



6.3 **245-247 AND 249-251 NORMANBY ROAD, SOUTH MELBOURNE**

LOCATION/ADDRESS: **245-247 AND 249-251 NORMANBY ROAD, SOUTH MELBOURNE**

EXECUTIVE MEMBER: **LILI ROSIC, GENERAL MANAGER, CITY STRATEGY AND SUSTAINABLE DEVELOPMENT**

PREPARED BY: **PATRICIA STEWART, FISHERMANS BEND URBAN RENEWAL SENIOR PLANNER**

1. PURPOSE

- 1.1 To provide a Council position on Ministerial Application 15/2015/MIN/A at the abovementioned address, to amend the existing permit under Section 72 of the *Planning and Environment Act 1987* to amend condition 14 (Environmental Audit) and condition 20 (Affordable Housing).

2. EXECUTIVE SUMMARY

WARD:	Gateway
TRIGGER FOR DETERMINATION BY COMMITTEE:	Development and use for accommodation in the Capital City Zone
APPLICATION NO:	DELWP: PA1500028-1 Council Ref: 13/2015/MIN/A
APPLICANT:	SJB Planning Pty Ltd
EXISTING USE:	Panel beaters and wholesale warehouse
ABUTTING USES:	Warehouses
ZONING:	Capital City Zone (CCZ1) Abuts Road Zone Category 1 (RDZ1) (Normanby Road)
OVERLAYS:	Incorporated Plan Overlay (ICO1) Environmental Audit Overlay (EAO) Parking Overlay (PO1) Design and Development Overlay (DDO30) Special Building Overlay (SBO2)
STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL	N/A (Informal referral)

- 2.1 The Minister for Planning (the Minister) is the Responsible Authority for the subject site.



- 2.2 On 23 January 2018 the Victorian Civil and Administrative Tribunal (VCAT) directed a permit issue for demolition of the existing building, the construction of a multi-storey mixed-use building, use of land as dwellings, and to create or alter access to a road in a Road Zone Category 1. The permit was issued pursuant to VCAT Order P2166/2017 after a consented position was reached by all parties.
- 2.3 The permit applicant is now seeking an amendment to condition 14 which relates to Environmental Audit requirements and condition 20 which relates to the provision of affordable housing.
- 2.4 The Victorian planning system recognises that a permit holder's intentions may change over time. Rather than requiring a new permit application to be made every time a change is proposed; Section 72 of the *Planning and Environment Act 1987* allows applicants to apply to the responsible authority for an amendment to a permit and associated plans.
- 2.5 An application to amend a permit under Section 72, including any plans, drawings or other documents approved under a permit, follows the same process as an application for a permit. It has the same requirements for giving notice and referral. However, the assessment for an application to amend a permit focuses only on the amendment itself and avoids reopening all the issues associated with the approved use or development. It also avoids the proliferation over time of permits for different aspects of the use and development of a parcel of land.
- 2.6 Currently condition 14 requires the permit holder to provide (a) a Certificate of Environmental Audit in accordance with Section 53Y of the Environment Protection Act 1970; or (b) a Statement of Environmental Audit under Section 53Z of the *Environment Protection Act 1970* before the development starts, including demolition, bulk excavation and site preparation works [author emphasis].
- 2.7 It has been identified that some demolition works need to be undertaken for the Environmental Audit assessment to be completed. The applicant is seeking to amend the wording of condition 14 to facilitate these demolition works.
- 2.8 The Department of Environment, Land Water and Planning (the Department) have provided draft conditions should condition 14 be amended. The draft conditions required the applicant to enter into an agreement pursuant to Section 173 of the *Planning and Environment Act 1987* to require temporary works if the land remains vacant for six months after completion of the demolition. These works include the construction of temporary buildings for short-term retail / commercial use or landscaping the site for public recreation and open space. Officers support these conditions subject to an alteration to require a statement from an Environmental Auditor to confirm the site is suitable for public open space.
- 2.9 The amended Condition 14 would remain consistent with the existing and proposed strategic policy framework for Fishermans Bend and the Environment Audit Overlay. Upon completion of the required remediation works, the approved sensitive land uses could be achieved on site. The proposed changes would not result in any additional off-site amenity impacts, with the opportunity for site activation if the land remains vacant for more than six months between demolition / remediation works and construction.
- 2.10 The amendment application also seeks to amend condition 20 which requires the developer to provide 6% (20 dwellings) as affordable housing for sale to a housing organisation at a discounted rate of 40% of the market value. This must be provided



between 3 and 12 months from the date development commences but if this is not achieved, 2.5% (8 dwellings) must be transferred to a housing organisation at no cost.

- 2.11 The applicant advised they have approached relevant housing organisations who have no appetite for the above arrangement. The applicant now seeks an amendment to the condition to provide different methods of providing affordable housing on the site.
- 2.12 Five options are proposed by the permit applicant, two of which generally align with the current requirements of the condition. The additional three options represent a significant departure from the objectives of the condition to provide affordable housing in perpetuity.
- 2.13 The amended, additional options, dilute the intent of the condition and fail to provide certainty as to how affordable housing can be delivered on-site. For this reason, the proposed amendments to Condition 20 are not supported. Should the Department determine to support the amendment to this condition, officers recommend further amendments to provide greater flexibility in response to emerging policy relating to affordable housing.
- 2.14 It is recommended that Council advise the Minister (C/- the Department of Environment, Land, Water and Planning) as follows:
- Council supports the proposed amendment to Condition 14, subject to the provision of additional conditions; and
 - Council does not support the proposed amendments to Condition 20.
 - If the Department supports the proposed amendment to Condition 20, Council requests Conditions 20 (i) and 20 (iii) be amended for clarification.



