an increase of six car spaces (from a rate of 0.58 spaces per dwelling to 0.61 spaces per dwelling) and a reduction of 30 bicycle spaces (from 190 to 160).
  - 11.2.4 Reduction in size of communal open space.
  - 11.2.5 Minor changes to the built form envelope.
  - 11.2.6 Changes to the external appearance, including to external materials (but no increase in height).
- 11.3 In addition to an assessment of each of the proposed changes, the following key implications are considered in turn:
  - 11.3.1 Does the proposal remain consistent with the strategic policy framework?
  - 11.3.2 Has appropriate car and bicycle parking been provided?
  - 11.3.3 Would the dwellings have a good level of internal amenity?





11.3.4 Would the proposed changes cause any additional off-site impacts?

**Does the proposal remain consistent with the strategic policy framework?**

- 11.4 The strategic policy framework for Fishermans Bend (including Schedule 1 to the CCZ, Clause 22.15 and the Fishermans Bend Strategic Framework Plan) supports a range of residential and employment generating uses. Fishermans Bend is also identified as a Substantial residential growth area under Clause 21.04-1.
- 11.5 This is reflected in the purpose of Schedule 1 to the CCZ:
- To use and develop the Fishermans Bend Urban Renewal Area generally in accordance with the Fishermans Bend Strategic Framework Plan, July 2014 (amended September 2016).*
- To provide for medium to high residential density and a variety of dwelling types which are well-located to services and public transport.*
- To provide for a range of residential, commercial, industrial, recreational, business and leisure uses within a mixed use environment.*
- To encourage employment uses and the continued operation of existing uses.*
- 11.6 The proposed changes to consolidate the ground floor commercial tenancies and remove the first floor commercial tenancies would result in a total reduction in commercial floor area of 416.4 sqm. There would still be 690 sqm of commercial floor area, across three tenancies. The community spaces would also be removed (being 59 sqm in area).
- 11.7 The overall reduction in commercial tenancies is considered to be acceptable, having regard to the sites location in the mixed-use but non-core activity area within the Montague Precinct under the draft FBFP.
- 11.8 Importantly, active frontages would be retained to both Thistlethwaite Street and City Road at ground level, with the three commercial tenancies abutting them. In addition, a comparable amount of active frontage would be retained along the laneways and internal courtyard. Specifically, the commercial tenancies, lobbies and two indoor amenity areas would provide activation and surveillance of the internal laneways.
- 11.9 The commercial tenancies will be required to be relabelled as “Retail premises (other than a Supermarket, Adult sex bookshop, Hotel or Tavern) or Offices” (**refer recommended condition 1a**). This will allow them to be used for a range of uses (which are Section 1 uses in the CCZ1), including shops, food and drink premises and offices. The proposed tenancies would be large, and could be subdivided into smaller tenancies depending on future demand. Therefore the proposed configuration provides flexibility, which is appropriate.



- 11.10 The site is not located in or adjacent to one of the designated community hubs within the Montague precinct under the existing and draft FBSPs. Therefore the removal of the community spaces is acceptable.
- 11.11 The greater number of two and three bedroom dwellings proposed will contribute to the dwelling diversity sought under relevant policies, including Clauses 22.15-3 and 21.04-1.
- 11.12 The external design changes, which largely flow on from the internal layout changes but include modified materials, would be generally consistent with the strategic policy framework. Council's Urban Designer has made several relatively minor suggestions to improve the external appearance which have been addressed through recommended conditions (**refer recommended conditions 1b)-j**)).
- 11.13 While DDO30 was introduced following the approval of the original permit, the height guidance it sets out (for four storeys in the southern part of the site and eight storeys in the northern part) were previously considered under the FBSFP. While the DDO30 now makes these requirements mandatory, the overall height is not proposed to increase in this amendment. Similarly, street setbacks and separation between buildings is minimally affected.
- 11.14 For these key reasons, the proposed amendments would remain consistent with the relevant strategic policy framework. Further, the proposal would be generally consistent with the proposed strategic policy framework and planning controls under Amendment GC81.

