



Moreland City Council

Moreland City Council
Municipal Offices
90 Bell Street
Coburg
Victoria 3058

PLANNING PERMIT

Permit No. MPS/2013/979
Amendment No **MPS/2013/979/A**
Planning Scheme: Moreland Planning Scheme
Responsible Authority: Moreland City Council

ADDRESS OF LAND: **127-137, 139 & part 149 Nicholson Street, Brunswick East**

WHAT THE PERMIT ALLOWS: Staged construction of buildings and works comprising the development of the land for seven buildings (three 5 storey buildings and four 6 storey buildings over 2 basement levels with three roof terraces), containing multiple dwellings, a supermarket, shops, food and drink premises and offices, use of the land for dwellings, creation of access to a Road Zone, Category 1, and a reduction of the car parking requirements, in accordance with the endorsed plans

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

Staging

1. The staging as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

Stage 1

Amended plans

2. Before the use or development of Stage 1 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 the permit. The plans must be drawn to scale with dimensions and 3 copies must be provided. The plans must be generally in accordance with the plans prepared by JAM Architects Pty Ltd, Sheet Nos. TP02 to TP79 inclusive, Revision K – 29 September 2016, but modified to show:
 - (a) Modifications to the enclosed glazed airlock space to the traveller on the northern edge of the supermarket so that the traveller forms part of the public realm of Main Street and is separate from the supermarket floor space generally as shown on the plan described as TPSK2 prepared by Jam Architects.

Date Issued: 8 April 2015

Signature for the Responsible Authority:

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.



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- (b) 61% of all dwellings within lots 1 and 2 as 1-bedroom and 39% within those lots as 2-bedroom. Any amended layout must not decrease external setbacks or reduce apartment sizes, balcony sizes or access to daylight as compared to the Revision F plans endorsed on 17 August 2015.
- (c) Modifications to lot 1 so that no part of the development proposed for lot 1 encroaches within the interim or ultimate road reserve boundaries at any level. The plans must include dimensioned building setbacks from the interim and ultimate road reserve boundaries at each level.
- (d) The ground floor pedestrian entrance to the eastern lift lobby of Lot 2 relocated from the south to the east, with the provision of double-width doors and relocation of planter boxes as required.
- (e) Provision of at least 2 different contrasting materials to the east and west lift cores of Lot 2, or an alternative design method that softens the visual dominance of these forms.
- (f) A reduction in the height of the east and west lift cores of Lot 2 to a maximum of 4.7 metres above the fifth floor parapet.
- (g) A reduction in the height of the east and west roof top lobbies of Lot 2 to a maximum height of 3.6 metres above the fifth floor parapet.
- (h) Deletion of the signage pylon from the north side of the Nicholson Street/Main Street intersection.
- (i) A wall or screen with no more than 25% transparency to a height of at least 1.7 metres above finished floor level at the southern end of the first floor common internal courtyard to Lot 2. If a partially transparent screen is used, a screening diagram at a scale of at least 1:50 must be provided, detailing any openings and demonstrating that a maximum of 25% transparency is achieved.
- (j) The location of hard waste storage areas and an annotation confirming that a sign will be erected in each waste bin storage room stating where the hard waste storage areas required by the Waste Management Plan will be located on site.
- (k) The retail verandahs to be modified to be clear of any street trees and dimensioned as being setback not less than 750mm from the edge of the new 'Main Street' carriageway and the proposed kerb-line of the ultimate Nicholson Street road reserve.
- (l) Modifications to the plans arising from the amended Landscape Plan in accordance with condition 34(a) of this permit.

8 April 2015
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Cessation of commercial laundry

3. Prior to the commencement of the development of Stage 1, excluding any works that necessarily form part of the Environmental Audit process, Planning Permit MPS/2005/65 issued on 19 October 2005, and amended on 25 January 2007, for the use of the land at 139-149 Nicholson Street, Brunswick East, as a service industry (commercial laundry), must be cancelled, and written confirmation of the cancellation provided to the satisfaction of the Responsible Authority.

Removal of easement

4. Prior to the commencement of works of Stage 1, the carriageway easement E3 on Plan of Subdivision PS 537189G must be removed from the Certificate of Title Vol. 10921 Fol. 714. A title search showing the removal of the carriageway easement must be submitted to the Responsible Authority to demonstrate compliance with this condition.

Boundary Realignment/Consolidation of Titles

5. Unless with the prior written consent of the Responsible Authority, prior to the occupation of Stage 1, or within 12 months of the date of issue of this permit, whichever comes first, titles to the land must be consolidated, and/or boundaries realigned, and certified plans lodged with the Land Registry Office, at no cost to and to the satisfaction of the Responsible Authority, to eliminate any land-locked parcels.

Interim perimeter fencing and planting to Lot 4

6. Prior to the occupation of any part of Stage 1 of the development, the perimeter fencing and planter box landscaping to Lot 4 must be constructed / installed to the satisfaction of the Responsible Authority.

Acoustic Attenuation

7. Prior to the endorsement of plans for Stage 1, an Acoustic Report must be prepared by a suitably qualified acoustic engineer or equivalent to the satisfaction of the Responsible Authority. The Report must prescribe specific attenuation measures / treatments, including design details where applicable, to ensure dwelling occupants of Lots 1, 2 and 3 are provided with an acceptable level of internal amenity in respect to external noise emanating from the Nicholson Street arterial road and the proposed supermarket.

When submitted and approved to the satisfaction of the Responsible Authority, the Acoustic Report and associated notated plans will be endorsed to form part of this permit.

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The recommendations of the report must be implemented to the satisfaction of the Responsible Authority prior to the occupation of Stage 1 of the development. No alterations to the Acoustic Report may occur without the written consent of the Responsible Authority.