3. RECOMMENDATION

RECOMMENDATION – PART A – CONDITION 14

That the Planning Committee advises the Department of Environment, Land, Water and Planning that Council:

3.1 Supports the amended application, subject to the rewording of Condition 14 and the addition of the new conditions and the renumbering of the conditions in the permit:

Condition 14 amended to read:

*'Before the development starts, **excluding** demolition, bulk excavation and site preparation works, but excluding works to remediate contaminated land, the permit holder must provide:*

- *A Certificate of Environmental Audit in accordance with Section 53Y of the Environment Protection Act 1970; or*
- *A Statement of Environmental Audit under Section 53Z of the Environment Protection Act 1970. This Statement must state that the site is suitable for the intended uses.'*

New condition to read:

*'Within three months of the demolition or removal of existing buildings or works on the land, the owner of the land must enter into an agreement **with the Responsible Authority pursuant to** Section 173 of the Planning and Environment Act 1987. The agreement must provide the following:*

- a) *if the land remains vacant for 6 months after completion of the demolition;*
- b) *demolition or construction activity ceases for a period of 6 months; or*
- c) *construction activity ceases for an aggregate of 6 months after commencement of the construction.*

The owner must construct temporary works on the land to the satisfaction of the Responsible Authority.'

New condition to read:

Prior to the commencement of the construction of the temporary works, details of the works must be submitted to and be to the satisfaction of the Responsible Authority.

Temporary works may include:

- d) *The construction of temporary buildings for short-term retail or commercial use. Such structures shall include the provision of an active street frontage; or*
- e) *Landscaping of the site for the purpose of public open space, **subject to a site assessment from a suitably qualified environmental professional in accordance with General Practice Note 30 (Potentially Contaminated Land) that the land is suitable for public open space.***



The owner of the land must pay all of the Responsible Authority's reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title.'

RECOMMENDATION – PART B – CONDITION 20

- 3.2 That the Planning Committee advises the Department of Environment, Land, Water and Planning that Council does not support the proposed amendment to Condition 20.

RECOMMENDATION – PART C – CONDITION 20

- 3.3 That the Planning Committee advises the Department of Environment, Land, Water and Planning that in the event the Minister determines to approve the amendment to condition 20, it includes the following additional (**bolded**) changes:

Condition 20 amended to read:

'Before the development starts, excluding demolition, bulk excavation, piling, ground works and site preparation works, the owner must:

- a) *Enter into an agreement under Section 173 of the Planning and Environment Act 1987 to the satisfaction of 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 on the title.*

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

- i. *Not less than 6% of the total number of dwellings (rounded down to the nearest whole number), in the form of one-bedroom dwellings with an allocated bicycle parking space and no car parking to be used and managed as Affordable Housing (within the meaning described in section 3AA of the Planning and Environment Act 1987) **by a Housing Trust, Registered Housing Association or Housing Provider approved by Port Phillip City Council:***
 - (1) *for a period of not less than 30 years; and*
 - (2) *managed in accordance with relevant Affordable Housing legislation and regulations to guide the allocation, affordability and management of the dwellings as Affordable Housing.*
- ii. *6% of the total number of dwellings (rounded down to the nearest whole number) to be offered for sale to a Housing Trust or Registered Housing Association or Housing Provider approved by Port Phillip City Council within a minimum period of three months and maximum of twelve months from the date the development commences, at a discount of 40% of the value of the*



dwellings as determined by an independent valuer at the time the dwellings are offered for sale and conditional on all dwellings (offered for sale) being:

- *transferred to one single Housing Trust or Registered Housing Association or Housing Provider in one single transaction (i.e. all 6% sold to the same entity and in a single transaction); and*
- *managed as affordable housing in perpetuity by a single Housing Trust or Registered Housing Association or Housing Provider; and*
- *set aside for occupation by low income residents to the satisfaction of Port Phillip City Council.*

All 6% of the dwellings offered for sale to the Housing Trust or Registered Housing Association or Housing Provider must be:

- *one-bedroom dwellings;*
- *tenure blind;*
- *dispersed throughout the development to the satisfaction of the Responsible Authority;*
- *allocated one bicycle space per dwelling.*

OR

- iii. 2.5% of the total number of dwellings (rounded down to the nearest whole number) must be transferred to a single Housing Trust or Registered Housing Association or Housing Provider approved by Port Phillip City Council at no cost to the Housing Trust or Registered Housing Association or Provider **or a suitable alternative housing organisation**, on the issue of the certificate of occupancy. The dwellings transferred to the Housing Trust or Registered Housing Association or Housing Provider must be:*

- *one-bedroom dwellings;*
- *tenure blind;*
- *dispersed throughout the development to the satisfaction of the Responsible Authority;*
- *managed as affordable housing in perpetuity;*
- *set aside for occupation by low income residents to the satisfaction of Port Phillip City Council;*
- *allocated one bicycle space per dwelling*

OR

- iv. If it can be demonstrated the affordable housing dwellings cannot be leased or the affordable housing dwellings are not purchased at a discounted price, or transferred for nil consideration for affordable housing referred to in clause (i), (ii) or (iii) above then:*

- (a) the owner must pay to a registered housing agency, a sum of money the equivalent of the economic benefit of the dwellings to be transferred at nil*



cost in clause (iii), rounded down to the nearest whole number (i.e whole dwelling);

The equivalent of the economic benefit for the purposes of the scenario is calculated as follows:

60% of market value of dwellings offered = equivalent economic value

OR

- v. *Provide an alternative means of delivering an equivalent quantum of Affordable Housing to the satisfaction of the Responsible Authority."*

RECOMMENDATION – Part D

Authorise the Chief Executive Officer (including the power to on delegate) to negotiate an appropriate affordable housing outcome for the proposal and to instruct Council's Statutory Planners and/ or Council's Solicitors on any future VCAT application for review.

4. RELEVANT BACKGROUND

- 4.1 On 28 October 2015, an application was made to the Minister c/- the Department of Planning and Community Development (now the Department of Environment, Land, Water and Planning) (the Department) for a 41-storey residential tower containing three retail tenancies on the ground floor and 536 apartments.
- 4.2 The application was informally referred to Council for comment. Council considered the application at its Statutory Planning Committee Meeting on 21 June 2016 and resolved to advise the Minister it did not support the proposal.
- 4.3 Amended plans were lodged in response to changes to the planning controls affecting the site, introduced pursuant to Amendments GC50 and GC59 (on 14 November 2016 and 22 November 2016 respectively), and concerns raised by Council and the Department in relation to the previous plans.
- 4.4 The amended plans proposed a 40-storey tower including a five-level podium, containing two retail tenancies, offices, a health spa, and 321 dwellings, and a through-block link laneway along the south-west side between Normanby Road and Woodgate Street.
- 4.5 Council considered the amended proposal at its Statutory Planning Committee Meeting on 19 July 2017 and resolved to advise the Minister it did not support the proposal.
- 4.6 On 4 October 2017 the applicant lodged an application for review pursuant to section 79 of the *Planning and Environment Act 1987* (Application for Review) at the Victorian Civil and Administrative Tribunal (VCAT).
- 4.7 On 11 December 2017, the applicant formally amended their plans in accordance with Practice Note PNPE9.
- 4.8 After two Compulsory Conferences on 13 December 2017 and 19 December 2017, a consented position was reached between all parties. VCAT Order P2166/2017 dated 23 January 2018 directed a permit issue for demolition of the existing building, the construction of a multi-storey mixed-use building, use of land as dwellings, and to create or alter access to a road in a Road Zone Category 1.



