

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

ADMINISTRATIVE DIVISION

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO.P1969/2015
PERMIT APPLICATION NO.PLN15/0355.

CATCHWORDS

Application under S.79 of the Planning and Environment Act 1987 for review of the failure to grant a permit within the prescribed time.
Response to interim decision.

APPLICANT	Caydon Cremorne No.1 Development Pty Ltd
RESPONSIBLE AUTHORITY	Yarra City Council
RESPONDENTS	Riseheath Pty Ltd; John Saunderson; Belinda Freake; Christopher Andrew Wood; Michael Wilson; David Plitz; Sandra Lewis; Robert Bruce Craig; Michael Lewis; Michael Coffey; Barry Nathan; Benjamin Cebon; Owners Corporation PS 5234545; Scott Barker
SUBJECT LAND	2 Gough Street CREMORNE VIC 3121
WHERE HELD	Melbourne
BEFORE	Laurie Hewet, Presiding Senior Member Ann Keddie, Member
HEARING TYPE	Hearing
DATE OF HEARING	11, 12, 13, 14, 15, 18, 19, 20, 21 & 22 January 2016 and 4 February 2016
DATE OF INTERIM ORDER	18 March 2016
DATE OF ORDER	15 July 2016
CITATION	Caydon Cremorne No.1 Development Pty Ltd v Yarra CC [2016] VCAT 1177

ORDER

- 1 The decision of the Responsible Authority is set aside.
- 2 In permit application PLN15/0355 a permit is granted and directed to be issued for the land at 2 Gough Street CREMORNE in accordance with the

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

- *The use of the land for dwellings, shop and supermarket.*
- *The construction of a building or carrying out of works.*
- *The reduction in the number of car parking spaces associated with dwellings, shop and supermarket.*
- *The waiver of the loading/unloading bay requirements associated with a shop.*
- *Reduce the loading/unloading bay requirement associated with a supermarket;*

Laurie Hewet
Senior Member

Ann Keddie
Member

APPEARANCES

For Applicant

Mr John Cicero instructed by Ms Carol Daicic, both of Best Hooper solicitors

He called the following witnesses:

- Mr David Sutherland, architect
- Mr Robert Earl, landscape architect
- Mr Mark O'Dwyer, urban design
- Professor Phillip Goad, architect
- Ms Colleen Peterson, town planner
- Mr Peter Lovell, heritage consultant
- Mr John Kiriakidis, traffic engineer

Witness statements proffered by Ms Anna Barklay, town planner (statement titled Statement of Facts) and Mr Chris Goss (Visual Amenity) were tabled but the authors were not called to give evidence.

For Responsible Authority

Mr Terry Montebello of Maddocks Solicitors

He called the following witnesses:

- Mr Jim Holdsworth, architect
- Mr Marco Negri, town planner
- Mr Jim Kostas, wind engineer
- Ms Charmaine Dunstan, traffic engineer
- Mr Jim Antonopolous, acoustic engineer
- Professor Rob McGuaran, architect

For Respondents

Ms Michelle Quigley QC appeared on behalf of Riseheath Pty Ltd. Ms Quigley appeared on days 1 and 2 of the hearing only.

Mr Michael Coffey appeared on his own behalf and on behalf of Belinda Freake, Christopher Wood, Michael Wilson, David Pilz, Sandra Lewis, Robert Craig, Michael Lewis, Benjamin Cebon, the Owners Corporation PS523454, Scott Barber.

Submissions were also made by Belinda Freake, Christopher Wood, Benjamin Cebon, Scott Barber.

Mr Barry Nathan and Mr John Saunderson appeared on their own behalf.

INFORMATION

Land Description

The review site forms part of the Cremorne precinct that is bounded by Hoddle Street to the west, City Link and the Yarra River to the south, Church Street to the east and Swan Street to the north.

The site is located in the south-west corner of the precinct at the Gough Street and Cremorne Street intersection. It comprises the eastern part of a larger site commonly known as the "Nylex Site". The site, south of Gough Street, is adjacent to City Link, the Yarra River and Hoddle Street. The site was formerly used for industrial purposes (malting) originally established in the 1850s. The total site currently comprises a range of heritage and non-heritage buildings including three groups of silos. A double-sided sky sign (the Nylex Sign) is mounted on top of one of the silos. The sign and its supporting silos do not form part of the site that is the subject of this application.

The total site comprises two titles, has an irregular configuration with a frontage of 68.7m to Cremorne Street, 161m to Gough Street and 139.1m to Harcourt Parade. It has an area of 11,025m².

The north side of Gough Street comprises commercial buildings and to the north west there are single-storey dwellings fronting Melrose Street.

To the south of the review site is an industrial building currently zoned Commercial 2 (17-21 Harcourt Street). A permit exists for the site that allows a nine-storey office building. This site is also the subject of a planning scheme amendment application to facilitate a residential development.

A ten-storey building (the ERA Apartments) occupies the east side of Cremorne Street. Commercial uses occupy the building's three storey podium.

Description of Proposal

The proposal is to develop the eastern part of the total site and is referred to as Stage 1 of a three stage development. Stage 2 relates to the balance of the site, while Stage 3 relates to the adjoining site at 17-21 Harcourt Street.

The Stage 1 application considered by the Tribunal included an 18-storey tower located in the southern part of the site. A total of 258 apartments were proposed together with a mix of shops and a supermarket. Six three and four-storey SOHO offices were proposed.

- Following the Tribunal's interim decision, the amended proposal provides for (in addition to other matters):
- a reduction in the height of the 18-storey tower by three storeys
- lowering the height of the podium building by one storey
- reduction in the provision of car parking
- reconfiguration of the north south lane
- a reduction in the provision of 1 bedroom apartments and an increase in the number of 2 bedroom apartments.
- Reconfiguration and relocation of the SOHO units

Nature of Proceeding

Application under Section 79 of the *Planning and Environment Act 1987* – to review the failure to grant a permit within the prescribed time¹.

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

Zone and Overlays

Clause 37.02: Comprehensive Development Zone (CDZ3)

Clause 45.03: Environmental Audit Overlay (EAO)

Clause 44.04: Land Subject to Inundation Overlay (LSIO) – does not affect that part of the site on which the development is proposed.

Clause 45.07: City Link Project Overlay (CLPO) - does not affect that part of the site on which the development is proposed.