Road Safety Audit – Internal Roads

8. Prior to the commencement of the detailed design stage for the internal roads, preliminary design plans for the internal roads must be subjected to an Independent Preliminary Design Stage Road Safety Audit by a suitably qualified independent auditor in accordance with Austroads 'Road Safety Audit' (2002). The findings of the audit must be resolved by the applicant to the satisfaction of the Responsible Authority.
9. Prior to the commencement of construction of the internal roads, the detailed design plans must be subjected to an Independent Detail Design Stage Road Safety Audit by a suitably qualified independent auditor in accordance with Austroads 'Road Safety Audit' (2002). The findings of the audit must be resolved by the applicant to the satisfaction of the Responsible Authority.
10. Prior to the commencement of the use of the internal roads, the internal roads must be subjected to an Independent Pre-Opening Stage Road Safety Audit by a suitably qualified independent auditor in accordance with Austroads 'Road Safety Audit' (2002). The findings of the audit must be resolved by the applicant prior to the occupation of any part of the development to the satisfaction of the Responsible Authority.
11. All Road Safety Audits must consider the operation of the shopping centre as a whole, including interactions with the surrounding street and footpath network.

Loading/Unloading

12. Prior to the commencement of the supermarket use, a Supermarket Loading and Unloading Management Plan must be prepared by a suitably qualified consultant to the satisfaction of the Responsible Authority. The Plan must include, but not be limited to, the following:
 - (a) Delivery hours restricted to:
 - i. 6 am to 11 pm Monday to Saturday; and
 - ii. 8 am to 11 pm Sunday and public holidays.
 - (b) Conditions of loading arrangements, including measures taken to prevent deliveries from being made outside of permitted hours.
 - (c) Delivery vehicles restricted to vehicles having a length of no greater than 12.5 metres.

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- (d) Measures to prevent conflict with pedestrians, cyclists and vehicles.
- (e) Turning circles at a scale of 1:200 for 12.5 metre long single unit trucks extending into Rickard Street, and associated extent of parking bans required in Rickard Street to facilitate truck access.

When submitted and approved to the satisfaction of the Responsible Authority, the Supermarket Loading and Unloading Management Plan will be endorsed to form part of this permit.

The Supermarket Loading and Unloading Management Plan must be implemented and complied with at all times to the satisfaction of the Responsible Authority. No alterations to the Plan may occur without the written consent of the Responsible Authority.

- 13. All deliveries to Lots 1 or 2 via Rickard Street are restricted to vehicles having a length of no greater than 12.5 metres.

Stage 2

Amended Plans

- 14. Before the use or development of Stage 2 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 the permit. The plans must be drawn to scale with dimensions and 3 copies must be provided. The plans must be generally in accordance with the plans prepared by JAM Architects Pty Ltd, Sheet Nos. TP02 to TP24 inclusive, TP41 to TP61, TP63 to TP65, TP68, TP72, TP74 to TP75, Revision C, dated 22 May 2014, Council date-stamped 6 June 2014, but modified to show:
 - (a) Any modifications to the plans arising from the Adverse Amenity Report in accordance with condition 17 of this permit to satisfactorily address adverse amenity impacts of noise and vibration on the future residents of Lots 4, 6 and 7 from nearby Commercial, Industrial or Trade Premises without:
 - i. The need to construct a solid high screen wall (acoustic barrier) or otherwise modify the design in a way which would result in unreasonable impacts on internal or external amenity (e.g. in terms of ventilation, outlook and bulk).
 - ii. The development ceasing to be generally in accordance with the East Brunswick Village (EBV) Development Plan endorsed by Council on 4 October 2012, or as otherwise amended.
 - (b) A development summary confined to Stage 2 only, and for Stage 1 and 2 combined.

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- (c) All buildings and works relevant to Stage 2 under this permit differentiated from buildings and works relevant to Stage 1.
 - (d) The west-facing balcony balustrades above ground floor level to Lots 5 and 7, excluding those facing the internal courtyard to Lot 7, finished in a solid non-transparent material, or a partially transparent material if utilising patterning/images or laser cut technology.
 - (e) The south-facing windows to units 1.24 and 1.25 of Lot 5 obscure glazed and having maximum awning window openings of 125mm, or otherwise designed to minimise overlooking of adjacent private open space and habitable room windows within 9 metres of 7 and 9 Gamble Street.
 - (f) A window or windows in the west-facing bedroom 1 elevation to unit 5.05 of Lot 4.
 - (g) A window or windows in the east-facing kitchen/living room elevation to Unit 5.10 of Lot 4.
 - (h) Windows in the north-facing bedroom elevations to units 0.01, 1.01, 2.01 and 3.01 of Lot 5, or reconfiguration of these dwellings to include north-facing living areas.
 - (i) A window or windows in the north-facing bedroom 1 elevation to unit 4.01 of Lot 5, deletion of the west-facing bedroom 1 window to unit 4.01 of Lot 5, or reconfiguration of this dwelling to include a north-facing living area.
 - (j) Windows in the east-facing study elevations to units 0.13 and 2.13 of Lot 5.
 - (k) A window or windows in the south-facing study elevation to unit 0.23 of Lot 5.
 - (l) Windows in the south-facing bedroom 1 elevations to units 2.23 and 3.23 of Lot 5.
 - (m) Windows in the south-facing kitchen/living room elevations to units 4.18 and 5.10 of Lot 5.
 - (n) Windows in the south-facing bedroom 2 elevations to units 4.19 and 5.11 of Lot 5.
 - (o) A window or windows in the west-facing bedroom 1 elevation to unit 5.01 of Lot 6.
 - (p) A window or windows in the east-facing kitchen/living room elevation to unit 5.03 of Lot 6.
 - (q) A window or windows in the east-facing bedroom 1 elevation to unit 0.08 of Lot 7.
 - (r) A dimensioned 2 metre (minimum) ground and first floor south setback to Lot 5 from 9 Gamble Street.
 - (s) Deletion of the northern-most planter box to the east of Lot 7 to accommodate Metropolitan Fire Brigade (MFB) fire truck emergency access requirements in accordance with the swept path analysis included in the Traffic and Transport Assessment prepared by Cardno Victoria Pty Ltd dated 27 March 2013.