4.9 Condition 1 plans, Condition 3 (Wind Mitigation), Condition 6 (Acoustic), Condition 22 (Landscaping) were endorsed by the Department on 11 December 2019.

4.10 The following documents have been endorsed by Council to date:

- Condition 5 (Waste Management) was endorsed on 3 December 2019;
- Condition 7 and 9 (Sustainable Management Plan and Water Sensitive Urban Design) were endorsed on 2 December 2019; and
- Condition 11 (Traffic and Loading Management) was endorsed on 6 December 2019.

5. PROPOSAL

5.1 It is proposed to amend condition 14 which requires a Certificate or Statement of Environmental Audit prior to commencing development, including demolition.

5.1.1 To facilitate obtaining a Certificate / Statement of Environmental Audit in accordance with the condition, some demolition works are required. The applicant advises, *“recently completed assessment works have identified a number of contamination hotspots which require further detailed assessment and remediation/mitigation. Assessment works to date have been problematic due to the presence of multiple concrete slabs and subsurface structures which include large pad footings, steel plates and building rubble / waste material.”*

5.1.2 The application seeks to amend condition 14 as follows:

Existing Permit	Proposed Amendments
<p><i>Before the development starts, including demolition, bulk excavation and site preparation works, but excluding works to remediate contaminated land, the permit holder must provide:</i></p> <ul style="list-style-type: none"> • <i>A Certificate of Environmental Audit in accordance with Section 53Y of the Environment Protection Act 1970; or</i> • <i>A Statement of Environmental Audit under Section 53Z of the Environment Protection Act 1970. This Statement must state that the site is suitable for the intended uses.’</i> 	<p><i>Before the development starts, including excluding demolition, bulk excavation and site preparation works, but excluding works to remediate contaminated land, the permit holder must provide:</i></p> <ul style="list-style-type: none"> • <i>A Certificate of Environmental Audit in accordance with Section 53Y of the Environment Protection Act 1970; or</i> • <i>A Statement of Environmental Audit under Section 53Z of the Environment Protection Act 1970. This Statement must state that the site is suitable for the intended uses.’</i>

5.2 It is proposed to amend Condition 20 which requires the owner to enter into an agreement under Section 173 of the *Planning and Environment Act 1987*, as it relates to affordable housing.

5.2.1 The applicant notes since the issue of the planning permit the owner has held several discussions with different housing organisations and advised there is a general reluctance to commit to the affordable housing offer available through



this permit condition as there is insufficient funds to purchase dwellings or there are concerns about on-going costs associated with the dwellings located in multi-residential developments such as Body Corporate fees.

5.2.2 On this basis, the applicant has requested to amend the wording of the affordable housing condition 20, to provide an increased range of options as follows:

Existing Permit	Proposed Amendments
<p><i>Before the development starts, excluding demolition, bulk excavation, piling, ground works and site preparation works, the owner must:</i></p> <p><i>(a) Enter into an agreement under Section 173 of the Planning and Environment Act 1987 to the satisfaction of the Responsible Authority;</i></p> <p><i>(b) Register the agreement on the title(s) for the land in accordance with Section 181 of the Planning and Environment Act 1987; and</i></p> <p><i>(c) Provide the Responsible Authority with the dealing number confirming the registration on the title.</i></p> <p><i>The agreement must be in a form to the satisfaction of Responsible Authority, and the owner must be responsible for the expense of the preparation and registration of the agreement, including the Responsible Authority's reasonable costs and expenses (including legal expenses) incidental to the preparation, registration, 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 the following:</i></p> <p><i>(i) 6% of the total number of dwellings (rounded down to the nearest whole number) to be offered for sale to a Housing Trust or Registered Housing Association or Housing Provider approved by Port Phillip City Council within a minimum period of three months and maximum of twelve months from the date the development commences, at a discount of 40% of the value of the dwellings as determined by an independent valuer at the time the dwellings are offered for sale and conditional on all dwellings (offered for sale) being:</i></p>	<p><i>Before the development starts, excluding demolition, bulk excavation, piling, ground works and site preparation works, the owner must:</i></p> <p><i>(a) Enter into an agreement under Section 173 of the Planning and Environment Act 1987 to the satisfaction of the Responsible Authority;</i></p> <p><i>(b) Register the agreement on the title(s) for the land in accordance with Section 181 of the Planning and Environment Act 1987; and</i></p> <p><i>(c) Provide the Responsible Authority with the dealing number confirming the registration on the title.</i></p> <p><i>The agreement must be in a form to the satisfaction of Responsible Authority, and the owner must be responsible for the expense of the preparation and registration of the agreement, including the Responsible Authority's reasonable costs and expenses (including legal expenses) incidental to the preparation, registration, 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 the following:</i></p> <p><i>(i) not less than 6% of the total number of dwellings (rounded down to the nearest whole number), in the form of one-bedroom dwellings with an allocated bicycle parking space and no car parking to be used and managed as Affordable Housing (within the meaning described in section 3AA of the Planning and Environment Act 1987):</i></p> <p><i>(1) for a period of not less than 20 years; and</i></p> <p><i>(2) managed in accordance with relevant Affordable Housing legislation and regulations to guide the allocation,</i></p>



- transferred to one single Housing Trust or registered Housing Association or Housing Provider in one single transaction (i.e. all 6% sold to the same entity and in a single transaction); and
- managed as affordable housing in perpetuity by a single Housing Trust or Registered Housing Association or Housing Provider; and
- set aside for occupation by low income residents to the satisfaction of Port Phillip City Council.