**Has appropriate car and bicycle parking been provided?**

- 11.15 This proposal includes changes to the car parking layout, allocation and provision, with six additional car parking spaces overall (from 86 to 92 spaces). Stage 1 would have 73 car spaces (increased from 50) and Stage 2 would have 19 car spaces (reduced from 36).
- 11.16 Pursuant to Clause 45.09-3 and Section 3.0 of Schedule 1 to the PO, a planning permit is required to provide car parking spaces in excess of the rates specified in Table 1 of Schedule 1. Table 1 specifies a maximum rate of one car space per dwelling and one car space to each 100 sqm of gross floor area for an office and retail premises.
- 11.17 The proposed Schedule 1 to the PO under Amendment GC81 specifies a maximum parking rate of 0.5 spaces per dwelling with no change to the rate for office and retail premises. It also states that a permit must not be granted to exceed the maximum parking provision.
- 11.18 The applicant has advised that:

*The increase in car parking has occurred as a result of detailed design, which redesigned car parking layouts to maximise efficiencies and through a desire to increase car parking in the Thistlethwaite Street tower, compared to the City Road tower (with the Thistlethwaite Street tower having a higher proportion of*



*apartment area compared to commercial area, while the City Road tower has a greater amount of commercial floor space). As no car parking is allocated to commercial uses, it seemed reasonable to relocate car parking so that the majority of car parking was under the Thistlethwaite Street tower. We note that car parking is still provided under the rates nominated at Clause 45.09, thereby ensuring it will not result in unreasonable impacts on the surrounding area.*

- 11.19 This proposal includes 92 spaces for 150 dwellings (a rate of 0.61 spaces per dwelling), and no spaces for the commercial development. As approved, the development has 86 spaces for 148 dwellings (a rate of 0.58 spaces per dwelling), and no spaces for the commercial development.
- 11.20 The proposed rate of parking for the dwellings would increase from what is approved and above that proposed in the draft Schedule 1 to the PO. However this is acceptable as the rate is not significantly greater than the approved rate and it would still be under the maximum rate of the existing Schedule 1 to the PO.
- 11.21 The change in allocation of car parking spaces between the two stages is also acceptable, given that there is no minimum parking requirement under the PO1.
- 11.22 A reduction of 30 bicycle parking spaces is proposed (from 190 to 160 spaces). As discussed at section 8 of this report, the applicant has agreed to reinstate the 30 bicycle parking spaces for residents and provide additional bicycle parking spaces for visitors, as well as to improve access into the spaces. **Refer recommended conditions 1p)-t).**
- 11.23 The approved loading zone is not proposed to be altered.

#### **Would the dwellings have a good internal amenity?**

- 11.24 Pursuant to Clause 37.04-4 of the CCZ, an apartment development must meet the requirements of Clause 58 Apartment developments. However, transitional provisions under the CCZ specify that Clause 58 does not apply to an application for an amendment of a permit under s 72 of the Act, if the original permit application was lodged before the approval date of Amendment VC136. VC136 was approved on 13 April 2017, after this original permit application was lodged.
- 11.25 The Guidelines for Higher Density Residential Development against which the original application was assessed has been removed from the planning scheme. However, parts of Council's local policy at Clause 22.06 provide guidance in relation to private and communal open space and the FBSFP Design guidelines also provide guidance.
- 11.26 In addition, conditions 1r)-t) of the current permit require that:
- (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.*