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- (t) Deletion of the bollards at the western end of 'Main Street' adjacent to John Street to facilitate emergency vehicle access.
 - (u) Deletion of the crossover on John Street at the western end of 'Main Street'.
 - (v) The 24 hour public access plan including the 2 metre wide setback area directly north of Lot 7.
 - (w) Operable/openable windows within common residential circulation corridors to Lots 4, 5, 6 and 7, or expert advice detailing why this cannot be practically achieved from a registered building surveyor or other suitably qualified person.
 - (x) Effective shading to the exposed north and west facing habitable room windows, where not already shown, including design details at 1:50 or 1:100 which differentiate between effective shading required to provide thermal comfort to each façade/orientation. Lower level windows which will be shaded from buildings within or adjacent to the development are exempted from this requirement where it can be satisfactorily demonstrated.
 - (y) The retail verandahs setback not less than 750mm from the edge of the new 'Main Street' carriageway. Verandahs are to be clear of any street trees.
 - (z) Any modifications to the plans arising from the Public Works Plan in accordance with condition 17 of this permit.
 - (aa) Any modifications to the plans arising from the amended Sustainable Design in the Planning Process Plan in accordance with Condition 26 of this permit.
 - (bb) Any modifications to the plans arising from the Access Plan in accordance with Condition 29 of this permit. A minimum of 31 adaptable dwellings or 10 percent of the total number of dwellings, (whichever is greater), must be shown on the floor plans (not to be provided as optional).
 - (cc) Any modifications to the plans arising from the amended Waste Management Plan in accordance with Condition 31 of this permit.
 - (dd) Any modifications to the plans arising from the amended Landscape Plan in accordance with Condition 34 of this permit.
 - (ee) A sample board of all proposed exterior decorations, materials, finishes and colours, including colour samples, and 3 copies of a schedule in a form that can be endorsed and filed.

Adverse Amenity Impacts

15. Prior to the endorsement of plans for Stage 2 of the development, an Adverse Amenity Report must be prepared by a suitably qualified consultant to the satisfaction of the Responsible Authority. The Report must address adverse amenity impacts (noise and vibration) and prescribe specific attenuation measures / treatments, including design details where applicable, to ensure dwelling occupants of Lots 4, 6 and 7 are provided with an acceptable level of amenity in respect to external noise and vibration.

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The report must satisfy Council that the occupation of Lots 4, 6 and 7 for residential purposes would not result in a breach of SEPP N-1 by nearby Commercial, Industrial or Trade Premises.

Any attenuation measures / treatments to address this condition must not include the construction of a solid high screen wall (acoustic barrier) or otherwise require the design to be modified in a way which would result in unreasonable impacts on internal or external amenity (e.g. in terms of ventilation, outlook and bulk).

When submitted and approved to the satisfaction of the Responsible Authority, the Adverse Amenity Report and associated notated plans will be endorsed to form part of this permit.

The recommendations of the report must be implemented to the satisfaction of the Responsible Authority prior to the occupation of Stage 2 of the development. No alterations to the Adverse Amenity Report may occur without the written consent of the Responsible Authority.

Public Works Plan – John Street

16. Prior to the endorsement of plans for Stage 2 of the development, a Public Works Plan must be developed in collaboration with the Responsible Authority, submitted and approved to the satisfaction of the Responsible Authority, detailing streetscape improvement works to the John Street. The Plan must include consideration of the planting of street trees, the replacement of the existing footpath, nature strip and redundant vehicle crossings, the replacement and relocation of any services, the installation of street furniture and recognising the role of the street as an important bicycle route. When approved, the Public Works Plan will form part of the endorsed plans under this permit. The endorsed Plan must be implemented prior to the occupation of Stage 2 of the development unless otherwise agreed in writing by the Responsible Authority. All works associated with the endorsed Plan must be undertaken at no cost to Council.

John Street Road Upgrades

17. Prior to the issue of the first Statement of Compliance for any subdivision application within Stage 2 of this development, or within five (5) years of the date of issue of this permit, whichever comes first, a road hump is to be installed in John Street, and intersection thresholds installed at Glenlyon Road / John Street and Albert Street / John Street in accordance with the Development Plan approved by Council on 4 October 2012, or as otherwise amended. All works are to be undertaken to the satisfaction of the Responsible Authority, under the supervision of the Responsible Authority, and at no cost to Council.

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Parking

18. Prior to the occupation of Stage 2 of the development, the residential car parking spaces provided on the land must be marked with the associated residential apartment number to facilitate management of the car park to the satisfaction of the Responsible Authority.

Section 173 Agreement – Restrictions on Subdivision and Development and Use of Stage 2

19. Within 12 months of the date of issue of this permit, an agreement under Section 173 of the *Planning and Environment Act 1987* must be entered into between the owner/s of the land and the Responsible Authority in a form satisfactory to the Responsible Authority to provide for:
- a) Unless otherwise agreed by the Responsible Authority in writing, no subdivision of the land, or any part of the land within the area identified as Stage 2 under the endorsed Staging Plan pursuant to Condition 1 of this permit, may occur until such time that plans have been endorsed for Stage 2 pursuant to Condition 15 of this permit.
 - b) Endorsement of plans including any residential component within Lots 4, 6 and 7 (as identified on the endorsed Staging Plan pursuant to Condition 1 of this permit) and construction of any residential component within Lots 4, 6 and 7 cannot occur unless the Responsible Authority is first satisfied in writing that:
 - i. Adverse amenity impacts of noise and vibration on the future residents of Lots 4, 6 and 7 from nearby Commercial, Industrial or Trade Premises have been resolved or satisfactorily addressed, without the need to construct a solid high screen wall (acoustic barrier) or otherwise modify the design in a way which would result in unreasonable impacts on internal or external amenity (e.g. in terms of ventilation, outlook and bulk);
 - ii. Any off-site mitigation undertaken 'at the source' to address adverse amenity impacts has been completed and evidence provided; and
 - iii. The occupation of Lots 4, 6 and 7 for residential purposes would not result in a breach of SEPP N-1 by nearby Commercial, Industrial or Trade Premises.