All 6% of the dwellings offered for sale to the Housing Trust or Registered Housing Association or Housing Provider must be:

- one-bedroom dwellings;
- tenure blind;
- dispersed throughout the development to the satisfaction of the Responsible Authority;
- allocated one bicycle space per dwelling.

AND

ii) If twelve months after the development commences 6% of the total number of dwellings have not been sold to a single Housing Trust or Registered Housing Association or Housing Provider in accordance with (i) above, 2.5% of the total number of dwellings (rounded down to the nearest whole number) must be transferred to a single Housing Trust or Registered Housing Association or Housing Provider approved by Port Phillip City Council at no cost to the Housing Trust or Registered Housing Association or Provider, on the issue of the certificate of occupancy. The dwellings transferred to the Housing Trust or registered Housing Association or Housing Provider must be:

- one-bedroom dwellings;
- tenure blind;
- dispersed throughout the development to the satisfaction of the Responsible Authority;
- managed as affordable housing in perpetuity;

affordability and management of the dwellings as Affordable Housing;

(i) (ii) 6% of the total number of dwellings (rounded down to the nearest whole number) to be offered for sale to a Housing Trust or Registered Housing Association or Housing Provider approved by Port Phillip City Council within a minimum period of three months and maximum of twelve months from the date the development commences, at a discount of 40% of the value of the dwellings as determined by an independent valuer at the time the dwellings are offered for sale and conditional on all dwellings (offered for sale) being:

- transferred to one single Housing Trust or Registered Housing Association or Housing Provider in one single transaction (i.e. all 6% sold to the same entity and in a single transaction); and
- managed as affordable housing in perpetuity by a single Housing Trust or Registered Housing Association or Housing Provider; and
- set aside for occupation by low income residents to the satisfaction of Port Phillip City Council.

All 6% of the dwellings offered for sale to the Housing Trust or Registered Housing Association or Housing Provider must be:

- one-bedroom dwellings;
- tenure blind;
- dispersed throughout the development to the satisfaction of the Responsible Authority;
- allocated one bicycle space per dwelling.

OR

~~ii) (iii) If twelve months after the development commences 6% of the total number of dwellings have not been sold to a single Housing Trust or registered Housing Association or Housing Provider in accordance with (i) above, 2.5% of the total number of dwellings (rounded down to the nearest whole number) must be transferred to a single Housing Trust or Registered Housing Association or Housing Provider approved by~~



<ul style="list-style-type: none"> • <i>set aside for occupation by low income residents to the satisfaction of Port Phillip City Council;</i> • <i>allocated one bicycle space per dwelling;</i> 	<p><i>Port Phillip City Council at no cost to the Housing Trust or Registered Housing Association or Provider, on the issue of the certificate of occupancy. The dwellings transferred to the Housing Trust or Registered Housing Association or Housing Provider must be:</i></p> <ul style="list-style-type: none"> • <i>one-bedroom dwellings;</i> • <i>tenure blind;</i> • <i>dispersed throughout the development to the satisfaction of the Responsible Authority;</i> • <i>managed as affordable housing in perpetuity;</i> • <i>set aside for occupation by low income residents to the satisfaction of Port Phillip City Council;</i> • <i>allocated one bicycle space per dwelling;</i> <p>OR</p> <p><i>iv) If it can be demonstrated the affordable housing dwellings cannot be leased or the affordable housing dwellings are not purchased at a discounted price, or transferred for nil consideration for affordable housing referred to in clause (i), (ii) or (iii) above then:</i></p> <p><i>(a) the owner must pay to a registered housing agency, a sum of money the equivalent of the economic benefit of the dwellings to be transferred at nil cost in clause (iii), rounded down to the nearest whole number (i.e whole dwelling);</i></p> <p><i>The equivalent of the economic benefit for the purposes of the scenario is calculated as follows:</i></p> <p><u><i>Market value of Dwellings offered but not taken x 60%</i></u> = equivalent economic value</p> <p>OR</p> <p><i>(v) provide an alternative means of delivering an equivalent quantum of Affordable Housing to the satisfaction of the Responsible Authority.</i></p>
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6. SUBJECT SITE AND SURROUNDS

- 6.1 The subject site is located on the south-east side of Normanby Road, between Montague Street to the north-east and Boundary Street to the south-west. Woodgate Street abuts the rear site boundary.
- 6.2 The site is located within the Montague Precinct of the Fishermans Bend Strategic Framework Plan (FBSFP). In January 2018 when the original permit was issued, a maximum mandatory height limit of 40 storeys applied to this site. In October 2018, the planning scheme was amended to include the area in DDO30 preferred character area M1, and a preferred maximum building height of 68m / 20 storeys.
- 6.3 The site is regular in shape and measures 2,640m². The land currently contains two double storey warehouses that are constructed to all site boundaries except for a front setback of 15m from Normanby Road, which contains a hard-standing car park. There are two existing vehicle crossovers from Normanby Road to the subject site. There is a nature strip containing a mature tree adjacent to the Normanby Road site frontage.
- 6.4 There are also two vehicle crossovers from the subject site to Woodgate Street.
- 6.5 The adjacent site to the north-east contains a two-storey warehouse constructed to the site boundary, and the adjacent site to the south-west is vacant pending redeveloping pursuant to Planning Permit 2/2017/MIN which allows the demolition of the existing buildings and works, construction of a building comprising two towers of 28 and 40 storey height containing ground floor level retail, townhouse dwellings, apartments and a hotel. This application is currently the subject of an amendment application.
- 6.6 Normanby Road, between Boundary Street/ Johnston Street and Montague Street, generally contains contemporary two-storey warehouse / industry / showroom buildings with car parking in the front setback, except for the building on the corner of Montague Street and Normanby Road which comprises a four-level heritage graded warehouse used for self-storage, and two levels of apartments above.
- 6.7 To the south of the site, Woodgate Street generally contains the rear of buildings located on Normanby Road with no street setback along its westerly side (including some vehicle crossovers), and the light rail line and landscaped embankment along its easterly side.
- 6.8 Woodgate Street is a two-way street with on-street car parking on both sides. The westerly side contains a footpath with some small street trees. There is no footpath on the easterly side of the street.

