

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P536/2021
PERMIT APPLICATION NO. P742/2020

CATCHWORDS

Application under section 79 of the *Planning and Environment Act 1987* – to review the failure to grant a permit within the prescribed time.

APPLICANT	Lt Corporation Pty Ltd
RESPONSIBLE AUTHORITY	Port Phillip City Council
RESPONDENTS	Karen Ross, Rachel Laverick & Others
REFERRAL AUTHORITY	Melbourne Water
SUBJECT LAND	61-63 Inkerman Street ST KILDA VIC 3182
HEARING TYPE	Hearing
DATE OF HEARING	30 September & 1 October 2021
DATE OF ORDER	24 December 2021
CITATION	Lt Corporation Pty Ltd v Port Phillip CC [2021] VCAT 1526

ORDER

Amend permit application

- 1 Pursuant to clause 64 of Schedule 1 of the *Victorian Civil & Administrative Tribunal Act 1998*, the permit application is amended by substituting for the permit application plans, the following plans filed with the Tribunal:

Prepared by:	Ammache Architects Pty Ltd
Drawing numbers:	AO1-A15 inclusive and A17-A23 inclusive all Rev. E
Dated:	All dated 16/08/21

- 2 In application P536/2021 the decision of the responsible authority is set aside.
- 3 In planning permit application P742/2020 a permit is granted and directed to be issued for the land at 61-63 Inkerman Street, St Kilda in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:
 - Use of the land for an office having a leasable floor area of more than 250 square metres.

- Construction of a building or construction or carrying out of works for a use in Section 2 of Clause 32.04-2 (the office use).
- Construction of a building or construction or carrying out of works in the Special Building Overlay.
- Reduction in the number of car parking spaces required under Clause 52.06-5.

Laurie Hewet
Senior Member

APPEARANCES

For applicant

Mr R Hoffman of Rigby Cooke Lawyers

Mr Hoffman called expert evidence from:

- Mr K Twite, town planning
- Ms C Heggen, urban design
- Mr C Czarny, urban design
- Mr V Gnanakone, traffic engineering

For responsible authority

Ms E Marson of Best Hooper Lawyers

For referral authority

No appearance

For respondents

Ms M Gibson appeared for Jane Bakos and Sarah Pearson & Ors on day 1 of the hearing. Ms Pearson appeared on day 2.

Mr N Sotiriou. Appeared on his own behalf and on behalf of 27 joint respondent objectors.

INFORMATION

Description of proposal	Construction of a seven (7) storey building. At ground level retail and café uses are proposed. Offices are proposed at each of the upper levels. Car parking is proposed at ground level in a stacker arrangement accessed from a rear lane.
Nature of proceeding	Application under section 79 of the <i>Planning and Environment Act 1987</i> – to review the failure to grant a permit within the prescribed time. ¹
Planning scheme	Port Phillip Planning Scheme
Zone and overlays	Clause 34.02: Mixed Use Zone (MUZ1). Clause 44.05: Special Building Overlay (SBO1) – part of site. Clause 45.03: Environmental Audit Overlay
Permit requirements	Clause 34.02-2: A permit is required to use the land for an office where the floor area exceeds 250 sqm. Clause 34.02-9: A permit is required to construct a building or to construct or carry out works for a use in section 2. Clause 44.05-2: A permit is required to construct a building or to construct or carry out works. Clause 52.06-3: A permit is required to reduce the number of car parking spaces required under Clause 52.06-5.

¹ Section 4(2)(d) of the *Victorian Civil and Administrative Tribunal Act 1998* states a failure to make a decision is deemed to be a decision to refuse to make the decision.

Land description

The site is located on the south-eastern corner of Inkerman Street and Lyell Street, St Kilda. It has a regular configuration with a frontage of approximately 12.6 metres to Inkerman Street, a site depth of 36.6 metres, and a site area of approximately 435.3 sqm.

A single storey weatherboard dwelling occupies the site at 61 Inkerman Street. A two storey commercial building occupies 63 Inkerman Street.

A right of way (ROW) runs along the site's rear boundary connecting Lyell Street and Market Street to the east.

The surrounding area is very mixed in character and use. Existing buildings along Inkerman Street generally range from single storey to five storeys, with a seven storey building recently constructed at 71 Inkerman Street.