- 11.27 The proposed dwelling layouts satisfy these requirements.
- 11.28 No habitable room windows would rely on borrowed light. The daylight modelling submitted as part of the application demonstrates that 7 bedrooms would receive less than 0.5 daylight factor and that 24 living zones would receive less than 1 daylight factor. To achieve BESS best practice for daylight levels, 80% of apartments must meet the daylight factor requirements. This is achieved here, since 84% of apartments comply. The apartments that typically did not meet these requirements were the lower levels ones facing the internal courtyards.
- 11.29 The number of dwellings which have their only outlook onto the internal courtyards has decreased from 38 to 33, largely due to the consolidation of some of the dwellings. This is a positive outcome.
- 11.30 Condition 7 of the permit requires that all dwellings be treated with noise attenuation measures. This requirement would remain on the permit.
- 11.31 Another key aspect of internal amenity is communal open space. The proposal seeks to remove two communal roof top terraces (a 400sqm area from Stage 1 and a 293 sqm area from Stage 2). A 135 sqm courtyard is proposed at the first floor of Stage 1 (as approved, this is a landscaped roof that is not accessible). In addition, two communal indoor amenity areas for residents are now proposed on the ground floor (with areas of 70.8 and 56.2 sqm).
- 11.32 In relation to this, the applicant has stated that:
- The reduction of communal open space within the development is considered to be offset by the improved amenity afforded the two courtyards – notably the courtyard to the City Road tower.*
- 11.33 There would be total communal open space of 247.4 sqm. This is less than the requirement of Standard D7 at Clause 58.03-2 Communal open space objective, which for a development with 150 dwellings requires 375 sqm of communal open space.
- 11.34 The Landscape Design Statement submitted as part of this proposal indicates the layout of the communal open space, with ample provision for planting (including some trees and vertical planting), seating and water features.
- 11.35 The reduction of communal open space is not ideal. As discussed at Section 8, the applicant has agreed to provide one communal roof terrace for each stage. These may be smaller than what is approved, however on balance this is an acceptable outcome given the courtyards and indoor amenity areas at ground floor (127 sqm in total). **Refer to recommended condition 1u).**
- 11.36 Subject to the provision of the roof terraces, it is considered acceptable that some of the balconies would have a lesser width than 1.6m (which is the minimum



width required under Clause 22.06). Further, these are generally associated with one bedroom apartments.

- 11.37 Overall, the proposal would provide for a good level of amenity for future residents.

**Would the proposed changes cause any additional off-site impacts?**

- 11.38 The overall height is not proposed to increase. Generally minor changes are proposed to the approved building footprint, with the most significant change being the removal of some of the apartments from the upper floors which would reduce the overall foot print.
- 11.39 Because of this, there would be no additional off-site amenity impacts to any property from overshadowing, loss of light, visual bulk or overlooking. Overshadowing diagrams showing the differences between the shadow from the approved and proposed buildings indicates that differences are minor.
- 11.40 Further, because side setbacks are generally being retained, there would be no significant impacts on the development potential of the adjoining properties.

**Assessment of each change**

- 11.41 Each of the proposed changes is considered in the table below.

Proposed change	Assessment
<p>To amend the preamble from: <i>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).</i></p> <p>To: <i>To demolish existing buildings, construct a mixed use 4, 6 and 8 level development plus basement, use the land for dwellings and alter access to a Road Zone Category 1.</i></p>	<p>The applicant has sought to amend the preamble to remove reference to some of the uses.</p> <p>It is imperative that the preamble refers to all permit triggers. The proposed preamble does this.</p> <p>However, the proposed plans show “commercial” space. This is not supported, since “commercial” space could include some uses which require a planning permit, and for which approval has not been explicitly sought. To ensure that the plans make reference to Section 1 (no permit required) uses only, <b>recommended condition 1a)</b> will require that this annotation is amended to state “Retail premises (other than a Supermarket, Adult sex bookshop, Hotel or Tavern) or Offices”.</p>
Proposed changes to conditions	
<p>Delete condition 1j) which states: <i>Replacement of the trees raised planters in the laneway with evergreen shrub blocks.</i></p>	<p>All of condition 1 is recommended to be amended. This is to require the submission of amended plans for endorsement to address a number of issues identified in the assessment of the application.</p> <p>Specifically, all the existing condition 1 requirements would be deleted, since they relate</p>