Clause 43.01: Heritage Overlay (HO350). No permit is required under HO350 because the site is included on the Victoria Heritage Register.

Two Victorian Heritage Registrations apply to the site:

- H2049 Nylex sign
- H2050 Richmond Maltings

Permit Requirements

A permit is required under the CDZ3 to use land for dwellings, shop and supermarket, construct a building or construct or carry out works, and to reduce car parking requirements.

A permit is required under Clause 52.02 to remove the light and air easement at the southern end of the land.

A permit is required under Clause 52.07 to waive loading bay requirements.

REASONS²

WHAT IS THIS PROCEEDING ABOUT?

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 mixed use development at 2 Gough Street, Cremorne. The Responsible Authority ultimately decided that had it not been for the application for review it would have refused permission on 13 grounds. The grounds are summarised as follows:

- The proposal is contrary to the Comprehensive Development Zone, and is not generally in accordance with the planning and design principles for the site.
- The height, setbacks, massing and design would unreasonably impact the character and amenity of the area including through overshadowing of the Yarra River and the ERA apartments and impact on the landmark quality of the Nylex sign.
- A visual assessment of the proposal's impact has not been provided.
- The sighting and layout of the proposal provides for an inferior outcome to that set out in the Design Principles.
- The proposal would unreasonably impact the heritage buildings that are to remain on site, affecting their appreciation and subsequent reuse.
- The sighting and layout of the proposal provides for a poor outcome in respect of the public realm and accessibility and is not generally in accordance with the Design Principles.
- The height of the building and south boundary setback would unreasonably impact the equitable development potential of the site to the south.
- The layout and configuration of apartments would result in unreasonable internal amenity outcomes in regards to outlook, daylight and ventilation.
- The layout and shared use of laneways for vehicle access, loading and waste collection (north-south, central east-west and southern east-west links) would lead to compromised levels of pedestrian amenity and safety within the development.
- The proposal does not provide adequate noise attenuation and would not provide a reasonable level of amenity for future residents.

² We have considered the submissions of all the parties that appeared, all the written and oral evidence, all the exhibits tendered by the parties, and all the statements of grounds filed. We do not recite or refer to all of the contents of those documents in these reasons.

- Wind conditions in the north-south and southern most east-west link would lead to poor levels of amenity.
 - The car parking provision is too high and would unreasonably impact traffic conditions in the area.
 - The absence of an on-site loading bay for the shop would adversely impact traffic flow and road safety of the area.
- 2 The Council's grounds of refusal were formulated in response to the application plans. Subsequent to the Council's decision and prior to the hearing, the applicant circulated amended plans. These plans were substituted for the application plans at the commencement of the hearing.
 - 3 There are a number of objectors to the application. The objectors generally support the Council's grounds of refusal but also raise other matters with particular emphasis on traffic impacts, access and egress arrangements, overshadowing impacts and the impact of the proposal on the Cremorne area generally.
 - 4 Following an eleven day hearing conducted in January and February 2016, the Tribunal issued an interim decision and by Order dated 18 March 2016 provided the Applicant with the opportunity to prepare further amended plans in response to specific areas of concern identified by the Tribunal.
 - 5 The Applicant accepted the opportunity provided by the Tribunal to prepare further amended plans. These plans were circulated to the Council and the parties in accordance with the Tribunal's Order.
 - 6 We have now received submissions from the Council and objectors, all of whom continue to oppose the grant of a permit.
 - 7 Having considered the further amended plans, together with the Applicant's supporting material, and having considered the submissions received in response to the circulation of those plans, we have concluded that the Applicant has generally responded in an acceptable manner to the issues identified by the Tribunal. Subject to some identified changes in the proposal, the further amended plans now represent an acceptable outcome for this site, having regard to the relevant policies and provisions of the planning scheme.
 - 8 Our reasons for issuing a permit for the proposal are set out below.

THE INTERIM DECISION

- 9 In our interim decision, we detailed the areas of concern that required attention in the preparation of any amended plans. These are summarised below.

Changes accepted by the applicant

- 10 During the course of the hearing either the Council, the objectors or the Tribunal identified the following changes to the application plans, to which the Applicant indicated an acceptance:
- a Widening of the footpath along the Gough Street and Cremorne Street frontages by at least 1 metre.
 - b Removal of the walls currently proposed to be retained at the corner of Gough and Cremorne Streets, with the purpose of opening up that corner and increasing site transparency.
 - c Removal of the retained parts of the wall at the north east corner of the north south lane at the Gough Street entrance.
 - d Changes to the loading bay including imposing restrictions on its use, its designation as a “zoned area” and the removal of the refuse services area.
 - e Providing minimum floor to ceiling heights in the apartments of 2.65m and no less than 2.4m where bulk heads are necessary.
 - f Adopting changes to the car park layout generally in accordance with the evidence of Ms Dunstan.
 - g Increasing the width of the midpoint of the east west lane to the south of building B4 to 3.25m.
 - h The removal of six car parking spaces at each level of the podium car park to improve the proposal’s interface to the south.
 - i Clarification that all apartments are designed to meet AS/NZS 2107:2000 Acoustics – Recommended Design Sound Levels and Reverberation Times for Building Interiors.

Further changes required but not conceded by the applicant

- 11 The following matters relate to issues about which the applicant does not agree are necessary but, for the reasons detailed in the interim decision, we concluded are necessary:
- a A reduction in the height of the southern tower, and any consequential changes that derive from that change.
 - b The rearrangement of the north – south lane to relocate at least some of the SOHO offices and apartments to the eastern side of the lane.
 - c Residential car parking provided at a rate consistent with the evidence of Ms Dunstan:
 - o 0.5 spaces per one bedroom apartment
 - o 0.7 spaces per two bedroom apartment
 - o 1 space per three bedroom apartment

- 0.12 spaces per dwelling for visitors
- d The provision of a greater diversity of apartment types and sizes to better achieve housing diversity objectives.