The north side of Inkerman Street is zoned Commercial 1 Zone ("C1Z") and exhibits a variety in scale of built form. The commercial buildings include the Newmarket Hotel, Telstra exchange building and low scale warehouse type buildings.

Abutting the site to the east is a two storey commercial building (hardware and office). To the south, on the opposite side of the lane is a double storey building used as a panel beaters.

A single storey dwelling fronting Inkerman Street and two single storey dwellings fronting Lyell Street, are located to the west of the review site.

REASONS²

- 1 This is an application to review the failure of the Responsible Authority to grant a permit within the prescribed time in respect of a permit application for a seven storey building at 61-63 Inkerman Street, St Kilda. The Responsible Authority ultimately decided that had it not been for the application for review it would have refused permission for the following reasons:

The proposal would be contrary to the orderly and proper planning of the area particularly in terms of an excessive parking shortfall.

The proposal would not sufficiently align with relevant policy settings, in particular Clauses 15, 21.05, 21.06 and 22.06 by way of excessive height.

The proposal would not adequately respond to local character and consequently the provisions of clause 22.06 in particular by way of poorly resolved east elevation treatment.

The proposal would result in an inequitable use of local kerbside car parking by way of the proposal's car parking shortfall.

The proposal would result in poor car parking functionality, design, accessibility and practicality.

- 2 The Council's grounds of refusal are for the original application for a nine (9) storey building.
- 3 After filing the application for review, the applicant prepared and circulated amended plans which reduced the height of the building to seven (7) storeys. Other detailed design changes were also incorporated in the amended plans³.
- 4 The Council considered the amended plans before the hearing. While it continues to oppose the grant of a permit, it no longer opposes the proposal based on height, character and car parking functionality. Its amended grounds of refusal are:

The proposal would be contrary to the orderly and proper planning of the area particularly in terms of an excessive parking shortfall.

The proposal would result in an inequitable use of local kerbside car parking by way of the proposal's car parking shortfall.

- 5 There are objectors to the application. They continue to oppose the grant of a permit because they submit the proposal is too high, responds poorly to the character of the area and has unacceptable overshadowing, overlooking and visual bulk impacts. They also submit that not enough car parking is

² The submissions and evidence of the parties, any supporting exhibits given at the hearing, and the statements of grounds filed; have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all of this material will be cited or referred to in these reasons.

³ I substituted the amended plans for the application plans at the start of the hearing.

proposed, an issue compounded by the car stacker system which they consider is dysfunctional and will contribute to increased on street car parking and related traffic congestion. They submit that the scale and height of the proposal is not supported by the planning scheme.

- 6 Having inspected the site and the surrounding area, and having considered the submissions and the evidence, I have concluded that the primary issues in this case can be categorised under the following headings:
 - a. Is the proposal acceptable in its strategic context?
 - b. Is the proposal's built form acceptable?
 - c. Does the proposal have unacceptable amenity impacts?
 - d. Are the proposal's car parking and traffic impacts acceptable?
- 7 I am satisfied the proposal is acceptable with respect to these and other relevant matters.
- 8 My reasons for reaching this conclusion are set out below.

IS THE PROPOSAL ACCEPTABLE IN ITS STRATEGIC CONTEXT?

- 9 The parties broadly acknowledge that the redevelopment of the review site is encouraged by the relevant provisions of the planning scheme. The Council's amended grounds of refusal are specifically related to car parking and related considerations. The Council confirmed at the hearing that following its assessment of the amended plans it is satisfied that the proposal is strategically acceptable and no longer opposes the proposal based on its height and scale.
- 10 The objectors are also concerned about car parking and traffic matters but express concerns about the proposal's height, built form and amenity impacts, which they submit are unacceptable having regard to the site's strategic context.
- 11 I am satisfied that the proposal is strategically acceptable for the following reasons:
 - In relation to this proposal, the relevant Planning Policy Framework⁴ seeks to:
 - Facilitate opportunities for the consolidation, redevelopment and intensification of existing urban areas, subject to neighbourhood character and landscape considerations.
 - Aim to ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.