	<p>to the original application and are now obsolete. They would be replaced by new requirements, relevant to the amended proposal.</p> <p>Therefore, this condition would be deleted.</p>
<p>Revision condition 1k) from: <i>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.</i></p> <p>To: <i>Changes to the Level 2 north apartments in accordance with the plan referred to as Project No. 1020, Drawing No. VCAT02 Rev D dated 13 January 2016.</i></p>	<p>As discussed above, all of condition 1 is recommended to be amended. Therefore, this condition would be deleted.</p>
<ul style="list-style-type: none"> <li>• Delete condition 19 which states:</li> <li>• <b>Agreement under Section 173 of the Planning and Environment Act 1987 Re: Windows on Boundaries</b> <i>Before the development starts (other than demolition or works to remediate contaminated land), the applicant must:</i> <ol style="list-style-type: none"> <li>(a) <i>Enter into an agreement under Section 173 of the Planning and Environment Act 1987 with the Responsible Authority;</i></li> <li>(b) <i>Register the agreement on the title(s) for the land in accordance with Section 181 of the Planning and Environment Act 1987; and</i></li> <li>(c) <i>Provide the Responsible Authority with the dealing number confirming the registration of the title.</i></li> </ol> <p><i>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:</i></p> <ol style="list-style-type: none"> <li>(a) <i>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;</i></li> </ol> </li> </ul>	<p>This condition was included on the permit because windows were proposed to be constructed on the south west boundary. These windows were associated with the upper level corridors of Stage 1. The condition meant that these windows would not limit the development potential of the adjoining property at 67-69 Thistlethwaite Street.</p> <p>The amended plans have deleted these windows, therefore the condition is no longer required and can be deleted.</p>





<p>(b) That the windows must be fire rated in accordance with the requirements of the Building Code of Australia;</p> <p>(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</p> <p>(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.</p>	
<ul style="list-style-type: none"> <li>Amend condition 32 from:</li> <li><b>Number of Dwellings</b> <i>Without the further written consent of the Responsible Authority, no more than 161 dwellings may be constructed on the land.</i></li> </ul> <p>To:</p> <ul style="list-style-type: none"> <li><b>Number of Dwellings</b> <i>Without the further written consent of the Responsible Authority, no more than 150 dwellings may be constructed on the land.</i></li> </ul>	<ul style="list-style-type: none"> <li>This change is required to reflect the proposed number of dwellings and is supported.</li> </ul>
<b>Proposed changes to endorsed plans</b>	
<b>Overall changes</b>	
<p>Consolidation of commercial spaces (overall reduction of 416.4 sqm) and removal of community spaces (59 sqm)</p>	<p>This is considered to be acceptable, largely because the site is located outside of the core activity area within the Montague precinct. Further, active uses would be provided at the ground floors.</p>
<p>Alteration of the apartment mix, with two additional apartments</p>	<p>The proposed changes to the apartment mix, including a net increase of two dwellings, is supported. This is because the number of two and three bedroom apartments would be increased, at the expense of one bedroom apartments. This will assist to achieve the dwelling diversity sought in Fishermans Bend.</p>
<p>Changes to dwelling layouts, including the deletion of SOHO apartments and inclusion of double storey apartments at the upper levels</p>	<p>Various changes are proposed to dwelling layouts.</p> <p>A mix of layouts, including some double storey apartments, would be provided.</p>



	As discussed previously, the proposed dwellings would have an appropriate level of amenity and therefore the reconfiguration of layouts is acceptable.
<p>Changes to car parking layout and six additional car parking spaces (from 86 to 92 spaces).</p> <p>Specifically, Stage 1 would have 73 car spaces (increased from 50) and Stage 2 would have 19 car spaces (reduced from 36).</p>	<p>Council's Traffic Engineer has assessed the proposed revised car parking layouts and has advised that they would be satisfactory.</p> <p>The proposed increase in parking provision is considered to be acceptable, since the overall rate would only increase from 0.58 to 0.61 spaces per dwelling. This is not considered to be significant.</p> <p>The change in allocation of spaces between the two stages is also acceptable, given that there is no minimum parking requirement under the PO1.</p>
<p>Changes to bicycle parking layout and loss of 30 bicycle parking spaces (from 190 to 160 spaces).</p> <p>Specifically, Stage 1 would have 98 spaces (reduced from 122) and Stage 2 would have 62 spaces (reduced from 68) and 8 hoops for visitors (reduced from 15 hoops).</p>	As discussed at Section 8, the applicant has agreed to reinstate the 30 bicycle spaces for residents and provide additional visitor spaces (for at least 20 bicycles). They have also agreed to provide more efficient access into the bicycle storage rooms. Subject to these changes, the bicycle parking provision would be improved compared to what is approved. <b>Refer recommended conditions 1p)-r).</b>
<p>• <b>Basement level</b></p>	
Indicate car stacker pits and storage	<p>Currently there is no endorsed basement plan.</p> <p>The inclusion of a basement level provides for the car stackers to be at basement and ground floor instead of ground and first floors, which is a positive outcome.</p> <p>They also provide individual storage units which will be accessible via the lifts and stairwells. In all, each dwelling would be provided with an externally accessible storage unit (either at the basement or ground floor).</p>
Water tanks provided under both buildings	Rain water tanks with a storage capacity of 30,000 L is one of the initiatives in the Sustainable a Design Report. It is appropriate that they be located in the basement or otherwise under the buildings.
<p>• <b>Ground level</b></p>	
Stage 1: Area of services reduced to Thistlethwaite Street frontage, with substation relocated to eastern laneway	The relocation of the substation to the internal laneway is acceptable. The laneway would have sufficient activation from the commercial premise, lobby and indoor amenities room.