THE FURTHER AMENDED PLANS

- 12 In addition to the changes accepted by the Applicant at the hearing, the following changes have been included in the further amended plans:
- The southern tower is reduced by three levels from 19 levels (including a roof pavilion) to 16 levels. The height has been reduced from AHD 62.25 to AHD 53.45.
 - The northern tower is reduced from 14 to 13 levels. The height has been reduced from AHD 47.35 to AHD 44.5.
 - The podium has reduced from four to three levels. The height has been reduced from AHD 18.45 to AHD 15.6.
 - Building B3 is to be demolished (for which no permit is required) except for the façade facing Gough Street which is to be modified to provide a “heritage gateway” to the public spaces on the site.
 - The number of car parking spaces is reduced from 361 to 226, with 40 spaces to be quarantined for Stage 2 (previously 90 spaces). One level of basement car parking has been removed and modifications to the car park layout adopted.
 - The north – south lane is realigned and the SOHO offices and apartments relocated to the east side of the lane.
 - The number of apartments is reduced from 264 (including 6 SOHO apartments) to 225 (including 6 SOHO apartments).
 - The dwelling mix has changed from 80% one bedroom, 14% two bedroom and 5% three bedroom, to 50% one bedroom, 41% two bedroom and 6% three bedroom.

SUBMISSIONS IN RESPONSE TO THE AMENDED PLANS

- 13 We have received submissions on the further amended plans from the Council and the objectors to the application.
- 14 Several of the submissions reiterate or repeat submissions made during the hearing. For example, some objectors have restated their original submissions that the height of the proposal should be limited to RL.38 being the discretionary maximum height specified in the planning scheme. Other submitters express concerns that the reduced heights do not achieve an acceptable transition to the lower scale areas to the north.
- 15 In our interim decision, we addressed the issues of the proposal’s height in some detail. We emphasised the discretion that is available to exceed the RL.38 and concluded that the degree to which the proposal exceeded RL.38

was not acceptable. We identified the issues that needed to be addressed by the applicant in preparing amended plans. We did not find that the tower must be reduced in height to comply with RL.38 in order to achieve an acceptable outcome. It is necessary for us to now consider the further amended plans and decide whether the height of the tower now proposed is acceptable having regard to the matters previously identified by us.

- 16 The Council submits that the Applicant has not adopted all of the changes identified in the interim decision identified under the heading “Changes Accepted by the Applicant”. In large part these are matters capable of being addressed by way of permit conditions.
- 17 In relation to the further changes identified by the Tribunal, the Council comments as follows:
 - The reduction in the height of the southern tower is not acceptable because:
 - The tower will continue to adversely impact on the Yarra River environs, primarily because of overshadowing.
 - The ERA apartments will continue to be overshadowed to an unacceptable degree.
 - The lack of perspectives from the east or north prevents an assessment of the proposal’s transition in scale and built form to the east.
 - The wind conditions in the north – south and east - west lanes remains unresolved.
 - The demolition building B3 and the changes to the retain façade of B3 diminishes the heritage significance of that building.
 - The increased diversity in housing mix remains unacceptable because of a lack of 3 bedroom apartments. Concern is also expressed about the layout of the 2 bedroom apartments which may only be suitable for single occupancies.
 - The interface with 17-21 Harcourt Parade, in the context that the exiting permit for a 9 storey office building on the Harcourt Parade site if pursued, has implications for the proposal before us. Subsequent to the hearing, the Applicant has submitted plans to the Council seeking endorsement of those plans under the existing permit. The Harcourt Parade site is also the subject of a combined rezoning and planning permit application to construct a 17 storey building.

WHAT IS OUR RESPONSE TO THE FURTHER AMENDED PLANS?

- 18 It is necessary for us to decide whether the further amended plans have responded to the issues identified by us in our interim decision in a way that produces an acceptable outcome in response to the Yarra Planning Scheme. In general terms we consider that the permit applicant has responded well to

the suggested modifications set out in paragraphs 90 and 91 of our Order dated 18 March 2016. In particular, new views from the west demonstrate that the impact on the Nylex sign when viewed from these vantage points is acceptable.

- 19 Having assessed the proposed changes to the overall Stage 1 development and the written submissions, we have however concluded that there are further changes required. We are satisfied that these further changes are matters that can be addressed by way of permit conditions.
- 20 Our reasons are set out below.

Reduced height of the proposal

- 21 The amended plans show a reduction of one level in the podium height, resulting in a reduction in the overall height of the northern building by one level. The southern tower has been reduced in height by three levels.
- 22 Council maintains that the extent to which the southern tower overshadows the river remains unacceptable and that the overshadowing of the adjacent ERA apartments also remains significant. It says that due to the lack of views of the amended proposal from the north and east it is unable to assess how successfully the proposal achieves a transition in scale and built form to the east.
- 23 Riseheath Pty Ltd submits that the reduction in height does not provide an appropriate transition to the adjoining low and medium rise areas. It says a height of RL38 was selected to provide an appropriate transition to the neighbouring areas and that the amended plans still fail to achieve this outcome. It says more intense development should occur on the Stage 2 site to the west, with Stage 1 acting as a point of transition to lower scale development and that the application before Council for a 20 storey development further into the site supports this view. In addition, the applicant has failed to demonstrate a net community benefit to offset the increased height proposed.
- 24 We find that the applicant's approach to the reduction in height retains the design integrity of the initial proposal. However, we have concluded that a further reduction is required. Whilst we accept that the presence of the existing 10 storey ERA apartments and the setbacks proposed at podium level go some way to integrating the proposed built form into the existing urban fabric, there is a need to further reduce the scale of the proposal, in particular when viewed from the north and east.
- 25 The shadow diagrams dated 21/4/16 submitted by the applicant fail to delineate the shadow cast by individual buildings on the Yarra, depicting only an amalgamation of existing shadows with those cast by potential future developments. However, we agree with Council that minimisation of overshadowing of the Yarra River is supported by planning scheme policies. A further reduction in height of the southern tower by one storey will make a contribution to further reducing shadow impacts on the river.

This further reduction will have a consequential benefit of reducing shadow impacts on ERA Apartments.