⁴ Clauses 11.01-1S, 11.02-1S, 15.01-1S, 15.01-2S, 15.01-4R, 15.01-4R, 15.01-5S, 15.02-1S, 15.01-4R, 15.01-5S, 15.02-1S, 17.01-1S, 18.02-2R.

- Create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.
 - Achieve building design outcomes that contribute positively to the local context and enhance the public realm.
 - Create a city that gives people the ability to meet most of their everyday needs within a 20 minute walk, cycle or local public transport trip from their home.
 - Recognise and protect neighbourhood character, cultural identity and sense of place.
 - Encourage land use and development that is energy and resource efficient and minimises greenhouse gas emissions.
 - Encourage development that meets the needs for retail, entertainment, office and other commercial services and to plan for an adequate supply of commercial land in appropriate locations.
 - Maximise the use of existing infrastructure and increase the diversity and density of development along the Principal Public Transport Network.
 - Ensure an adequate supply of carparking that is appropriately designed and located.
- 12 The site and the surrounding area are zoned Mixed Use (MUZ1)⁵ and is included in the Greeves Street Mixed Activity Precinct. At Clause 21.06-6 of the Municipal Strategic Statement (MSS), strategies for the precinct encourages redevelopment as a preferred location for housing growth. There is also support for office and compatible light industrial / warehouse uses where they do not undermine the primary residential function of this area.
- 13 Having regard to these matters the proposal is well located from a strategic perspective because of its locational attributes which include its proximity to public transport, local services and local facilities. The site is proximate to St Kilda's activity and commercial areas, trams on St Kilda Road, the light rail and Fitzroy Street, trains at Balaclava and buses on Barkley Street.
- 14 The development of the site incorporating ground level retail and café uses and offices at the upper levels, contributes to the achievement of the policies outlined above. I am satisfied that the proposal does not compromise the strategy for the Greeves Street precinct which encourages housing growth in the precinct. The proposed uses are consistent with the

⁵ The purpose of the zone To implement the Municipal Planning Strategy and the Planning Policy Framework. To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality. To provide for housing at higher densities. To encourage development that responds to the existing or preferred neighbourhood character of the area. To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.

purpose of the MUZ1. The proposed uses provide opportunities for localised employment in an area in which increased residential densities are anticipated.

IS THE PROPOSAL'S BUILT FORM ACCEPTABLE?

- 15 The objectors submit that the proposal's height is excessive, it is architecturally lacking in articulation and visual interest, and it fails to transition in height to lower scale buildings beyond Inkerman Street.
- 16 The objectors rely on the strategy for the Greeves Street precinct at Clause 21.06-6 of the planning scheme which includes a provision that calls for new development to respect the 4 and 5 storey scale of development in Inkerman Street and the lower 1 and 2 storey scale of development in other streets.
- 17 The objectors submit the proposal should be limited to a maximum five storey height incorporating a three storey street wall with setbacks above the street wall to create a stepped transition to the lower scale buildings in the area.
- 18 Policy guidance for the achievement of acceptable built form outcomes is also provided at Clauses 21.05 (Built Form) and Clause 22.06 (Urban Design Policy for Non-Residential Development and Multi Residential Development).
- 19 I am not persuaded that the proposal requires any significant modification to achieve an acceptable built form outcome.
- 20 In relation to the height of the proposal, I acknowledge the guidance provided by Clause 21.06-6 but that provision does not constitute a height control of the type typically included in the schedule to the MUZ1 or a some other form of development control (e.g. a Design and Development Overlay). Importantly the schedule to the MUZ1 does not include a maximum building height requirement.
- 21 The policy at Clause 21.06-6 calls for new development to respect the 4-5 storey scale of Inkerman Street. It does not call for new development to replicate a 4-5 storey scale. It is relevant that in this part of Inkerman Street there are already developments that exceed a five storey height, including the recently constructed seven storey residential building at 71 Inkerman Street. The Telstra building opposite the review site also rises in part to an equivalent seven storey height.
- 22 Having regard to the review site's locational attributes which I have discussed previously, combined with those policy provisions which encourage new development on sites exhibiting those attributes, a development of seven storeys is acceptable in an area where there are no building height controls and buildings of similar heights already exist.
- 23 Of course, the acceptability of the proposal's built form is also dependant on a range of other considerations, including its response to the site's

physical context and its interfaces, its amenity impacts, and its architectural expression.