Prior to the commencement of the development of Stage 1 approved under this permit, application must be made to the Registrar of Titles to Register the Section 173 Agreement on the title to the land under Section 181 of the *Planning and Environment Act 1987*.

The owner / permit applicant of the land subject of this permit must pay all of Council's legal costs and expenses of this agreement, including preparation, execution and registration on title.

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Section 173 Agreement – Community Infrastructure Contribution

20. Within 12 months of the date of issue of this permit, an agreement under Section 173 of the *Planning and Environment Act 1987* must be entered into between the owner/s of the land and the Responsible Authority in a form satisfactory to the Responsible Authority to provide for:
- Payment of a Community Infrastructure cash contribution of \$205.64 (“The Contribution”) per dwelling in accordance with the Moreland Development Contributions Plan January 2015, (as may be amended by Council), prior to the issue of a Building Permit under the *Building Act 1993* and the relevant Building Regulations for each Stage of the development, or at any other time set out in an agreement with the Moreland City Council as the Collecting Agency.
 - Adjustment of the cash contribution rate of \$205.64 per dwelling (calculated as at 1 July 2012), shall occur on 1 July each year, generally in accordance with the Moreland Development Contributions Plan January 2015. If the Development Contributions Plan does not form part of the Moreland Planning Scheme at the date the Contribution is first payable by the Owner, the Contribution shall be adjusted to reflect CPI increases from 1 July 2012.

Prior to the development commencing, application must be made to the Registrar of Titles to Register the Section 173 Agreement on the title to the land under Section 181 of the *Planning and Environment Act 1987*.

The owner / permit applicant of the land subject of this permit must pay all of Council’s legal costs and expenses of this agreement, including preparation, execution and registration on title.

Section 173 Agreement – Publicly Accessible Land

21. Within 12 months of the date of issue of this permit, an agreement under Section 173 of the *Planning and Environment Act 1987* must be entered into between the owner/s of the land and the Responsible Authority in a form satisfactory to the Responsible Authority to provide for:
- Unrestricted public pedestrian, bicycle and vehicle access on all internal streets and thoroughfares including the piazza, approved under this permit, 24 hours a day, 364 days a year, commencing at the time of commencement of the use or the issue of a Statement of Compliance relevant to each Stage of this development, whichever comes first.
 - The owner/s of the land to indemnify Council against any claims associated with the use of the publicly accessible areas and to accept liability and responsibility for the on-going maintenance of the publicly accessible areas in perpetuity.

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Prior to the development commencing, application must be made to the Registrar of Titles to Register the Section 173 Agreement on the title to the land under Section 181 of the *Planning and Environment Act 1987*.

The owner / permit applicant of the land subject of this permit must pay all of Council's legal costs and expenses of this agreement, including preparation, execution and registration on title.

General conditions applying to Stages 1 and 2

Secondary Consent

22. The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

Environmental Auditing Requirements

23. Prior to the commencement of construction or carrying out of works for each relevant Stage approved under this permit, either:
- A Certificate of Environmental Audit for the land must be issued in accordance with Section 53Y of the *Environment Protection Act 1970* and provided to the Responsible Authority for the relevant Stage; or,
 - An Environmental Auditor appointed under Section 53S of the *Environment Protection Act 1970* must make a Statement in accordance with Section 53Z of that Act that the environmental conditions of the land are suitable for the use and development that are the subject of the relevant Stage of this permit and that statement must be provided to the Responsible Authority.

Where a Statement of Environmental Audit is issued for the land, the buildings and works and the use(s) of the land that are the subject of this permit must comply with all directions and conditions contained within the Statement.

Where a Statement of Environmental Audit is issued for the land, prior to the commencement of the use, and prior to the issue of a Statement of Compliance under the *Subdivision Act 1988*, and prior to the issue of an Occupancy Permit under the *Building Act 1993*, a letter prepared by an Environmental Auditor appointed under Section 53S of the *Environment Protection Act 1970* must be submitted to the Responsible Authority to verify that the directions and conditions contained within the Statement have been satisfied.

Where a Statement of Environmental Audit is issued for the land, and any condition of that Statement requires any maintenance or monitoring of an ongoing nature, the Owner(s) must enter into an Agreement with Council pursuant to Section 173 of the *Planning and Environment Act 1987*. Where a Section 173 Agreement is required, the Agreement must be executed prior to the commencement of the permitted use, and

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prior to the certification of the plan of subdivision under the *Subdivision Act 1988*. All expenses involved in the drafting, negotiating, lodging, registering and execution of the Agreement, including those incurred by the Responsible Authority, must be met by the Owner(s).

24. Prior to any remediation works being undertaken in association with an Environmental Audit, a Remediation Works Plan, prepared in consultation with the appointed Environmental Auditor, must be submitted to and approved by the Responsible Authority. The plan must detail only those remediation works, excavation works as well as any proposed structures such as retaining walls, necessary to facilitate the completion of the environment audit. Only the works detailed in the Remediation Works Plan, approved by the Responsible Authority, are permitted to be carried out prior to the issue of a Certificate or Statement of Environmental Audit.

Construction Management Plan

25. Prior to the commencement of construction or carrying out of works for each relevant Stage approved under this permit, including any excavation or basement construction works associated with any remediation works undertaken in association with an Environmental Audit, three copies of a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority, (Council's Strategic Transport and Urban Safety Branch). When approved the plan will form part of the permit. The plans must address, but not be limited to, the following, as appropriate:
- Hours of demolition and construction.
 - Methods to contain dust, dirt and mud within the site, and the method and frequency of clean up procedures.
 - On site facilities for vehicle washing.
 - The protection measures for on-site site features to be retained (e.g. vegetation, retaining walls, buildings, other structures and pathways, etc.).
 - Construction delivery and unloading points and expected frequency.
 - A liaison officer for contact by residents and the Responsible Authority in the event of relevant queries or problems experienced.
 - The movement of construction vehicles to and from the site must be regulated to ensure that no traffic hazards are created in and around the site.
 - Parking facilities for construction workers.
 - Measures to minimise the impact of construction vehicles arriving at and departing from the land.
 - An outline of likely requests to occupy public footpaths or roads to be separately submitted and approved by Council and anticipated disruptions to local services.
 - The measures to minimise noise and other amenity impacts from mechanical equipment and demolition/construction activities, especially outside of daytime hours.