Reconfiguration of the north – south laneway

- 26 The applicant has reconfigured the laneway to expose the east face of Building 4 (not part of the review site). At its minimum width, the lane has been increased from 3.96 m to 6.16 m. Council concedes that the laneway now has a clear line of sight, but says that a wind assessment is necessary to establish appropriate design details.
- 27 Council's heritage advisor opposes demolition of Building 3 and changes to the façade of that building, saying that the demolition of the window and door will 'completely obliterate' any reasonable appreciation of the retained fabric. We agree with Council that whereas the plan shows a clear opening through the retained façade of Buildings 3, the north elevation shows glazing and this should be clarified. However we are satisfied that that an appreciation of what previously existed will remain, particularly if some interpretive material is provided.
- 28 Council's submission also notes that the widening of the footpath to Gough Street should be continued across the face of the northern-most SOHO unit, stopping at the Building 3 façade. We support this recommendation, as it will reinforce the entry to the north- south path by giving greater emphasis the entrance.
- 29 Our assessment is that the reconfiguration has resulted in increased flexibility for any future redevelopment of Building 4 and that the new elevational treatment of the east side of the pathway (as shown on TP 204 dated 18/04/2016) will considerably enhance the pedestrian experience.

Diversity of apartment sizes

- 30 Our Order of the 18 March 2016 required the provision of a greater diversity of apartment types and sizes to better achieve housing diversity objectives. The further amended plans propose a change of dwelling mix from 80% one bedroom, 14% two bedroom and 5% three bedroom to 50% one bedroom, 41% two bedroom and 6% three bedroom units. In absolute terms this translates to 113 one bedroom units, 93 two bedroom and 16 three bedroom dwellings, inclusive of the SOHO units.
- 31 Council remains of the view that there is insufficient diversity provided. It says the housing mix remains unacceptable because of a lack of 3 bedroom apartments. The guidelines for higher density residential developments, in place since 2004, suggest that particularly in larger residential developments, a mix of dwelling types is needed to suit not only single people but family groups of varying sizes students the elderly, people of limited mobility and those on low to moderate incomes.
- 32 In the absence of detailed research and policy direction as a basis for prescribing a distribution of dwelling types and sizes in the proposal, we are

unable to provide a more specific direction on this issue. We do however make the following observations about what is proposed in the further amended plans.

- 33 We acknowledge that Mr McGauren's suggestion at the initial hearing that at least 25% of the smaller units offered should be capable of amalgamation into larger apartments does have practical difficulties in implementation. However, the further amended plans do not address in any way how such amalgamation of units might be undertaken. We think this is an option that ought to be reflected in the plans. We note that the further amended plans have added a minimal number of 3 bedroom units but this has been achieved at the cost of reduced amenity to a greater number of 2 bedroom units.
- 34 Council says that the layout of the two bedroom dwellings with bedroom widths of 2.75m (the applicant's spacial diagram indicates 2.8m) means that they may be only suitable for a single occupancy. We have reviewed the proposed room layouts. Whilst the majority of apartments proposed are of minimum usable dimensions and in some cases traffic ways cross living rooms (for example in Type 2I), the layouts are largely acceptable in most cases. However we do have a concern with the type 2E apartments and have concluded they are unacceptable. They comprise two minimally dimensioned double bedrooms with a 2.8m by 4m living room, ostensibly containing a six-seat dining table a two-seat couch and TV unit. This apartment type occurs on the west bank of the northern tower from levels 3 to 11. A reconfiguration of these apartments is necessary to be provide increased living area.

17-21 Harcourt Parade

- 35 Council maintains its concern about the interface with 17-21 Harcourt Parade, in the context that the exiting permit for a nine-storey office building on the Harcourt Parade site if pursued, has implications for the proposal before us. Subsequent to the hearing, we were advised that the Applicant has submitted plans to the Council seeking endorsement of plans under the existing permit. The Harcourt Parade site is also the subject of a combined rezoning and planning permit application to construct a 17 storey mixed use building.
- 36 A Directions Hearing was conducted on 6 July 2016 in relation to this matter. We were advised that the Council has granted an extension of the permit for the proposed nine-storey office building and consequently the permit applicant has withdrawn its request for the endorsement of the plans under that permit. Simultaneously, discussions between Council and the applicant about the Stage 3 application for a mixed-use building have also progressed. We were provided with the most recent version of the stage 3 plans at the Directions Hearing.

- 37 The critical issue in relation to the interface with 17 to 21 Harcourt Parade concerns the creation of the east-west link that extends from Cremorne Street along the southern boundary of the review site and extends through to the western part of the site, the subject of the Stage 2 application. The link forms a crucial element of the design because it integrates the three stages of the overall development of the site. The link also provides access to the supermarket loading bay. In the further amended plans, the link is shown as having a minimum width at ground level of around 8.2 m, of which 4.7m is provided on the review site (Stage 1) and the balance on 17-21 Harcourt Parade, in accordance with the plans for Stage 3. In the event that the development of 17-21 Harcourt Parade proceeds in accordance with the permit for the office in preference to the Stage 3 mixed-use proposal, the minimum width of the east-west link is reduced to 4.7m because no provision for the link is made in the permit for the office development. This is an unacceptable width for such a significant element of the design.
- 38 At present the final design of the link remains unresolved. However, we are content that the width of the link created by Stage 1 and Stage 3 mixed-use proposal is acceptable. Council submits that the current circumstances create a difficulty for the resolution of the interface between the review site and 17-21 Harcourt Parade. We agree. We do not however accept that Council's proposed resolution is the appropriate mechanism for proceeding. Council submits that we should rely on S. 62 (2) (b) of the *Planning and Environment Act 1987* to impose a condition stating that the permit for Stage 1 is not to come into effect unless the permit for the 9 storey office building is cancelled or amended. A condition of this type is unnecessarily onerous and has the prospect of raising any number of consequences that are both foreseeable and unforeseeable.
- 39 A simpler resolution is available to us and we have imposed a condition requiring the east – west link to have a minimum dimension of 9.0m wide. In the event that part of the link can be provided as part of the Stage 3 development, as reflected in the further amended plans, that outcome would be acceptable. In the event that the Applicant proceeds with the permit for the 9 storey office building the total width of the link would need to be provided as part of the Stage 1 development. In that circumstance amendments to the Stage 1 development would need to be pursued to give effect to the permit condition but processes are available under the *Planning and Environment Act* to accommodate such an amendment.
- 40 The Council also submits that a minimum separation distance of 9 metres is required between the between the built form on Stage 1 and Stage 3. While we broadly agree with this submission, we can also envisage some minor encroachments at levels above the ground plane at this interface, subject to the adoption of appropriate design of the interface. We are content for the detailed design resolution at that interface to form part of Council's consideration of the Stage 3 application.