7. PERMIT TRIGGERS

- 7.1 The following zone and overlay controls apply to the site, with the original planning permissions required as outlined below

Planning Scheme Provision	Planning Permit requirement
Clause 37.04 Capital City Zone (CCZ1)	Pursuant to Section 2 of the Table of uses at Clause 37.04-1 of the CCZ1 and Clause 1 of the Schedule to the CCZ1, a planning permit is required to use land for a use not in Section 1 or 3 of the Schedule to



	<p>the zone. This includes Accommodation (Dwellings) if it does not meet the following conditions:</p> <ul style="list-style-type: none"> • Must not be within an Amenity buffer shown on Map 4. • Must not be within 450m of the South Melbourne to Brooklyn or Dandenong to West Melbourne pipeline as shown on Map 5. • Must not be within 100m of the Port Melbourne to Symex Holdings pipeline as shown on Map 5. <p>The site is located within 450m of the South Melbourne to Brooklyn pipeline and thus requires a permit under this clause.</p> <p>Pursuant to Clause 37.04-4 of the CCZ1 and Clause 4.0 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, except for an addition of, or modification to a verandah, awning, sunblind or canopy of an existing dwelling.</p> <p>Pursuant to Clause 37.04-4, an apartment development must meet the requirements of Clause 58. This does not apply to:</p> <ul style="list-style-type: none"> • An application lodged before the approval of Amendment VC136 (02-Feb-2017). • An application for amendment of a permit under S72, if the original application was lodged before the approval of Amendment VC136. <p>Pursuant to the above exemptions, the application was received after the approval date of Amendment VC136 and this amendment is exempt from the requirements of Clause 58, noting there are no proposed changes to the apartment layouts.</p> <p>Pursuant to Clause 37.04-4 of the CCZ1 and Clause 4.1 of Schedule 1 to the CCZ1, a permit is required to demolish or remove a building or works, except for:</p> <ul style="list-style-type: none"> • The demolition or removal of temporary structures; • The demolition ordered or undertaken by the responsible authority in accordance with the relevant legislation or local law. <p>A planning permit is required to demolish the buildings on site.</p> <p>An application for the use of land, to demolish or remove a building and to construct a building or construct or carry out works) is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act. This does not apply to an application to use land for a nightclub, tavern, hotel or adult sex product shop.</p>
<p>Clause 43.02: Design and Development Overlay - Schedule 30 - Fishermans Bend -Montague Precinct (DDO30)</p>	<p>The land is in Precinct Area M1 of DDO30 which encourages a hybrid (predominantly mid-rise) building typology and a preferred maximum building height of 68 metres (20-storeys).</p> <p>Pursuant to Clause 43.02-2 of the DDO and Clause 2.0 of Schedule 30 to the DDO, a permit is required to construct a building or construct or carry out works in the Design and Development Overlay.</p> <p>An application to construct a building or construct or carry out works in DDO30 is exempt from the notice requirements of Section 52(1)(a), (b)</p>



	and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.
Clause 45.03: Environmental Audit Overlay (EAO)	<p>Pursuant to Clause 45.03-1 of the EAO, before a sensitive use (residential use, child care centre, pre-school centre, primary school, education centre or informal outdoor recreation) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, the developer must obtain either;</p> <ul style="list-style-type: none"> • A certificate of environmental audit issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or • 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. <p>A planning permit is not required under this clause.</p>
Clause 44.05 Special Building Overlay Schedule 2 (SBO2)	<p>Pursuant to Clause 44.05-2 a permit is required to construct a building or construct and carry out works.</p> <p>Pursuant to Clause 44.05-4 an application under the overlay is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.</p> <p>Pursuant to Clause 44.05-5 an application must be referred to the relevant floodplain management authority under Section 55 of the Act. The floodplain management authority for the SBO2 is CoPP.</p>
Clause 45.09 Parking Overlay (PO1)	<p>A planning permit is required to provide car parking spaces in excess of the rates specified in Table 1 of Schedule 1 to the Overlay.</p> <p>The proposed parking provision does not exceed the maximum rates set out in the Table, and therefore no permit is required under this clause.</p>
Clause 52.06 Car Parking	<p>Car parking should meet the design requirements of Clause 52.06-8. A permit may be granted to vary any dimension or requirement of Clause 52.06-8 (Design standards for car parking).</p> <p>A permit is required under this clause.</p>
Clause 52.29 Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road	<p>A permit is required to create or alter access to:</p> <ul style="list-style-type: none"> • A road in a Road Zone, Category 1. • Land in a Public Acquisition Overlay if the purpose of acquisition is for a Category 1 road. <p>A permit is required under this clause because Normanby Road is a Road Zone Category 1.</p>
Clause 52.34 Bicycle Facilities	<p>A new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities have been provided on the land pursuant to Clause 52.34-1.</p>



	<p>A planning permit is required to vary, reduce or waive any bicycle facilities requirement of Clause 52.34-3 and Clause 52.34-4.</p> <p>A permit is required under this clause.</p>
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7.2 The following Clauses and considerations were introduced into the Port Phillip Planning Scheme after the permit was issued.

Planning Scheme Provision	Why is a planning permit required?	New Permit Trigger?
Clause 45.11: Infrastructure Contribution Overlay (IC01)	<p>Pursuant to Schedule 1 to the ICO, a permit may be granted to subdivide land, construct a building or construct or carry out works before an infrastructure contributions plan has been incorporated into the scheme for:</p> <ul style="list-style-type: none"> • An existing use of land provided the site coverage is not increased. • A sign. • Consolidation of land or a boundary realignment. <p>The proposed amendments to the conditions of the existing permit are exempt from the ICO.</p>	No

8. PLANNING SCHEME PROVISIONS

8.1 Planning Policy Framework (PPF)

The application needs to be assessed against the Planning Policy Framework (PPF), including:

- Clause 11: Settlement
- Clause 12 Environmental and Landscape Values
- Clause 13: Environmental Risks and Amenity
- Clause 15: Built Environment and Heritage
- Clause 16: Housing
- Clause 17: Economic Development
- Clause 18: Transport
- Clause 19: Infrastructure

8.2 Local Planning Policy Framework (LPPF)

The Municipal Strategic Statement (MSS) contains a number of clauses, which are relevant to this application as follows:

- Clause 21: Municipal Strategic Statement
 - Clause 21.01: Vision and Approach
 - Clause 21.02: Municipal Context and Profile
 - Clause 21.03: Ecologically Sustainable Development



- Clause 21.04: Land Use, including 21.04-1: Housing and Accommodation
- Clause 21.05: Built Form
- Clause 21.06: Neighbourhoods, including 21.06-8: Fishermans Bend Urban Renewal Area

The application also needs to be assessed against the following Local Planning Policies (LPPF):

- Clause 22.12: Stormwater Management (Water Sensitive Urban Design)
- Clause 22.13: Environmentally Sustainable Development
- Clause 22.15: Fishermans Bend Urban Renewal Area Policy

8.3 Other relevant provisions

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

- Clause 52.06: Car Parking
- Clause 52.34: Bicycle facilities
- Clause 58: Apartment Developments
- Clause 65: Decision Guidelines, including Clause 65.01: Approval of an Application or Plan

8.4 Relevant Planning Scheme Amendment/s:

Since the issue of the Planning Permit the Planning Scheme has been changed including by Amendment GC81 (gazetted 05 October 2018), which modified some of the controls affecting the site as follows:

- Modification of Local Planning Policy, Clause 22.15 Employment and Dwelling Diversity within the Fishermans Bend Urban Renewal Area, which specifies discretionary targets for dwelling diversity (a percentage of apartments with three or more bedrooms), affordable housing, and minimum floor areas for employment uses.
- Amends MSS at Clauses 21.01 (Vision and Approach), 21.02 (Municipal Context and Profile), 21.03 (Ecologically Sustainable Development), 21.04 (Land Use), 21.05 (Built Form), 21.06 (Neighbourhoods) to update references to FB and include a refined vision for Montague, Sandridge and Wirraway precincts.
- Introduces new local planning policy at Clause 22.15 (Fishermans Bend) to provide guidance and assist with the exercise of discretion in the assessment of planning permit applications in FB.
- Introduces a new Schedule 1 to Clause 37.04 (CCZ) to ensure land use and development outcomes implement the FB Vision, September 2016 and FB Framework, September 2018.
- Introduces new precinct specific Schedules 30, 32 and 33 to Clause 42.03 (Design and Development Overlay) to align built form controls with preferred character and vision for Montague, Sandridge and Wirraway precincts, respectively.



- Introduces new Schedule 1 to Clause 45.09 (Parking Overlay) to encourage sustainable transport patterns and the provision of alternative forms of parking.
- Deletes Schedule 2 to Clause 45.06 (Development Contributions Plan Overlay).
- Inserts Clause 45.11 (Infrastructure Contributions Overlay) and Schedule 1 (ICO1) and applies it to land to enable implementation of an Infrastructure Contributions Plan when prepared.
- Applies Environmental Audit Overlay (EAO) to Montague, Sandridge and Wirraway precincts.
- Applies Environmental Significance Overlay - Schedule 1 (ESO1) to Wirraway precinct near Port of Melbourne.
- Amends Schedule to Clause 66.04 to include the Port Phillip City Council and Melbourne Water as a recommending referral authority for planning permit applications where the Minister for Planning is the responsible authority and makes minor corrections to existing provisions.
- Amends Schedule to Clause 66.06 to require notice of certain permit applications to be given to the relevant pipeline licensee and Transport for Victoria.
- Amends Schedule to Clause 72.03 to reflect the deletion of Planning Scheme Map 1DCPO and insertion of new Planning Scheme Maps 1EAO, 1ICO, 2ICO and 3ICO.
- Amends Schedule to Clause 72.04 to reflect the deletion of the Fishermans Bend Strategic Framework, July 2016 (amended September 2016) which is outdated.

Amendment GC118 was gazetted on 20 June 2019 and corrects technical, formatting and grammatical errors identified in the Fishermans Bend planning controls.

9. REFERRALS

9.1 Internal referrals

The application was referred internally to Council's Housing Officer who advised that the amended wording to Condition 20 as proposed by the applicant is not supported.

9.2 External referrals

As the Minister is the Responsible Authority, the Minister is required to refer the application to any referral authority required by the Planning Scheme. The City of Port Phillip is a recommending referral authority for this application. The resolution of the Planning Committee on this application to amend the permit will be forwarded to the Minister as Council's position on this application.

10. PUBLIC NOTIFICATION/OBJECTIONS

- 10.1 The Minister for Planning is the Responsible Authority for the application.
- 10.2 The Minister has not given notice of the application.
- 10.3 An application to demolish or remove a building, construct a building or construct or carry out works, or use land (other than a nightclub, tavern, brothel or adult sex product shop) in the Capital City Zone is exempt from the notice requirements of Section



52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and review rights of Section 82(1) of the Act.

- 10.4 An application is also exempt under the Special Building Overlay, and Clause 52.34 Bicycle facilities.

11. OFFICER'S ASSESSMENT

Amendment to Condition 14 Environment Audit

- 11.1 The proposed amendment to condition 14 is outlined at Section 5.1 of this report.
- 11.2 The purpose of the Environmental Audit Overlay is to ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination.
- 11.3 Council must have regard to the ultimate purpose of the control and considered whether the request of the applicant to allow demolition works to facilitate the approval of the certificate of Environmental Audit or Statement of Environmental Audit is appropriate.
- 11.4 Council has no in principle objection to the proposed amendment to the wording of the condition to allow the demolition of the buildings to facilitate the remediation of the land in an orderly manner.
- 11.5 The accompanying correspondence in support of the application from Alliance EPM, cites that some assessment works on site have identified contamination hotspots and further assessment and remediation / mitigation. It is noted some works appear to have occurred in the absence of a Remediation Works Plan required by Condition 18 of the permit. The submission of the Remediation Plan would facilitate Council in determining the extent of proposed demolition sought. The applicant's cover letter and the Alliance EPM supporting letter suggests varying degrees of demolition required.
- 11.6 Notwithstanding this, given the existing buildings on site are ultimately going to be demolished to facilitate the approved development, there is little benefit gained by staging the demolition works from an amenity perspective. In an area undergoing significant change, the simultaneous demolition and resultant amenity impacts of a vacant site are not unusual and will not result in an unreasonable outcome to the streetscape activation during the transition period from demolition through to construction. It is noted all occupation health, public safety associated with demolition on site will continue to apply as governed by the requirements to of the Environmental Protection Agency and Work Safe etc.
- 11.7 Should the buildings be demolished but there is a delay in the start or during construction, the Department have indicated in their correspondence to the permit applicant, dated 30 December 2019, they would seek an agreement pursuant to Section 173 of the *Planning and Environment Act 1987* that any delays greater than six months would require temporary works to activate the site. This is an acceptable contingency plan for the public realm of the area in the interim period. The proposed new conditions are outlined at Section 3.1 of this report.
- 11.8 Council agrees with the Department's recommended conditions subject to the qualification that the applicant must provide a site assessment from a suitably qualified professional is provided to confirm the land is suitable for public open space, this is included the recommendation at Section 3.1 of this report.