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The endorsed Construction Management Plan must be implemented and complied with at all times to the satisfaction of the Responsible Authority, (Council's Strategic Transport and Urban Safety Branch). No alterations to the Construction Management Plan may occur without the written consent of the Responsible Authority.

Environmental Sustainable Development

26. Prior to the endorsement of plans for each relevant Stage approved under this permit, a Sustainable Development Plan must be submitted and approved by the Responsible Authority in accordance with parts a) and b) below.
- a) Prior to the endorsement of plans for Stage 1 of the permit, the Sustainable Design in the Planning Process Plan prepared by Edefice Revision B dated 28 July 2016 must be amended by a suitably qualified environmental engineer or equivalent to the satisfaction of the Responsible Authority to address the following:
- i. The energy ratings (Appendix B, pages 31-33) from the currently endorsed Edefice report dated 26 June 2015 included within the new ESD report.
 - ii. The existing STORM report (Appendix C) from the currently endorsed Edefice report dated 26 June 2015 included within the new ESD report.
 - iii. A consistent reference to the number of bicycle parking spaces in all relevant sections in the report, with the number of spaces aligning with what is shown on the plans.
- b) Prior to the endorsement of plans for Stage 2 of the permit, the Sustainable Design in the Planning Process Plan prepared by Hampton Sustainability, Revision D dated 2 May 2014, must be amended by a suitably qualified environmental engineer or equivalent to the satisfaction of the Responsible Authority to address the following:
- i. A report relevant to Stage 2 only addressing best practice ESD at the time of lodgement.
 - ii. A STORM model report that incorporates all impermeable areas demonstrating Best Practice stormwater management.
 - iii. Clear commitment to all initiatives listed as being considered in section 5.3 of the report with the following improvements:
 - Reverse cycle air conditioning within 2 stars of best available (not less than 5 stars or equivalent).
 - Reverse cycle ducted split system with economy dampers to provide for heating and cooling of commercial areas.
 - iv. Control mechanisms to ensure that the thermal chimneys will acceptably manage heat loss in winter.
 - v. Inconsistencies with the plans as detailed in Council's ESD Engineer's advice dated 7 March 2014, including but not limited to section 6 Water Resources.

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Where alternative ESD initiatives are proposed to those specified in this condition, the Responsible Authority may vary the requirements of this condition at its discretion, subject to the development achieving equivalent (or greater) ESD outcomes in association with the development.

When submitted and approved to the satisfaction of the Responsible Authority, the amended Sustainable Design in the Planning Process Plans and associated notated plans will be endorsed to form part of this permit.

27. All works must be undertaken in accordance with the endorsed Sustainable Design in the Planning Process Plan to the satisfaction of the Responsible Authority. No alterations to the Sustainable Design in the Planning Process Plan may occur without the written consent of the Responsible Authority.
28. Prior to the occupation of each relevant Stage approved under this permit, a report from the author of the Sustainable Design in the Planning Process Plan, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Sustainable Design in the Planning Process Plan have been implemented in accordance with the approved Plan.

Accessibility

29. Prior to the endorsement of plans for each relevant Stage approved under this permit, an Access Plan must be submitted to and approved by the Responsible Authority in accordance with parts a) and b) below.
 - a) Prior to the endorsement of plans for Stage 1 of the permit, the Access Plan prepared by Philip Chun dated 2 August 2016 will be endorsed to form part of the permit.
 - b) Prior to the endorsement of plans for Stage 2 of the permit, an Access Plan must be prepared by a suitably qualified access auditor to assess any plans and provide advice/recommendations on access and mobility issues to the satisfaction of the Responsible Authority. The Plan must provide for, but not be limited to, the following:
 - i. A report relevant to Stage 2 only.
 - ii. A minimum of 31 adaptable dwellings or ten percent of the total number of dwellings, (whichever is greater), within the development (not optional). Inclusion of adaptable floor layouts in the Access Plan is required.
 - iii. Vehicular and pedestrian access into the buildings.
 - iv. Access to the lifts.
 - v. The provision of tactile indicators.

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- vi. The provision of Braille indicators for the lifts.
 - vii. The use of contrasting paving or surface materials to assist the vision impaired.
 - viii. Emergency exits, including above the ground floor (e.g. evacuation chairs at stairs, or an alternative response to the satisfaction of the Responsible Authority).

When submitted and approved to the satisfaction of the Responsible Authority, the Access Plan and associated notated plans will be endorsed to form part of this permit.

30. The recommendations of the plan must be implemented to the satisfaction of the Responsible Authority prior to the occupation of the development. No alterations to the Access Plan may occur without the written consent of the Responsible Authority. Prior to the occupation of each relevant Stage approved under this permit, a report from the author of the access plan, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Access Plan have been implemented in accordance with the approved Plan.

Waste Management

31. Prior to the endorsement of plans for each relevant Stage approved under this permit, a Waste Management Plan must be submitted to and approved by the Responsible Authority in accordance with parts a) and b) below.
- a) Prior to the endorsement of plans for Stage 1 of the permit, the Waste Management Plan prepared by Leigh Design dated 3 August 2016 will be endorsed to form part of the permit.
 - b) Prior to the endorsement of plans for Stage 2 of the permit, the Waste Management Plan prepared by Leigh Design Pty Ltd dated 12 December 2013, must be amended by a suitably qualified consultant to the satisfaction of the Responsible Authority. The amended Plan must include, but not be limited to, the following:
 - i. A report relevant to Stage 2 only.
 - ii. Dimensioned plans/diagrams at a scale of 1:100 or 1:200 showing the bin storage areas required in association with the development to accommodate the necessary bins, including circulation space.

When submitted and approved to the satisfaction of the Responsible Authority, the Waste Management Plans will be endorsed to form part of this permit.

32. All waste / recycling areas and stores are to be provided with ventilation in accordance with Australian Standard AS1668.