- 24 In relation to these matters the proposal exhibits a sound approach to its site planning which is influenced in part by using the rear lane for vehicular access. This assists with meeting the requirements of the Special Building Overlay (SBO). In Inkerman Street, the ground level pedestrian experience is activated by fronting the ground floor uses to that street, with a central pedestrian access.
- 25 To the rear, the lane and the industrial building on the south side of the lane is best described as benign. The interface to the lane adopts a ground level setback which will assist vehicle access. The first and second floors are cantilevered over the ground level setback, before a small stepping back at the upper levels is introduced. The proposal is acceptable having regard to the non-sensitive nature of the rear interface. The upper level setbacks, combined with the separation provided by the width of the lane, are sufficient to ensure a reasonable development opportunity is available to the site to the south of the lane.
- 26 The proposal also adopts an eastern elevation treatment that will enable a development of its eastern neighbour in accordance with the provisions of the planning scheme.
- 27 The proposal's presentation to the side street (Lyell Street) is the most sensitive given the dwelling on the western side of Lyell Street which has a frontage to Inkerman Street and presents a side boundary to Lyell Street, and the two dwellings that front Lyell Street.
- 28 The elevational treatment and the architectural expression of the proposal to Lyell Street is shown in the following render
- 29 The proposal's response to Lyell Street and to the three dwellings, is assisted by the albeit narrow width of the street and the footpath on the western side of the street. This is further enhanced by the elevational treatment which includes textured concrete tiles, above ground fenestration patterns comprising punched rectangular window openings framed by metal collars. The width of the window openings varies and successfully creates a level of visual interest and shading across the glazing as well as across the concrete tiles. There is also a sculptured corner element adding further visual interest.

DOES THE PROPOSAL HAVE UNACCEPTABLE AMENITY IMPACTS?

- 30 In relation to external amenity impacts, the objectors raise concerns about the proposal's visual bulk, overshadowing and overlooking.
- 31 The proposal will introduce a prominent new building at this location which will have a significant visual impact when viewed from the western side of Lyell Street in particular. That impact however is acceptable in this locality

where strategically, the planning scheme encourages new development at a height and scale broadly consistent with this proposal.

- 32 As discussed above, the proposal's design response to its sensitive interface (Lyell Street) successfully adopts an architectural treatment that assists with containing the proposal's visual impact to acceptable levels.
- 33 Overlooking from the proposal to the west (Lyell Street properties) is mitigated by the treatment of those west facing windows within a 9.0m radius of east facing habitable room windows and secluded open space of the dwellings to the west. It is also significant the planning scheme does not contain standards for overlooking from commercial buildings.



Source: Amended Plans Rev E prepared by Ammache Architects.

- 34 The dwellings to the west will be subject to overshadowing from the proposal. Importantly the planning scheme does not contain overshadowing standards for commercial development in the MUZ1 except where a lot abuts land in a General Residential Zone, Neighbourhood

Residential Zone, Residential Growth Zone or Township Zone in which case relevant Clause 55 standards and objectives apply⁶.

- 35 I agree with Mr Twite that the exclusion of Clause 55 considerations for land in the MUZ1 is a recognition of the planning scheme's encouragement for new development in the MUZ1 in a manner that is not unduly constrained by abutting residential uses that are also zoned MUZ1.
- 36 The shadow impacts are not however an irrelevant consideration. A judgement does need to be exercised about the reasonableness of the impact having regard to all the relevant circumstances.
- 37 In this case, Mr Twite's shadow analysis based on the shadow diagrams accompanying the amended plans, demonstrates that the secluded open space of those dwellings to the west will be affected generally up to 11 am (at the September equinox) for 1 and 3 Lyell Street and 12 midday for 59 Inkerman Street.⁷
- 38 This impact is acceptable having regard to the circumstances outlined above, the inclusion of the review site and neighbouring properties in the MUZ1 and the broad support for new development in this locality.

ARE THE PROPOSAL'S CAR PARKING AND TRAFFIC IMPACTS ACCEPTABLE?