Stage 1: Deletion of community terrace to southern laneway	This terrace was limited in area (35sqm) and would have had a compromised amenity and questionable safety, being enclosed by walls on each side. This area is more suitable for enclosed bicycle storage, as proposed.
Stage 1: Provision of residential lobby and lounge to laneway (replacing courtyard and communal room)	The relocated lobby is generally acceptable, providing a visible residential entry area with view lines to the lift and stair well. It would be located adjacent to a residential amenities room, separated by glazing providing for views between the spaces and to both internal laneways.
Stage 1: Relocation of waste room from eastern to southern laneway and provision of second waste room to street frontage	The relocated waste rooms are generally acceptable. In particular, they would result in a slight increase in active floor area on the laneway, while remaining in accessible locations for residents and businesses.
Stage 1: Rationalisation of lift and stair layout	This is generally supported, since the location of lifts and stairwells remains functional, with two access cores proposed in Stage 1 in a similar location as approved. One of the lifts is accessible at ground level via a ramp from the laneway.
Stage 1: Variations to building envelope, with approved envelope shown with dotted blue line	The variations to the ground floor envelope are generally minor. Parts of the building would come closer to the eastern laneway, but would remain within the title boundary.
Stage 2: Circulation area/ lobby reduced in area to City Road frontage	As proposed, only a very narrow entry from City Road would be provided for residents, with a larger entry provided via the laneway. This is an acceptable outcome, particularly because the floor area is transferred to the commercial tenancies.
Stage 2: Removal of one scooter parking space	A condition is recommended to require that one motor-cycle/ scooter space be provided, in accordance with the requirements of the PO1. <b>Refer recommended condition 1k).</b>
Stage 2: Provision of residential lobby and resident lounge from the laneway	This is generally supported, since it maintains an activated interface to the laneways while providing resident amenities. There would be a direct line of sight from the laneway to the lift.
<ul style="list-style-type: none"> <li><b>Level 2</b></li> </ul>	
Stage 1: Deletion of central car stackers and storage area and replacement with landscaped courtyard and additional apartments	The shifting of the car stackers down into the basement and provision of an accessible landscaped courtyard instead is a positive outcome.