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33. The endorsed Waste Management Plan must be implemented and complied with at all times to the satisfaction of the Responsible Authority. The Waste Management Plan can be implemented by any waste company that complies with the waste management plan to the satisfaction of the Responsible Authority. No alterations to the Waste Management Plan may occur without the written consent of the Responsible Authority.

Landscaping

34. Prior to the endorsement of plans for each relevant Stage approved under this permit, a landscape plan must be submitted to and approved by the Responsible Authority in accordance with parts a) and b) below.
- a) Prior to the endorsement of plans for Stage 1 of the permit, the Landscape Design Plans prepared by Rush Wright Associates dated 28 July 2016 must be amended by a suitably qualified consultant to the satisfaction of the Responsible Authority. The amended plans must include, but may not be limited to:
- i. A schedule of all proposed planting (including numbers, size at planting, size at maturity and botanical names) within the common areas at ground, first floor and roof level. The flora selection and landscape design should be drought tolerant and must respond appropriately to localised site conditions.
 - ii. Details of all raised planter beds and boxes, including height, construction methods and appropriate soil depths to support the proposed vegetation.
 - iii. All trees on Nicholson Street to be provided in tree cutouts that are a minimum 1 metre wide and 1.6 metres in length and with 75mm thick mulch on the surface.
 - iv. Details of irrigation to all landscaping, including:
 - Automated irrigation to any green walls.
 - Integration of water sensitive urban design (WSUD) features, including passive irrigation as committed to in the ESD report.
 - v. A maintenance schedule.
 - vi. The pedestrian path on the north side of 'Main Street' adjacent to Lot 4 modified to achieve a width of at least 1.5 metres that is clear of any obstructions, such as lighting poles.
 - vii. Detailed design of all seating, including provision of some seating with backs and arms.
 - viii. Pedestrian crossings (annotated as number 6 in the ground level landscape concept plan) noted as being a smooth surface to improve accessibility.
 - ix. The fixed planter bed to the south of the Lot 2 east lobby entry modified to provide a row of trees that are separated to allow for improved pedestrian permeability.
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- x. Details of how the pavement design, including the kerb, ensures that people with limited mobility can access the footpath from the accessible car spaces.
- b) Prior to the endorsement of plans for Stage 2 of the permit, the Concept Landscape Plan prepared by Habitat dated March 2014, must be amended by a suitably qualified consultant to the satisfaction of the Responsible Authority. The amended Plan must include, but not be limited to, the following:
- i. A plan relevant to Stage 2 only.
 - ii. Details of the first floor communal landscaped areas to Lots 4 and 7.
 - iii. Details of the roof garden to Lot 5.
 - iv. Details of the rain gardens/bioswales.
 - v. Deletion of the northern-most planter box to the east of Lot 7.
 - vi. A schedule of all proposed planting (including numbers, size at planting, size at maturity and botanical names) within the common areas at ground, first floor and roof level. The flora selection and landscape design should be drought tolerant and must respond appropriately to localised site conditions.
 - vii. Species amended to reflect the requirements of Council's Open Space Design and Development Unit's advice dated 13 May 2014.
 - viii. Details of raised planter beds and boxes, including height, construction methods, maintenance and location to alleviate any sight line issues.
 - ix. Integration of water sensitive urban design (WSUD) features, including investigation of opportunities for passive irrigation (kerb cut outs).
 - x. Details of paving.
 - xi. Location and design of bins, seating, lighting and any landscape features.
 - xii. Lighting within publicly accessible areas.
 - xiii. Advice detailing how the landscaping will be constructed and accommodated, including areas required for planting, drainage and irrigation.
 - xiv. Delineation of all public and private areas.
 - xv. A maintenance schedule.

When submitted and approved to the satisfaction of the Responsible Authority, the Landscape Plan will be endorsed to form part of this permit.

All works must be undertaken in accordance with the endorsed Landscape Plan to the satisfaction of the Responsible Authority. No alterations to the Landscape Plan may occur without the written consent of the Responsible Authority.

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35. Prior to the occupation of each relevant Stage approved under this permit, the areas designated for landscaping on the endorsed plan must be planted to the satisfaction of the Responsible Authority.
36. Following completion of the development, the areas designated for landscaping on the endorsed plan must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced and any publicly accessible areas repaired and maintained.

Public Lighting

37. Prior to occupation of each relevant Stage or prior to the issue of a Statement of Compliance for each relevant stage of the subdivision, whichever comes first, a report detailing that all public lighting installed achieves compliance with the Australian Standard for lighting AS1158 'Lighting for Roads and Public Spaces' to Category P4 must be provided to the satisfaction of the Responsible Authority.

Commercial Noise Restrictions

38. The maximum noise level emitted from the commercial premises must not exceed levels specified in the State Environment Protection Policy (Control of Noise from Commercial, Industrial or Trade Premises within the Melbourne Metropolitan Area), SEPP N-1.

Traffic and Parking

39. Prior to the occupation of the development, 'No Stopping' (at all times) signs must be erected and maintained in locations necessary to ensure that Metropolitan Fire Brigade (MFB) fire truck emergency access is maintained at no cost to Council and to the satisfaction of the Responsible Authority.
40. The car parking spaces provided on the land must be solely associated with the development allowed by this permit and must not be subdivided or sold separately from the development for any reason without the written consent of the Responsible Authority to the satisfaction of the Responsible Authority.
41. The roller shutter between the east and west residential basement car parks must only be accessible to cars that park in the western car park.
42. All vehicle entry roller shutters / doors are to be secured with semi-transparent security grilles, or an alternative design to the satisfaction of the Responsible Authority, (entries to loading bays excepted).