- 39 The Council and the objectors submit that the proposed provision of car parking is not acceptable in an area in which there is a high demand for on-street parking.
- 40 The Council acknowledges that the planning scheme contains policies aimed at reducing car dependency and encouraging modal shift toward alternative transport modes.⁸ Restricting the provision of car parking for new developments is recognised as one means by which those policy objectives can be achieved. The Council submits however that the balance between restricting the provision of car parking to encourage modal shift outcomes, and the need to ensure that adequate car parking is provided, has not been achieved in this application because the extent of the proposed car parking reduction is excessive.⁹

⁶ Clause 32.04-10.

⁷ After 3pm shadows will be cast over the properties to the east including rear open space of the dwelling at 69 Inkerman which is also zoned MUZ1 and is currently not in residential use. The properties at 4-6 Greeves Street after 9am.

⁸ Clause 18 Transport and Clause 21.03-2. The planning scheme was amended by Amendment VC204 on 9 December 2021 following the conclusion of the hearing. updated clause 18 (Transport) provisions in the Victoria Planning Provisions and all planning schemes. The amendment also made consequential changes to clauses 66.02, 65.01 and 65.02. The amendment does not significantly impact the issues that I must decide in this case. I have however proceeded to make my decision based on the relevant planning scheme provisions that apply at the time of my decision.

⁹ Under Clause 52.06, 67 car parking spaces are required for all the proposed uses. Thirty spaces are proposed to be provided. A dispensation of 35 spaces is sought for the office use and one space for each of the retail and food and drink premises.

41 The Council also refers to an adopted policy that outlines criteria to be met where parking for offices are proposed at a rate below 2.0 spaces per 100 sqm. The Council submits that the criteria in that policy is not met by this proposal.

42 Mr Gnanakone provided a detailed analysis of the proposal against that policy. The policy is relevant because it has been adopted by the Council. For the reasons I elaborate on below I am satisfied that an acceptable quantum of car parking is provided. I agree with Mr Gnanakone's assessment of the proposal against the policy that subject to the preparation of a Green Travel Plan, the proposal complies with the policy.

43 The Council further submits that the dispensation sought is unacceptable for the following reasons:

- There are no physical constraints that mean that car parking cannot be provided on the land;
- There are limited alternatives to on-site parking within the vicinity of the site with the vast majority of spaces time constrained or permit parking only and surveys indicate they are heavily utilised;
- The demand on street parking resources is likely to increase cumulatively in the future given the intense future growth (particularly residential) sought for this locality;
- The proposal does not provide for any carshare spaces or car pooling scheme;
- The proposal does not make any commitment to subsidised public transport fares; and
- The proposal makes no commitment to upgrading local public transport stops or bicycle paths within the vicinity of the site

44 The objectors broadly agree with the Council submissions and emphasise their concerns about the impact increased on street parking will have on the amenity, capacity, functioning and safety of the surrounding street network.

45 Concern was also expressed about the validity of the parking and traffic surveys undertaken by the applicant.

46 I have been assisted by the evidence of Mr Gnanakone in this case. Mr Gnanakone carried out an analysis of the parking and traffic impacts conducted by Ratio Consultants as part of the original planning permit application submitted with the Council. The Ratio analysis predated the introduction of restrictions associated with the COVID-19 Pandemic.

47 In relation to the provision of car parking, I have proceeded in my assessment on the basis that the benefits associated with encouraging a reduction in car parking as part of the promotion of alternative sustainable transport is recognised in the planning scheme.

48 The extent to which it is appropriate to vary the provision of car parking in any proposal will be dependant upon a range of considerations that are contextual in nature.

49 In this case I am satisfied that the proposed provision of car parking is acceptable because:

- The site enjoys excellent access to public transport, with numerous train, tram and bus services in the immediate vicinity. The site is located close to several commuter bicycle routes.
- The site is located close to share cars pods available in the vicinity. These provide staff with an opportunity to travel away from the site without the need for a privately owned personal or business car.¹⁰
- The site enjoys easy walking access to a range of amenities, including shops, education, entertainment and recreational facilities.
- The car parking survey demonstrates that:
 - A supply of between 183 and 222 spaces were surveyed;
 - Occupancy ranged from 37% to 76%;
 - Parking demand declined from 4:00pm;
 - The peak hour occurred at 1:00pm when a total of 169 spaces were occupied out of a supply of 222 spaces, leaving 53 spaces available;
 - There was a supply of 69 unrestricted spaces; and
 - There were no unrestricted spaces available between 9:00am and 1:00pm
- Because of the limited availability of unrestricted parking spaces which are heavily used and unlikely to be available for long term parking, there is an additional incentive operating to encourage staff to shift their travel behaviour.
- Any short term customer or visitor to the site is likely to be able to access short term parking in the area.