	<ul style="list-style-type: none"> <li>The additional apartments can be accommodated within the existing building footprint and would have an outlook onto the courtyard.</li> </ul>
Stage1: Setbacks of balconies to southern boundary/ laneway reduced to 2.65 m	<p>The reduction in the setbacks of balconies from the southern boundary/ laneway, by 0.5 to 2.2 m is considered to be acceptable.</p> <p>This is because they would still be setback from the laneway or boundary by 2.65 m, would be open above and would be larger than currently approved. Therefore they would still retain some access to daylight in the event that the adjoining property to the south is developed.</p> <p>It is also considered that the reduced setback is unlikely to affect the development potential of the adjoining property.</p>
Stage 2: Deletion of central car stackers and storage area and replacement with landscaped courtyard and additional apartments with new lightcourt to eastern boundary	<p>The shifting of the car stackers down into the basement is a positive outcome. The landscape courtyard would be lowered from the level above - it is not an additional area of communal open space compared to what is approved.</p> <p>The additional apartments can be accommodated within the existing building footprint and would have an outlook onto the courtyard.</p>
Stage 2: Deletion of offices and replacement with apartments fronting City Road	<p>The deletion of offices is acceptable because this area would not be in the core activity area within the Montague Precinct.</p> <p>Importantly, an active interface would be maintained with habitable room windows and balconies instead of office windows.</p>
<ul style="list-style-type: none"> <li><b>Level two</b></li> </ul>	
Stage 1: Deletion of central courtyard	<p>The courtyard would be lowered to the level below. Accordingly, an opening would provide light and outlook for the dwellings.</p>
Stage 1: Minor reduction in size of central lightcourt	<p>The lightcourt dimensions would reduce from 10 x 25 m to 10 x 23 m. However, the actual width would increase because the approved 10 m is encroached by balconies, where the proposed 10 m would not be.</p> <p>Overall, the lightcourt would be sufficiently sized to provide outlook, separation and access to daylight for the dwellings surrounding it.</p>
Stage 1: Urban art relocated to underside of slab connecting the two buildings	<p>This is considered to be acceptable. Condition 12 on the permit requires the submission of an</p>



	urban art plan, and this would be retained on the permit.
Stage 2: Deletion of central courtyard	The courtyard would be lowered to the level below. Accordingly, an opening would provide light and outlook for the dwellings.
Stage 2: Minor reduction in size of central lightcourt	The lightcourt dimensions would reduce from 7.5 x 17-19 m to 7.2-7.5 x 15.2 m.  Despite this minor decrease in size, the lightcourt would be sufficiently sized to provide outlook, separation and access to daylight for the dwellings surrounding it. It is relevant that only one dwelling per level would have its balcony facing the lightcourt – all other dwellings would have only a secondary outlook to the space.
<ul style="list-style-type: none"> <li>• <b>Level four</b></li> </ul>	
Stage 2: Deletion of green roof	A 210 sqm green roof is proposed to be deleted. Although this is not ideal, sufficient ESD and WSUD outcomes have been included in the Sustainable Management Plan submitted as part of this application which would ensure that an appropriate outcome is achieved in accordance with Council's ESD policies, including Clause 22.13. <b>Refer recommended conditions 1p)-x).</b>
<ul style="list-style-type: none"> <li>• <b>Level five</b></li> </ul>	
Stage 1: Deletion of green roof and expansion of balconies to apartments fronting Thistlethwaite Street	A 180 sqm green roof is proposed to be deleted. Although this is not ideal, sufficient ESD and WSUD outcomes have been included in the Sustainable Management Plan submitted as part of this application which would ensure that an appropriate outcome is achieved in accordance with Council's ESD policies, including Clause 22.13. <b>Refer recommended conditions 1p)-x).</b>
<ul style="list-style-type: none"> <li>• <b>Level six</b></li> </ul>	
Stage 2: Deletion of green roof and residents terrace	A 338 sqm green roof is proposed to be deleted. Although this is not ideal, sufficient ESD and WSUD outcomes have been included in the Sustainable Management Plan submitted as part of this application which would ensure that an appropriate outcome is achieved in accordance with Council's ESD policies, including Clause 22.13.  A 293 sqm residents terrace is proposed to be deleted. This is not ideal, and the applicant has agreed to provide a roof top terrace for the development, although it would likely be smaller