- 41 The Council also submits that the changes made to the south façade of the building adjacent to the east-west link, are unacceptable because the location of the south wall of the car park on levels 1-3 remains as originally proposed, despite the deletion of the car spaces behind it. It is particularly concerned at the projection of the level 3 slab to the south where it is shown as being 830mm from the southern boundary, despite the lower levels being setback. This appears to be an error in the drawings as the section does not reflect the amended plan of level 3. Notwithstanding this, we regard the resolution of the southern façade as part of the ongoing consideration of the design of the interface with the Stage 3 proposal.

WHAT CONDITIONS ARE APPROPRIATE?

- 42 It follows from the above reasons that it is our conclusion that the decision of the Responsible Authority should be set aside and a permit issued.
- 43 In deciding the conditions to be included on the permit we 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 our reasons.

Laurie Hewet
Senior Member

Ann Keddie
Member

APPENDIX A

PERMIT APPLICATION NO:	PLN15/0355
LAND:	2 Gough Street CREMORNE VIC 3121
WHAT THE PERMIT ALLOWS:	
<ul style="list-style-type: none"> • the use of the land for dwellings, a shop and supermarket; • the construction of a building or carrying out works; • the reduction in the number of car parking spaces associated with dwellings, shop and supermarket; • the waiver of the loading/unloading bay requirement associated with a shop; • reduce the loading/unloading bay requirement associated with a supermarket; <p>in accordance with the endorsed plans.</p>	

CONDITIONS

- 1 Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the further amended plans TP001, TP002, TP097, TP098, TP099, TP100 –TP114 inclusive, TP200-TP205 inclusive, TP300-TP302 inclusive, TP500-TP503 inclusive, revision 6, all dated 22/04/16 prepared by Fender Katsalidis Architects and LP01 Ground Floor Plan dated 21/4/16 prepared by Oculus but modified to show:
 - (a) the height of the elliptical tower reduced to a maximum 50.60 AHD and the height of the northern tower reduced to a maximum of 41.65 AHD;
 - (b) the southern east-west link having a minimum width of 9 m. The link must be predominantly clear to sky and treated with signage and materials to delineate this space as a shared zone;
 - (c) the access and movement plan, landscape master plan and residential rooftop amenities plan (as per the original VCAT substituted plans) modified to reflect the further amended plans;
 - (d) at least 25% of the smaller units offered should be capable of amalgamation into larger 2 or 3 bedroom apartments;
 - (e) reconfiguration of the type 2E apartments on the west bank of the northern tower from levels 3 to 11 to provide an increase in size of living rooms;
 - (f) deletion of proposed works outside the site (excluding the new crossovers to Cremorne Street);
 - (g) floor, section and elevation plans to correlate;

- (h) deletion of the pedestrian visibility zones at the northern end of the north-south link;
- (i) floor to ceiling heights to be no less than 2.65m except where there is a bulkhead where this may be reduced to 2.4m;
- (j) minimum 2.1m wide lift lobby areas, minimum 1.6m wide corridors and a minimum 200mm inset for dwelling entries;
- (k) all balconies must be a minimum of 8m²;
- (l) access from all living rooms to balconies (some are only provided with access via bedrooms);
- (m) screening to habitable room windows, balcony or terrace to address internal overlooking, where necessary, to the satisfaction of the Responsible Authority;
- (n) the location of external plant and equipment;
- (o) a general signage plan, directing pedestrians to each residential entry (including the SOHO apartments);
- (p) ramp grades and lengths dimensioned;
- (q) swept path diagrams using a B99 design car and ramp grade details demonstrating that the ramps will be functional in terms of grades and enable cars to pass each other;
- (r) pedestrian sight triangles;
- (s) the provision of convex mirrors where sight distance is limited throughout the car park;
- (t) kerbs, barriers, wheel stops and structural elements shown in the car parking areas;
- (u) the northern staircase within the basement levels not opening to the aisle;
- (v) location and width of the new crossover to Cremorne Street (southern end);
- (w) the location and dimensions of supporting columns within all car park areas. The car parking spaces must then be demonstrated to meet diagram 1 of clause 52.06-8 of the Yarra Planning Scheme;
- (x) sectional drawings of the ramps and accessways, demonstrating a minimum headroom clearance of 2.2m, with the exception being a minimum 2.5m height clearance above disable car parking spaces;
- (y) details of car park security (e.g. roller doors, intercoms, swipe card readers, etc.);
- (z) 1 in 20 scale cross sectional drawings of the developments vehicular entrances, showing the actual reduced levels (not interpolated levels from the application drawings) of the road profile, the lip of the channel, the invert of the channel, the top of kerb and the existing building line. The existing road profiles of Gough Street and Cremorne Street (from the kerb line to the centre line of the road) and the accessways inside the property must be accurately drawn. The cross section must demonstrate that vehicles

- can traverse the new vehicle crossing and ramp without scraping or bottoming out, using a B99 design vehicle;
- (aa) swept path diagrams for the 4 westernmost car parking spaces within the basement levels. This may indicate that these spaces need to be designated as small car spaces;
 - (bb) swept path diagrams for the southernmost angled parking spaces in the basement levels;
 - (cc) all bicycle parking spaces within 30m of the lift;
 - (dd) bicycle signage as per clause 52.34-5 of the Yarra Planning Scheme;
 - (ee) details of bicycle storage/parking systems, demonstrating they can provide space for a bicycle of minimum dimensions of 1.7m in length, 1.2m in height and 0.7m in width at the handlebars;
 - (ff) at least 20% of the provided bicycle parking must be accessible at ground level (i.e. not hanging systems);
 - (gg) at least 1 bicycle parking space per dwelling;
 - (hh) all resident and staff bicycle parking spaces secured behind lockable gates;
 - (ii) a lighting plan addressing entries and public spaces within the development;
 - (jj) a schedule of external colours and materials, including samples. The façade of the elliptical tower must be confirmed as meeting the relevant EPA standards for glare;
 - (kk) a landscape plan which shows the:
 - i. type, location, quantity, pot size, height at maturity and botanical names of all proposed plants;
 - ii. location of all areas to be covered by lawn, paving or other surface materials;
 - iii. specification of works to be undertaken prior to planting;
 - iv. watering and maintenance; and
 - v. WSUD initiatives.
 - (ll) clear glazing to all habitable room windows;
 - (mm) changes (as necessary) as per the endorsed Acoustic Report, Wind Report, SMP, Shared zone management plan and Waste management plan.
- 3 The development and uses as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
- 4 The southern east west link must be provided to the satisfaction of the Responsible Authority prior to the commencement of the use or at some other time as agreed in writing by the Responsible Authority.
- 5 As part of the ongoing consultant team, Fender Katsalidis Architects or an architectural firm to the satisfaction of the Responsible Authority must be engaged to:
- (a) oversee design and construction of the development; and

- (b) ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.