50 Mr Gnanakone provided a detailed analysis of the operational characteristics of the car stacker system proposed to be used in the development¹¹. Based on that analysis, the system is relatively sophisticated and with the adoption of appropriate management systems¹² is

¹⁰ Mr Gnanakone referenced research that indicates that access to car share facilities can replace 10 privately owned vehicles for each car share pod. I acknowledge that the car share pods available in this locality are publicly available and the users are not confined to the occupants of the review site. The nominated replacement of 10 privately owned vehicles is therefore unlikely to be achieved for this proposal. The existence of the pods will however have some benefit.

¹¹ The system is identical to that in operation at the recently constructed seven storey residential development at 71 Inkerman Street.

¹² I was provided with details of an indicative management system involving an allocation of spaces for each of the uses in the building.

well suited to the proposed office use and the limitations of the site. I am therefore satisfied that the stacker system combined with the quantum of parking spaces proposed will successfully accommodate the demand generated by the uses on the site.

51 Mr Gnanakone's analysis of the stacker system design and the access/egress arrangements demonstrates that these aspects of the proposal meet the relevant requirements of the planning scheme. I note that the Council's assessment of the amended plans led it to the same conclusion.

52 I also agree with Mr Gnanakone that the use of the rear ROW represents the appropriate means by which to provide vehicular access to the site. The anticipated traffic volumes generated by the proposed uses (estimated to generate 10 inbound and 1 outbound movement in the AM peak hour and 12 outbound and 1 inbound movement in the afternoon peak hour) can be accommodated within the ROW and the wider street network in a safe and functional manner.

CONCLUSION

53 It follows from the above reasons that it is my conclusion that the decision of the responsible authority should be set aside and a permit issued.

54 In deciding the conditions to be included on the permit I have had regard to the "without prejudice" conditions provided to the Tribunal by the responsible authority and the submissions and evidence of the parties in addition to the matters which arise from my reasons.

Laurie Hewet
Senior Member

APPENDIX A – PERMIT CONDITIONS

PERMIT APPLICATION NO:	P742/2020
LAND:	61-63 Inkerman Street ST KILDA VIC 3182

WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

- Use of the land for office having a leasable floor area of more than 250 square metres.
- Construction of a building or carrying out of works for a use in Section 2 of Clause 32.04-2 (the office use).
- Construction of a building or carrying out of works in the Special Building Overlay
- Reduction in the number of car parking spaces required under Clause 52.06-5.

CONDITIONS:**Amended Plans**

- 1 Before the development starts amended plans must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with Drawing Nos. A01 to A15 inclusive and A17 – A23 inclusive all Revision E and all dated 16 August 2021 prepared by Ammache Architects but modified to show the following:
 - (a) Use of light/high transparency glass for the ground floor tenancies
 - (b) Increased depth of the level 6 planters together with depiction of an automatic watering system for the planter boxes.
 - (c) Depiction of lift overruns and plant areas on the elevations.

Once approved, these plans become the endorsed plans under this permit.

No Layout Change

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

External colours and Finishes

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

Equipment and Services Above Roof Level

- 4 No plant, equipment (including any associated screening devices) or architectural features, other than those shown on the endorsed plan are permitted, except where they would not be visible from the primary street frontage (other than a lane) or public park without the written consent of the Responsible Authority.

Plant & Equipment

- 5 Any plant, equipment visible from the primary street frontage (other than a lane) or public park must be located and visually screened to the satisfaction of the Responsible Authority.

Implementation Report for Environmentally Sustainable Design

- 6 Prior to occupation of the development approved under this permit, an ESD Implementation Report (or reports) from a suitably qualified person or company, must be submitted to and endorsed by the Responsible Authority. The Report must confirm that all ESD initiatives in the endorsed SDA/SMP and WSUD report have been implemented in accordance with the approved plans to the satisfaction of the Responsible Authority. The ESD and WSUD initiatives must be maintained throughout the operational life of the development to the Satisfaction of the Responsible Authority.