	<p>than what is approved. <b>Refer recommended condition 1u).</b></p> <p>Subject to this condition, the overall provision of communal open space and internal amenities would provide for the needs of future residents in addition to existing and future public open space.</p>
<p>• <b>Roof level</b></p>	
<p>Deletion of landscaped roof and residents lounge</p>	<p>A 400 sqm residents terrace and 39 sqm lounge is proposed to be deleted. This is not ideal, and the applicant has agreed to provide a roof top terrace for the development, although it would likely be smaller than what is approved. <b>Refer recommended condition 1u).</b></p> <p>Subject to this condition, the overall provision of communal open space and internal amenities would provide for the needs of future residents in addition to existing and future public open space.</p>
<p>• <b>Elevations</b></p>	
<p>Changes to reflect floor plans</p>	<p>These changes are generally acceptable, since they reflect relocated window and balcony locations.</p>
<p>Maximum building height reduced to reflect changes with building core design</p>	<p>The changes to building height are generally minor. Specifically, the height of Stage 2 would reduce from 24 to 23.8 AHD and the height of Stage 1 would reduce from 30 to 29.9 AHD.</p> <p>The impacts of this would be negligible.</p>
<p>Material revised completely in accordance with revised materials schedule</p>	<p>Various changes are proposed to the external materials, notably the replacement of red brick at the lower levels with a darker brick and rendered finish, and the proposed use of coloured Aluminium composite panels at the upper floors.</p> <p>Council's Urban Designer has reviewed the proposed scheme and made a number of recommendations, notably including the retention of red brick at the lower levels to reflect surrounding character and refinement of some of the other materials and colours. <b>Refer recommended conditions 1b)-j).</b></p> <p>Subject to these conditions, it is considered that the changes would be acceptable. Overall, it would be a contemporary design scheme with a mix of materials providing visual interest and articulation.</p>





**Are any other changes required to the permit?**

Changes required to conditions of the permit

- 11.42 The existing condition 1 requirements can be deleted, since they are generally complied with and/ or are no longer relevant to the amended proposal. New condition 1 requirements will require various changes be made to them, to address the matters raised in the referral responses.
- 11.43 Condition 16 requires the submission of a remediation works plan before any remediation works are undertaken in association with the environmental audit. A remediation works plan has been submitted for Stage 1 of the development and was subsequently approved by Council. It is recommended that condition 16 be amended to reflect the need to submit a remediation plan for each stage of the development, because another remediation plan will be required for Stage 2.
- 11.44 Condition 19 can be deleted as it is no longer relevant, as discussed in the assessment above.
- 11.45 Condition 32 should be amended to reflect the number of proposed dwellings, as discussed in the assessment above.
- 11.46 Melbourne Water's conditions at 36 and 37 specify finished floor level requirements and would be complied with.
- 11.47 Other conditions of the permit remain relevant and should be retained. Many of these require the submission of documents for endorsement prior to the commencement of works. This documentation has never been submitted and when it is submitted, it will have to reflect this amended proposal. This will ensure that various Council and referral authority requirements are met, including in relation to sustainable design, WSUD, urban art, landscaping, public services, developer contributions and potentially contaminated land.

Date of the permit

- 11.48 The 'Date issued' on the current permit P39/2015/A is 16 February 2016. This is incorrect, because the original permit was issued on 19 February 2016. This appears to have been a clerical error when the amended permit was issued. If this amended permit is issued, the 'Date issued' should be 19 February 2016.

**12. COVENANTS**

- 12.1 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);
- Volume 08461 Folio 432, commonly known as Lot 2 on PS 58406 (486 City Road); and
- Volume 08461 Folio 433, commonly known as Lots 1 and 2 on TP 836581B (51-59 Thistlethwaite Street);

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

**13. OFFICER DIRECT OR INDIRECT INTEREST**

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

**14. OPTIONS**

- 14.1 Approve as recommended.  
14.2 Approve with changed or additional conditions.  
14.3 Refuse - on key issues.

**15. CONCLUSION**

- 15.1 This proposal seeks to make a number of changes to the approved configuration, layout and external design of the development while generally keeping within the approved building envelope and overarching design scheme. Associated changes are proposed to the permit preamble and some of the conditions.
- 15.2 It is recommended that the proposal be supported, subject to conditions. This is because it would remain generally consistent with the existing and proposed strategic policy framework for Fishermans Bend. Further, subject to conditions generally agreed to by the applicant, the development would not result in any additional off-site amenity impacts, would provide an acceptable level of residential amenity, there would be no decrease in sustainable design and water sensitive urban design performance and it would provide appropriate car and bicycle parking provision.

**TRIM FILE NO:** PF18/10235  
**ATTACHMENTS**  
1. Application plans  
2. Current planning permit  
3. Current endorsed plans