Structural report requirement

- 6 Before the demolition commences, a structural report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the structural report will be endorsed and will form part of this permit. The structural report must be prepared by a suitably qualified structural engineer and demonstrate the means by which the retained portions of the buildings on-site will be supported during demolition and construction works to ensure their retention.
- 7 The provisions, recommendations and requirements of the endorsed structural report must be implemented and complied with to the satisfaction of the Responsible Authority.

Public Art Management Plan

- 8 Before the buildings are occupied, a Public Art Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Public Art Management Plan will be endorsed and will then form part of this permit. The Public Art Management Plan must include, but not be limited to:
 - (a) details of the commissioned artist(s);
 - (b) description of art work, including:
 - (i) materials;
 - (ii) colours;
 - (iii) dimensions;
 - (iv) content;
 - (v) special features (e.g. lighting);
 - (c) details of the installation process; and
 - (d) details of art work maintenance schedule.
- 9 Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, the approved public art must be completed. Once completed, the public art must be maintained in accordance with the endorsed Public Art Management Plan to the satisfaction of the Responsible Authority.

General

- 10 Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
- 11 Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority.
- 12 All screening and other measures to prevent overlooking as shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority.

- 13 Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
- 14 All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
- 15 All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
- 16 Before the buildings are occupied, any wall located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.
- 17 Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the basement car park, pedestrian walkway, laneway and dwelling entrances must be provided. Lighting must be:
 - (a) located;
 - (b) directed;
 - (c) shielded; and
 - (d) of limited intensity,all to the satisfaction of the Responsible Authority.
- 18 The use and development must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
- 19 The use and development must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).

Shop use

- 20 Except with the prior written consent of the Responsible Authority, the shop use must only offer baskets and must not provide trolleys.

Supermarket use

- 21 Deliveries may only occur on site and during the hours of 7.00 am to 6.00 pm.
- 22 Except with the prior written consent of the Responsible Authority, no more than 3 loading vehicle events may occur per day.
- 23 The loading bay may only be used by maximum 6.4m long trucks.

General use conditions

- 24 The amenity of the area must not be detrimentally affected by the uses, including through:
 - (a) the transport of materials, goods or commodities to or from land;
 - (b) the appearance of any buildings, works or materials;
 - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; or

- (d) the presence of vermin;
to the satisfaction of the Responsible Authority.

Public realm

- 25 Prior to the commencement of the development the owner of the site must submit detailed engineering documentation to the satisfaction of the Responsible Authority and approved by the Responsible Authority and at full cost of the owner showing:
 - (a) provision of 1.2 metre-wide footpath along the northern boundary of the site (within title boundaries adjacent to the proposed built form) and a minimum 1.8 metre wide footpath along the eastern boundary of the site (within title boundaries).
- 26 Before the building is occupied all works required by condition 25 must be fully constructed and completed to the satisfaction of the Responsible Authority.

Section 173 Agreement

- 27 Before the development starts, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the *Planning and Environment Act 1987*, providing for the following:
 - (a) that the 40 spaces 'quarantined' for stage 2 will be allocated to this future development on the balance of the site at 2 Gough Street Cremorne;
 - (b) a legally effective and enforceable mechanism to the satisfaction of the Responsible Authority to ensure that:
 - (i) the owners of lots within stage 2 are able to freely access the 40 car spaces for their own private use without restriction;
 - (c) the owner must provide unfettered public access over that part of the land to be used for the widened Gough Street and Cremorne Street footpath;
 - (d) until such time as the land is vested in Yarra City Council the owner is responsible for maintaining at all times the areas that are private land open to the public described in condition 25 at the cost of the owners of the land to the satisfaction of the Responsible Authority;
 - (e) the owner(s) must obtain and maintain insurance approved by the Yarra City Council, for the public liability and indemnify Yarra city Council against all claims resulting from any damage, loss, death or injury in connection with the public accessing the land described in condition 25.

The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the Responsible Authority's costs and expenses (including legal expenses) incidental to the preparation, registration and enforcement of the agreement.

Wind Assessment report

- 28 Before the development commences, an amended Wind Assessment Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Wind Assessment Report will be endorsed and will form part of this permit. The amended Wind

Assessment Report must be generally in accordance with the Wind Assessment Report prepared by Vipac and dated 15 May 2015, but modified to include (or show):

- (a) reflect the further amended plans; and
 - (b) include wind tunnel modelling to verify the results of the preliminary assessment.
- 29 The provisions, recommendations and requirements of the endorsed Wind Assessment Report must be implemented and complied with to the satisfaction of the Responsible Authority.

Acoustic report

30 Before the development commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Renzo Tonin and Associates, dated 29 May 2015 and include an assessment of how the requirements of the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade, No. N-1), the State Environment Protection Policy (Control of Music Noise from Public Premises No. N-2) and relevant Australian Standards will be met and must prescribe the form of acoustic treatment to:

- (a) protect all dwelling occupants and nearby occupants from noise generated from the mechanical plant equipment and ventilation mechanisms installed or constructed as part of the development (including the lift, residential air conditioner units and commercial plant and equipment);
- (b) protect all dwelling occupants from noise associated with the operation of the supermarket;
- (c) protect all dwelling occupants within the development from noise associated with City Link;
- (c) an assessment of the remaining land uses on the balance of the site and the impact on the proposed dwellings (unless the land uses on the balance of the site have ceased). The acoustic report must make recommendations to limit the noise impacts in accordance with the State Environment Protection Policy (Control of noise from industry, commerce and trade) No. N-1 (SEPP N-1), State Environment Protection Policy (Control of music noise from public premises) No. N-2 (SEPP N-2) or any other requirement to the satisfaction of the Responsible Authority; and
- (d) an assessment of the impact on the following on the proposed dwellings; car park entrance door, the car park itself, the level 13 and 18 communal areas (including the dropping of weights, footfall, pool equipment, music and furniture movement), structure borne noise through the pool and supermarket and shop services. Treatments must be provided to achieve a reasonable level of amenity for residents and must make recommendations to limit the noise impacts in accordance with the State Environment Protection Policy (Control of noise from industry, commerce and trade) No. N-1 (SEPP N-1), State Environment Protection Policy (Control of music

noise from public premises) No. N-2 (SEPP N-2) or any other requirement to the satisfaction of the Responsible Authority.