11.9 It is recommended that Council advise the Minister (C/- the Department of Environment, Land, Water and Planning) that supports the amended wording of Condition 14 below and subject to the addition of New Condition 1 and 2 as cited in Section 3.1 of this report.

Amendment to Condition 20 Affordable Housing

11.10 The proposed amendment to condition 20 is outlined at Section 5.2 of this report.

11.11 Condition 20 is included in direct response to the affordable housing goal of Clause 22.15 which seeks all new residential development over 12 storeys, to allocate at least 6% of dwellings as affordable housing to a registered housing association or provider. Six per cent of the approved 342 dwellings equates to 20 affordable housing apartments within this development.

11.12 Council’s target is 20% affordable housing within Fishermans Bend with no less than 30% of these dwellings being provided as community housing owned and managed by registered housing associations or providers. At 6%, the condition of permit was a mediated outcome at a Compulsory Conference.

11.13 Council’s affordable housing strategy estimates that by 2031, an additional 3,700 affordable housing dwellings including 1,100 social housing dwellings will be needed to avoid social homogeneity and exclusion of most low income and many moderate-income household types within the FBURA.

11.14 The existing wording of the permit provides clear requirements that 6% of apartments (20 apartments) must be allocated at market cost less 40% to a housing organisation within 3 to 12 months from the commencement of development, otherwise 8 apartments must be ‘gifted’ to a housing organisation.

11.15 The applicant has advised that since the issue of the planning permit their client has held several discussions with different housing associations and providers and there is a general reluctance to commit due to insufficient funds to purchase dwellings (even with a discount) or there are concerns about ongoing costs associated with the dwellings located in multi-residential developments. Evidence from housing organisations who have been approached with details of their preferences / terms for entering into such agreements has not been provided to Council or the Minister (C/- the Department of Environment, Land, Water and planning) in support of this amendment request. Council’s assessment on the suitability of the amended conditions is limited to the information provided.

11.16 The proposed amendments to condition 20 put forward by the permit applicant propose five different options, these are discussed in turn below:

Draft condition 20 (i)

Proposed condition	Proposed amended condition if the Department seeks to amend the permit
<i>Not less than 6% of the total number of dwellings (rounded down to the nearest whole</i>	<i>Not less than 6% of the total number of dwellings (rounded down to the nearest</i>



<p><i>number), in the form of one-bedroom dwellings with an allocated bicycle parking space and no car parking to be used and managed as Affordable Housing (within the meaning described in section 3AA of the Planning and Environment Act 1987):</i></p> <p><i>(1) for a period of not less than 20 years; and</i></p> <p><i>(2) managed in accordance with relevant Affordable Housing legislation and regulations to guide the allocation, affordability and management of the dwellings as Affordable Housing</i></p>	<p><i>whole number), in the form of one-bedroom dwellings with an allocated bicycle parking space and no car parking to be used and managed as Affordable Housing (within the meaning described in section 3AA of the Planning and Environment Act 1987) by a Housing Trust Housing Association or Registered Housing Provided approved by Port Phillip City Council:</i></p> <p><i>(1) for a period of not less than 20 30 years; and</i></p> <p><i>(2) managed in accordance with relevant Affordable Housing legislation and regulations to guide the allocation, affordability and management of the dwellings as Affordable Housing</i></p>
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11.17 The proposed amendment facilitates the delivery of 6% affordable dwellings used and managed for a minimum period of 20 years in accordance with relevant Housing legislation and regulations. This affordability mechanism is not supported as the method would not facilitate perpetually affordable housing. It is unclear why a period of 20 years has been suggested and further it is unclear what happens after this time-period. Council's position is that the affordable housing must be perpetually affordable housing. It is noted Fishermans Bend Affordable Housing Guidelines are currently in draft form, these guidelines reference affordable housing being provided for a minimum period of 30 years.

11.18 Notwithstanding the above concerns, if the Department are supportive of amending the permit, Council would request the minimum use and management period be increased to a minimum of 30 years and further qualification that the units will be managed by a Housing Trust Housing Association or Housing Provided approved by Port Phillip City Council.

Draft condition 20(ii)

Proposed condition	Proposed amended condition if the Department seeks to amend the permit
<p>(i) (ii) 6% of the total number of dwellings (rounded down to the nearest whole number) to be offered for sale to a Housing Trust or Registered Housing Association or Housing Provider approved by Port Phillip City Council within a minimum period of three months and maximum of twelve months from the date the development commences, at a discount of 40% of the value of the dwellings as determined by an independent valuer at</p>	<p>Refer to paragraph 11.19</p>



<p><i>the time the dwellings are offered for sale and conditional on all dwellings (offered for sale) being:</i></p> <ul style="list-style-type: none"> • <i>transferred to one single Housing Trust or Registered Housing Association or Housing Provider in one single transaction (i.e. all 6% sold to the same entity and in a single transaction); and</i> • <i>managed as affordable housing in perpetuity by a single Housing Trust or Registered Housing Association or Housing Provider; and</i> • <i>set aside for occupation by low income residents to the satisfaction of Port Phillip City Council.</i> <p><i>All 6% of the dwellings offered for sale to the Housing Trust or Registered Housing Association or Housing Provider must be:</i></p> <ul style="list-style-type: none"> • <i>one-bedroom dwellings;</i> • <i>tenure blind;</i> • <i>dispersed throughout the development to the satisfaction of the Responsible Authority;</i> • <i>allocated one bicycle space per dwelling.</i> 	
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11.19 The wording of this condition remains unaltered from the original wording of Condition 20(i) but for it being an independent requirement, isolated from the other requirements of the permit. Whilst this condition alone does not alter the intention of the condition, it is likely not going to be the preferred avenue for the applicant given the more competitive market options suggested in the amended wording of the permit.