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43. The internal roads, car parks and loading bays must be designed in accordance with the standards approved in the Traffic and Transport Assessment prepared by Cardno Victoria Pty Ltd dated 27 March 2013.
44. Prior to the occupation of the development, any Council or service authority pole or pit within 1 metre of a proposed vehicle crossing must be relocated or modified at the expense of the permit holder to the satisfaction of the Responsible Authority and the relevant service authority.
45. Prior to the occupation of the development, a vehicle crossing must be constructed in every location shown on the endorsed plans to a standard satisfactory to the Responsible Authority (Moreland City Council, City Infrastructure Department).
46. Prior to the occupation of the development, any existing vehicle crossing not to be used in this development must be removed and the kerb and channel and footpath reinstated to the satisfaction of the Responsible Authority (Moreland City Council, City Infrastructure Department).
47. Prior to the occupation of the development, the bicycle parking racks must be installed in a secure manner that accords with the specifications in Bicycle Victoria's Bicycle Parking Handbook, to the satisfaction of the Responsible Authority.
48. Prior to the occupation of the development, bicycle signage at least 300mm wide and 450mm high showing a white bicycle on a blue background must be erected directing cyclists to the location of the bicycle parking as required by Clause 52.34-5 of the Moreland Planning Scheme.

Loading/Unloading

49. Unless otherwise agreed by the Responsible Authority in writing, all truck deliveries in association with the use of the completed development, other than any supermarket, are restricted to:
- 7am to 10pm Monday to Saturday; and
 - 9am to 10pm Sunday and public holidays.

Drainage

50. All stormwater from the land, where it is not collected in rainwater tanks for re-use or managed within rain gardens / bioswales, must be collected by an underground pipe drain approved by and to the satisfaction of the Responsible Authority (Moreland City Council, City Infrastructure Department).
51. The rain gardens / bioswales are to be regularly maintained by the owner in accordance with the requirements in the Melbourne Water WSUD Engineering Procedures: Stormwater guidelines, to the satisfaction of the Responsible Authority.

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General

52. The glazing on the external north and west façade of the traveller/airlock as shown on the endorsed plans must at all times remain free of obstructions such as advertising/promotional material, unless with the prior written consent of the Responsible Authority.
53. Prior to the issuing of Statement of Compliance or occupation of the development, whichever occurs first, all visual screening measures shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. All visual screening and measures to prevent overlooking must be maintained to the satisfaction of the Responsible Authority. Any screening measure that is removed or unsatisfactorily maintained must be replaced to the satisfaction of the Responsible Authority.
54. Prior to the occupation of the development, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.
55. Unless with the prior written consent of the Responsible Authority, any plumbing pipe, ducting and plant equipment must be concealed from external views to the satisfaction of the Responsible Authority. This does not include external guttering or associated rainwater down pipes.
56. Prior to the occupation of the development, air-conditioning and other plant and generator equipment must be screened from the view of adjoining properties, streets and all other publicly accessible areas to the satisfaction of the Responsible Authority.
57. Prior to the occupation of the development, all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land must be underground to the satisfaction of the Responsible Authority.
58. A letterbox must be provided for each of the premises. The dimensions, placement and numbering must comply with the Australia Post – Letterbox Security and Specification as published on its website to the satisfaction of the Responsible Authority.

Development Contribution

59. Prior to the issue of a Building Permit in relation to the development approved by this permit, a Development Infrastructure Levy must be paid to Moreland City Council in accordance with the approved Development Contributions Plan for the increase in leasable floor area (247 square metres) and the 15 additional dwellings as approved by this amendment.

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The Development Infrastructure Levy amount for the commercial development is \$431.01 per 100 square metres of leasable floor space and the Development Infrastructure Levy amount for the residential development is \$126.61 per dwelling. In accordance with the approved Development Contributions Plan, these amounts will be indexed annually on 1 July.

If an application for subdivision of the land in accordance with the development approved by this permit is submitted to Council, payment of the Development Infrastructure Levy can be delayed to a date being whichever is the sooner of the following:

- For a maximum of 12 months from the date of issue of the Building Permit for the development hereby approved; or
- Prior to the issue of a Statement of Compliance for the subdivision.

When a staged subdivision is sought, the Development Infrastructure Levy must be paid prior to the issue of a Statement of Compliance for each stage of subdivision in accordance with a Schedule of Development Contributions approved as part of the subdivision.

Public Transport Victoria conditions

60. The permit holder must take all reasonable steps to ensure that disruption to tram operations along Nicholson Street is kept to a minimum during the construction of the development. Foreseen disruptions to tram operations during construction and mitigation measures must be communicated to Yarra Trams and Public Transport Victoria fourteen days (14) prior.
61. The permit holder must take all reasonable steps to ensure that disruption to bus operations and bus stops along Nicholson Street is kept to a minimum during the construction of the development. Foreseen disruptions to bus operations and mitigation measures must be communicated to Public Transport Victoria 14 days prior.
62. The permit holder must ensure that public transport infrastructure is not altered without the consent of Public Transport Victoria or damaged. Any damage to public transport infrastructure must be rectified to the satisfaction of Public Transport Victoria at the full cost of the permit holder.

VicRoads conditions

63. Before the development start(s), amended plans must be submitted to and approved by the Roads Corporation. When approved by the Roads Corporation, the plans may be endorsed by the Responsible Authority and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided. The plans must be generally in accordance with the plans date stamped 29 September 2016 (Revision K, Dwg No. TP01-TP29) and annotated as but modified to show:

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- a) The north-eastern corner of Lot 1 to be within the ultimate property boundary.
64. Prior to the commencement of any works at the intersection of Nicholson Street / Sumner Street / Proposed access point, functional layout plans must be submitted to VicRoads and the Responsible Authority for approval for the following works:
- a) Proposed signals at the intersection of Nicholson Street / Sumner Street / Proposed access point including tram priority requirement for interim and ultimate stages in accordance with AustRoads' "Guide to Road Design 2010" and relevant Victorian supplements;
- b) Proposed signage and line marking in accordance with the VicRoads Traffic Engineering Manual – Volume 2 Signage and Markings (January 2010).
65. Before the use approved by this permit commences, the road works approved as per Condition No.64 for the interim stage and any other associated work must be completed at no cost to and to the satisfaction of VicRoads and the Responsible Authority.