- 31 The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
- 32 On the completion of any works required by the endorsed acoustic report and before the residential use commences of any stage of the of the development, an updated acoustic report prepared by a suitably qualified acoustic consultant to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority demonstrating that the required level of noise attenuation has been achieved. The report must:
- (a) confirm compliance with relevant conditions of the permit; and
 - (b) provide measurement data taken from inside the dwellings of the development demonstrating compliance with State Environment Protection Policy (Control of noise from industry, commerce and trade) No. N-1 (SEPP N-1), State Environment Protection Policy (Control of music noise from public premises) No. N-2 (SEPP N-2) or any other relevant requirement.
- 33 The recommendations and any works contained in the approved acoustic report must be implemented and completed and where there are recommendations of an ongoing nature must be maintained all to the satisfaction of the Responsible Authority.

Sustainable Management Plan

- 34 Before the development commences, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Management Plan will be endorsed and will form part of this permit. The amended Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by Simpson Kotzman dated 10 April 2015, but modified to:
- (a) reflect the decision plans;
 - (b) include definite, clear commitments, e.g. not 'a vast majority';
 - (c) reflect the changes required as per condition 1 (where relevant);
 - (d) confirm a minimum 6.5 star energy rating;
 - (e) include sample NatHERS reports/ratings to demonstrate how a minimum 6.5 star energy rating will be achieved;
 - (f) achieve a minimum 20% improvement on the lighting power densities required by the NCC Section J 6.2;
 - (g) include a commitment to energy and water efficient initiatives to optimise the swimming pool. Consider the use of a pool blanked, a high efficiency filter/pump set and UV treatment of rainwater to top up the pool;
 - (h) include detail on waste and recycling; and
 - (i) confirm windows are operatable to all habitable rooms.

- 35 The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Waste Management Plan

- 36 Before the development commences, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The amended Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by RB Waste Consulting Service and dated 24 June 2015, but modified to:
- (a) be written as a standalone document;
 - (b) be written regardless if a private or Council collection;
 - (c) address both rubbish and recycling for all uses;
 - (d) include bin room details (for all tenants, residential, commercial, retail, supermarket, etc). The bin room(s) must be of an appropriate size for their intended use;
 - (e) confirm weekly collection for the residential component. However, more weekly collection may be considered with appropriate justification;
 - (f) confirm a minimum number of collections for all users, however, more than weekly collection may be considered with appropriate justification;
 - (g) details of the waste sorting system for the bin chute. Alternatively, a double chute must be provided;
 - (h) confirm the path of access for residents, property manager and collection vehicle (including turning templates or swept path diagrams);
 - (i) include information to tenants, owners corporation, property manager (information pack details); and
 - (j) include a commitment that the Building Manager/Owners Corporation will organise a preoccupation site meeting with Council's Waste Management Coordinator at least 30 days prior to occupation and demonstrate implementation of the WMP.
- 37 The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Landscaping

- 38 Before the building is occupied, or such later date as is approved by the Responsible Authority, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
- 39 The landscaping shown on the endorsed plans must be maintained by:
- (a) implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
 - (b) not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
 - (c) replacing any dead, diseased, dying or damaged plants;
- all to the satisfaction of the Responsible Authority.

Car parking

- 40 Before the development commences, a Car Park Management Plan prepared to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Car Park Management Plan will be endorsed and will then form part of this permit. The Car Park Management Plan must address, but not be limited to, the following:
- (a) the number and location of car parking spaces allocated to each tenancy;
 - (b) the number and location of any car spaces for shared use, including time of shared use and how this will be managed;
 - (c) management details for residential loading/unloading when moving;
 - (d) the management of visitor car parking spaces and security arrangements for occupants of the development, including details on how residential visitors are to access car parking;
 - (e) details of way-finding, cleaning and security of end of trip bicycle facilities;
 - (f) any policing arrangements and formal agreements;
 - (g) a schedule of all proposed signage including directional arrows and signage, informative signs indicating location of disabled bays and bicycle parking, exits, restrictions, pay parking system etc;
 - (h) the collection of waste and garbage including the separate collection of organic waste and recyclables, which must be in accordance with the Waste Management Plan required by Condition 36; and
 - (i) details regarding the management of loading and unloading of goods and materials.
- 41 The provisions, recommendations and requirements of the endorsed Car Park Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
- 42 Before the building is occupied, the area set aside on the endorsed plans for the car parking spaces, access lanes, driveways and associated works must be:
- (a) constructed and available for use in accordance with the endorsed plans;
 - (b) formed to such levels and drained so that they can be used in accordance with the endorsed plans;
 - (c) treated with an all-weather seal or some other durable surface; and
 - (d) line-marked or provided with some adequate means of showing the car parking spaces.
- to the satisfaction of the Responsible Authority.

Traffic, roads and footpaths

- 43 Before the development commences, a Shared Zone Management Plan prepared to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Shared Zone Management Plan will be endorsed and will then form part of this permit. The Shared Zone Management Plan must address, but not be limited to, the following:
- (a) the east-west shared zones in the central and southern ends of the site;

- (b) how supermarket loading and deliveries will be safely managed with regard to conflicts with pedestrians and cyclists;
 - (c) how the vehicular, pedestrian and cyclist movements in the central east-west link will be managed; and
 - (d) details as to how these areas will be designed to clearly delineate their shared zone status (e.g. pavement treatments, signage, line marking).
- 44 The provisions, recommendations and requirements of the endorsed Shared Zone Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
- 45 All redundant vehicle crossings along the property's road frontages must be demolished and reinstated with paving, kerb and channel to Council's satisfaction and the developer's cost.
- 46 Upon the completion of all building works and connections for underground utility services, the footpaths and kerb and channel immediately outside the property's Gough Street and Cremorne Street road frontages must be reconstructed to Council's satisfaction and at the developer's expense.
- 47 The cross-fall of the reconstructed footpath must be no steeper than 1 in 40 as per DDA requirements.
- 48 All redundant vehicle crossings area to be demolished and reinstated with paving, kerb and channel to the satisfaction of Council and at the developer's cost.
- 49 The road pavements immediately outside the development's Gough Street and Cremorne Street road frontages must be profiled and re-sheeted to Council standard and at the developer's cost.
- 50 All vehicle crossings must be constructed in accordance with Council's Standard Drawings and engineering requirements.
- 51 Any damaged roads, footpaths and other road related infrastructure adjacent to the development site as a result of the construction works, including trenching and excavation for utility service connections, must be reconstructed to Council's satisfaction and at the developer's expense.
- 52 Any services poles, structures or pits that interfere with the proposal must be adjusted, removed or relocated at the owner's expense after seeking approval from the relevant authority.