Draft condition 20(iii)

Proposed condition	Proposed amended condition if the Department seeks to amend the permit
<p>ii) (iii) If twelve months after the development commences 6% of the total number of dwellings have not been sold to a single Housing Trust or registered Housing Association or Housing Provider in accordance with (i) above, 2.5% of the total number of dwellings (rounded down to the nearest whole number) must be transferred to a single Housing Trust or Registered Housing Association or Housing Provider approved by Port Phillip City Council at no cost to the Housing Trust or Registered Housing Association or Provider, on the issue of the certificate of occupancy. The dwellings transferred to the Housing</p>	<p>(iii) 2.5% of the total number of dwellings (rounded down to the nearest whole number) must be transferred to a single Housing Trust or Registered Housing Association or Housing Provider approved by Port Phillip City Council at no cost to the Housing Trust or Registered Housing Association or Provider or suitable alternative housing organisation on the issue of the certificate of occupancy. The dwellings transferred to the Housing Trust or Registered Housing Association or Housing Provider must be:</p> <ul style="list-style-type: none"> • one-bedroom dwellings; • tenure blind;



<p><i>Trust or Registered Housing Association or Housing Provider must be:</i></p> <ul style="list-style-type: none"> • <i>one-bedroom dwellings;</i> • <i>tenure blind;</i> • <i>dispersed throughout the development to the satisfaction of the Responsible Authority;</i> • <i>managed as affordable housing in perpetuity;</i> • <i>set aside for occupation by low income residents to the satisfaction of Port Phillip City Council;</i> • <i>allocated one bicycle space per dwelling;</i> 	<ul style="list-style-type: none"> • <i>dispersed throughout the development to the satisfaction of the Responsible Authority;</i> • <i>managed as affordable housing in perpetuity;</i> • <i>set aside for occupation by low income residents to the satisfaction of Port Phillip City Council;</i> • <i>allocated one bicycle space per dwelling;</i>
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11.20 The wording of the condition is unchanged from that outlined at condition 20(ii) of the current permit. However as this is now proposed to be an independent condition, Council does not support this condition being read in isolation as it is preferable to secure 6% of apartments within the development (20 apartments) at a discounted rate. Should the Department be minded to support the proposed amendment to the condition, Council requests that a suitable alternative housing organisation be included as an option to provide greater flexibility to the allocation of affordable housing in a climate of emerging policy in this area.

Draft condition 20(iv)

Proposed condition	Proposed amended condition if the Department seeks to amend the permit
<p><i>(iv) If it can be demonstrated the affordable housing dwellings cannot be leased or the affordable housing dwellings are not purchased at a discounted price, or transferred for nil consideration for affordable housing referred to in clause (i), (ii) or (iii) above then:</i></p> <p><i>(a) the owner must pay to a registered housing agency, a sum of money the equivalent of the economic benefit of the dwellings to be transferred at nil cost in clause (iii), rounded down to the nearest whole number (i.e whole dwelling);</i></p> <p><i>The equivalent of the economic benefit for the purposes of the scenario is calculated as follows:</i></p>	<p><i>Refer to paragraph 11.21</i></p>



<u>Market value of Dwellings offered but taken x 60% = equivalent economic value</u>	
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11.21 The proposed cash in lieu amount is insufficient to suitably offset the apartments elsewhere. In line with policy direction to provide housing into perpetuity, a financial payment for the equivalent market cost is considered to undermine the affordable housing objective to create diversity within the community to be established within this building. Further, it is noted that there is no established Trust which such financial payments can be paid into.

Draft condition 20(v)

Proposed condition	Proposed amended condition if the Department seeks to amend the permit
<i>(v) Provide an alternative means of delivering an equivalent quantum of Affordable Housing to the satisfaction of the Responsible Authority.</i>	<i>Refer to paragraph 11.22</i>

11.22 The proposed condition is vague and creates uncertainty as where or how the affordable housing is to be provided. It is considered there is sufficient flexibility provided in the current condition to meet a range of different options required by various housing organisations.

11.23 In conclusion the proposed alternative options within the condition dilute the intent to provide affordable, integrated and appropriate housing within this development. There is no certainty relating to timeframes and enforceability of the amended conditions. Whilst Council acknowledges there may be more options available to deliver affordable housing within this development, they are not presented within this amendment application.

11.24 Should the Department be inclined to support all or some of the proposed amendments, Council requests the suggested amendments at Condition 20 (i) and 20 (iii) be included.

12. OFFICER DIRECT OR INDIRECT INTEREST

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

13. OPTIONS

13.1 Approve as recommended

13.2 Approve with changed or additional conditions

13.3 Refuse - on key issues



14. CONCLUSION

- 14.1 The proposed amendment to condition 14 relating to the Environmental Audit Overlay is acceptable and will facilitate the orderly and appropriate demolition of the site and land remediation works. The proposed approach will ensure that potentially contaminated land is suitable for the sensitive uses on site which could be significantly adversely affected by any contamination.
- 14.2 Council supports the additional conditions noted, subject to some modification, in the Department's correspondence to the application dated 30 December 2019, which will provide activation to the site should it remain vacant after demolition.
- 14.3 Council rejects the proposed amendments to condition 20 on the basis the alternative wording dilutes the intent of the current permit condition to provide affordable housing on site. The alternative condition provides no certainty as to where, how and when the affordable housing is to be provided. The wording of the current condition is considered flexible and provides the applicant with options in securing a prescribed form of affordable housing. It is further noted the applicant has not demonstrated best endeavours have been made to secure the affordable housing in line with the current scope of the permit.
- 14.4 It is recommended that Council advises the Minister (C/- the Department of Environment, Land, Water and Planning) that Council part supports the amended condition 14, subject to condition and does not support the amendments to condition 20.
- 14.5 In the event the Minister (C/- the Department of Environment, Land, Water and Planning) determines to support the proposed amendment to Condition 20, it is recommended Council advise the Minister of the of the suggested amendments at Condition 20 (i) and 20 (iii).

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ATTACHMENTS Nil