Expiry

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

Stage 1

- a) Stage 1 of the development is not commenced within three (3) years from the date of issue of this permit;
- b) Stage 1 of the development is not completed within five (5) years from the date of issue of this permit;
- c) the use of Stage 1 is not commenced within five (5) years from the date of issue of this permit.

Stage 2

- d) Stage 2 of the development is not commenced within five (5) years from the date of issue of this permit;
- e) Stage 2 of the development is not completed within seven (7) years from the date of issue of this permit;
- f) the use of Stage 2 is not commenced within seven (7) years from the date of issue of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or;

- Within six months after the permit expires to extend the commencement date.
- Within 12 months after the permit expires to extend the completion date of the development if the development has lawfully commenced.

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Notes: These notes are for information only and do not constitute part of this permit or conditions of this permit.

Note 1:

Should Council impose car parking restrictions in this street, the owners and/or occupiers of the land would not be eligible for any Council parking permits to allow for on street parking.

Note 2:

- i. A copy of the Certificate or Statement of Environmental Audit, including the complete Environmental Audit Report must be submitted to the Responsible Authority within 7 days of issue, in accordance with Section 53ZB of the *Environment Protection Act 1970*.
- ii. Where a Statement of Environmental Audit is issued for the land a copy of that Statement must be provided to any person who proposes to become an occupier of the land, pursuant to Section 53ZE of the *Environment Protection Act 1970*.
- iii. The land owner and all its successors in title or transferees must, upon release for private sale of any part of the land, include in the Vendor's Statement pursuant to Section 32 of the *Sale of Land Act 1962*, a copy of the Certificate or Statement of Environmental Audit including a copy of any cover letter.
- iv. Where a Statement of Environmental Audit issued for the land contains conditions that the Responsible Authority considers to be unreasonable in the circumstances, the Responsible Authority may seek cancellation or amendment of the planning permit in accordance with Section 87 of the *Planning and Environment Act 1987*.

Note 3:

Council's public lighting policy mandates that energy efficient technologies be employed (i.e. LED or T5 fluorescent) and luminaires be mounted at minimum 6 metre mounting height.

Note 4:

Council may install a prohibition on parking on John Street at the western end of 'Main Street' to facilitate emergency vehicle access.

Note 5:

Council charges supervision (2.50%) and plan checking (0.75%) fees on the cost of constructing the drain along the easement or street as permitted by Sections 5 & 6 of the Subdivision (Permit and Certification Fees) Regulations 2000.

Note 6:

Further approvals are required from Council's City Infrastructure Department who can be contacted on 9240 1143 for any works beyond the boundaries of the property. Planting and other vegetative works proposed on road reserves can be discussed with Council's Open Space Unit on 8311 4300.

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Note 7:

This permit does not authorise the removal of, damage to or pruning of any street tree. Further written consent must be obtained from Council’s Open Space Unit. The Open Space Unit can be contacted on 8311 4300.

Note 8:

Unless no permit is required under the Moreland Planning Scheme, no sign must be constructed or displayed on the land without a further planning permit.

VicRoads Note:

Note 9:

VicRoads notes that the basement car park for the proposed development does not extend under the ultimate road reserve boundary.

Date of amendment: 2 March 2017
Amendment Number: MPS/2013/979/A
Brief description of amendment: <ul style="list-style-type: none"> • Amend the permit preamble • Amend Conditions 1, 2, 3, 13 a, 15 t, 27, 30, 32, 35, 64 • Include new conditions 53 and 60 • Include new note 9

Correction to Permit:

This permit has been corrected pursuant to Section 71 of the Planning and Environment Act 1987 on 18 May 2017 to correct a clerical error relating to conditions of the permit.

VCAT Order:

This permit has been amended in accordance with the Victorian Civil and Administrative Tribunal’s Order P896/2017 dated 6 September 2017.

CAN THE RESPONSIBLE AUTHORITY AMEND THIS PERMIT?
The Responsible Authority may amend this permit under Division 1A of Part 4 of the Planning and Environment Act 1987.

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PERMIT

WHAT HAS BEEN DECIDED?

The Responsible Authority has issued a permit (Note: This is not a permit granted under Division 5 or 6 of Part 4 of the **Planning and Environment Act 1987**.)

CAN THE RESPONSIBLE AUTHORITY AMEND THIS PERMIT?

The Responsible Authority may amend this permit under Division 1A of Part 4 of the **Planning and Environment Act 1987**.

WHEN DOES A PERMIT EXPIRE?

A permit operates:

1. from the date specified in the permit; **or**
2. if no date is specified, from:
 - a. the date of the decision of the Victorian Civil & Administrative Tribunal, if the permit was issued at the direction of the Tribunal, **or**
 - b. the date on which it was issued, in any other case.

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if:
 - (a) the development or any stage of it does not start within the time specified in the permit; **or**
 - (b) the development requires the certification of a plan of subdivision or consolidation under the **Subdivision Act 1988** and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision; **or**
 - (c) the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the **Subdivision Act 1988**.
2. A permit for the use of land expires if:
 - (a) the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; **or**
 - (b) the use is discontinued for a period of two years.
3. A permit for the development and use of land expires if:
 - (a) the development or any stage of it does not start within the time specified in the permit; **or**
 - (b) the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; **or**
 - (c) the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development, **or**
 - (d) the use is discontinued for a period of two years.
4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the **Planning and Environment Act 1987**, or to any combination of use, development or any of those circumstances requires the certification of a plan under the **Subdivision Act 1988**, unless the permit contains a different provision—
 - (a) the use or development of any stage is to be taken to have started when the plan is certified; and
 - (b) the permit expires if the plan is not certified within two years of the issue of the permit.
5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT APPEALS?

- The person who applied for the permit may apply for a review of any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of review exists.
- An application for review must be lodged within 60 days after the permit was issued, unless a notice of decision to grant a permit has been issued previously, in which case the application for review must be lodged within 60 days after the giving of that notice.
- An application for review is lodged with the Victorian Civil and Administrative Tribunal.
- An application for review must be made on an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
- An application for review must state the grounds upon which it is based.
- An application for review must also be served on the Responsible Authority.
- Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.