Construction Management Water Sensitive Urban Design

- 7 The developer must ensure that throughout the construction of the building(s) and construction and carrying out of works allowed by this permit;
- (a) No water containing oil, foam, grease, scum or litter will be discharged to the stormwater drainage system from the site;
 - (b) All stored wastes are kept in designated areas or covered containers that prevent escape into the stormwater system;
 - (c) The amount of mud, dirt, sand, soil, clay or stones deposited by vehicles on the abutting roads is minimised when vehicles are leaving the site.
 - (d) No mud, dirt, sand, soil, clay or stones are washed into, or are allowed to enter the stormwater drainage system;
 - (e) The site is developed and managed to minimise the risks of stormwater pollution through the contamination of run-off by chemicals, sediments, animal wastes or gross pollutants in accordance with currently accepted best practice.

Parking Areas Must Be Available

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

Vehicle Crossings

- 9 Before the occupation of the development allowed by this permit, vehicle crossings must be constructed in accordance with Council's current Vehicle Crossing Guidelines and standard drawings to the satisfaction of the Responsible Authority.

Vehicle Crossings- Removal

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

Applicant to Pay for Reinstatement

- 11 Before the occupation of the development allowed by this permit, the applicant/owner must 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 the 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 alterations/reinstatement.

Public Services

- 12 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.

Walls on or facing a boundary

- 13 Before the occupation of the development allowed by this permit, all new 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. 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.

Car Stacker Maintenance

- 14 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.

Melbourne Water Conditions

- 15 Finished floor levels associated with the ground floor of the proposed building must be set no lower than 4.89 metres to Australian Height Datum (AHD), which is 300 mm above the applicable flood level of 4.59 m to AHD.
- 16 The entrance to the car stacker garage must be set no lower than 4.2 m to AHD which is the applicable flood level at that point of the site.
- 17 The car stacker garage area must be protected by a self-closing Flood Barrier to a height of no lower than 4.5 metres to AHD, which is 300 mm above the applicable flood level. This is to prevent floodwaters entering the garage areas including pit associated with the car stacker.
- 18 All areas with electrical installations (e.g. electrical substations, switch rooms etc) must be set no lower than 300 mm above the applicable flood level or to the satisfaction of the relevant authority.
- 19 Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.
- 20 Prior to commencement of works, design plans of the self-closing flood barrier unit including details of general principles of operation, intake structures, control pit details, alarms, flood barrier rise times, risk assessment, maintenance schedule and monitoring of operations must be submitted and approved by Melbourne Water.
- 21 Prior to the commencement of works, a Flood Risk Management Plan (FRMP) prepared by a suitably qualified professional must be provided to the satisfaction and approval of Melbourne Water and the Responsible Authority. The FRMP is to detail ongoing effective management of flood risks. The approved FRMP must include:
 - (a) Details of how the self-closing flood barrier unit is to be regularly maintained and managed for the life of the structure.
 - (b) Details of how the self-closing flood barrier unit is to be maintained and managed during a flood event.

- (c) How access to the car stacker garage will be managed leading up to, during and following a flood event (including notification, signage etc)

If, on a formal review of the FRMP, it is proposed to amend the FRMP the proposed amendments and proposed updated FRMP (if appropriate) must be submitted to Melbourne Water and the Responsible Authority for approval. When approved, the updated FRMP will be the FRMP for the purposes of this permit. Melbourne Water may require the permit holder to provide to Melbourne Water and to the Responsible Authority and independent peer review by a suitably qualified person at the permit holder's cost, to the satisfaction of Melbourne Water for Melbourne Water's approval.

- 22 The FRMP must be implemented to the satisfaction of the Responsible Authority and Melbourne Water.

End Melbourne Water conditions

Green Travel Plan

- 23 Before the use commences a Green Travel Plan must be submitted to and approved by the Responsible Authority.
- 24 After approval, the Green Travel Plan must be implemented to the satisfaction of the Responsible Authority.

Time Limits

- 25 This permit will expire if one of the following circumstances applies:
 - (a) The development is not started within 3 years of the date of this permit.
 - (b) The development is not completed within 2 years of the date of commencement.

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

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

- End of conditions -