Green Travel Plan

- 53 Before the occupation of the development, a Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Green Travel plan will be endorsed and will form part of this permit. The Green Travel Plan must include, but not be limited to, the following:
- (a) describe the location in the context of alternative modes of transport;
 - (b) the provision of real time passenger information displays for nearby stops within each residential lobby;
 - (c) employee / resident welcome packs (e.g. provision of Met Cards/Myki);

- (d) a designated 'manager' or 'champion' responsible for co-ordination and implementation;
- (e) details of bicycle parking and bicycle routes;
- (f) details of GTP funding and management responsibilities; and
- (g) include provisions to be updated not less than every 5 years.

54 The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Construction Management

55 Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:

- (a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
- (b) works necessary to protect road and other infrastructure;
- (c) remediation of any damage to road and other infrastructure;
- (d) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land;
- (e) facilities for vehicle washing, which must be located on the land;
- (f) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
- (g) site security;
- (h) a lighting plan;
- (i) management of any environmental hazards including, but not limited to:
 - (i) contaminated soil;
 - (ii) materials and waste;
 - (iii) dust;
 - (iv) stormwater contamination from run-off and wash-waters;
 - (v) sediment from the land on roads;
 - (vi) washing of concrete trucks and other vehicles and machinery; and
 - (vii) spillage from refuelling cranes and other vehicles and machinery;
- (j) the construction program;
- (k) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
- (l) parking facilities for construction workers;

- (m) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;
- (n) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
- (o) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced;
- (p) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads;
- (q) a Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority. In preparing the Noise and Vibration Management Plan, consideration must be given to:
 - (i) using lower noise work practice and equipment;
 - (ii) the suitability of the land for the use of an electric crane;
 - (iii) silencing all mechanical plant by the best practical means using current technology;
 - (iv) fitting pneumatic tools with an effective silencer; and
 - (v) other relevant considerations.

56 During the construction:

- (a) any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines;
- (b) stormwater drainage system protection measures must be installed as required to ensure that no solid waste, sediment, sand, soil, clay or stones from the land enters the stormwater drainage system;
- (c) vehicle borne material must not accumulate on the roads abutting the land;
- (d) the cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads; and
- (e) all litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.

57 Prior to the commencement of the development, a public lighting plan must be submitted to and approved by the Responsible Authority. When approved, the public lighting plan will be endorsed and will form part of this permit. The public lighting plan must:

- (a) confirm that all primary pedestrian access to a residential/multipurpose development will be lit by public lighting installations at least to lighting level P4 as specified in the Australian Standard AS 1125.3.1:2005 Lighting for roads and public spaces - Pedestrian area (Category P) lighting - Performance and design requirements;

- (b) confirm that any new poles and luminaries required for the development will be sourced from CitiPower/Jemena standard energy efficient luminaires list and comply with relevant CitiPower/Jemena technical requirements;
 - (c) confirm that light spillage into the windows of any existing and proposed residences will be avoided or minimised and must comply with the requirements of Australian Standard AS 4282 – 1997 Control of the obtrusive effects of outdoor lighting;
 - (d) confirm that the locations of any new light poles will not obstruct vehicular access into private property;
 - (e) include a commitment that the Permit Holder will ensure (by contacting relevant power authority) that the existing or proposed power supply conforms to “No Go Zone” requirements from the relevant power authority;
 - (f) confirm that the supply and installation of any additional or upgraded lighting, electrical hardware and poles will be funded by the Permit Holder.
- 58 The provisions, recommendations and requirements of the endorsed public lighting plan must be implemented and complied with to the satisfaction of the Responsible Authority.
- 59 Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
- 60 Any damaged roads, footpaths and other road related infrastructure adjacent to the development site as a result of the construction works, including trenching and excavation for utility service connections, must be reconstructed to Council's satisfaction and at the Permit holder's expense.
- 61 Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, the footpaths along the Gough and Cremorne Street frontages of the site must be reconstructed:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
- The cross-fall of the reconstructed footpaths must be no steeper than 1 in 40.
- 62 Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, the road pavements outside the Gough and Cremorne Street frontages of the site must be profiled and re-sheeted:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
- The cross-fall of the reconstructed footpaths must be no steeper than 1 in 40. Any isolated areas of pavement failure will require full depth road pavement reconstruction.

- 63 Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any redundant vehicular crossing must be demolished and re-instated as standard footpath and kerb and channel:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
- 64 Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, any new vehicle crossings must be constructed:
- (a) in accordance with any requirements or conditions imposed by Council;
 - (b) at the permit holder's cost; and
 - (c) to the satisfaction of the Responsible Authority.
- 65 Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.
- 66 Pit lids and levels are to be readjusted to match the surface of the footpath, to the satisfaction of the Responsible Authority.
- 67 No parking restriction signs are to be removed, adjusted, changed or relocated without approval or authorisation from the Responsible Authority.
- 68 Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
- (a) before 7 am or after 6 pm, Monday-Friday (excluding public holidays);
 - (b) before 9 am or after 3 pm, Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday); or
 - (c) at any time on Sundays, ANZAC Day, Christmas Day and Good Friday.
- 69 This permit will expire if one of the following circumstances applies:
- (a) the development is not started within five years of the issued date of this permit;
 - (b) the development is not completed within four years of the issued date of this permit;
 - (c) the uses are not commenced within five years from the date of this permit.

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

--- End of Conditions ---