

# VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

## PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P958/2023  
PERMIT APPLICATION NO. TPA/53513

<b>APPLICANT</b>	Raffaele Pane
<b>RESPONSIBLE AUTHORITY</b>	Monash City Council
<b>RESPONDENT</b>	WL Newlands Pty Ltd
<b>SUBJECT LAND</b>	186-192 Clayton Road CLAYTON VIC 3168
<b>HEARING TYPE</b>	Compulsory Conference
<b>DATE OF HEARING</b>	9 and 29 November 2023
<b>DATE OF ORDER</b>	29 November 2023

### ORDER

#### Grant permit

- 1 In application no. P958/2023 the decision of the responsible authority is **varied**.
- 2 In permit application no. TPA/53513 a permit is granted and directed to be issued for the land at 186 – 192 Clayton Road, Clayton in accordance with the endorsed plans and on the conditions set out in Appendix A. The permit allows:
  - Development and use a five storey building with basement car park for a medical centre, food and drink premises, shop, reduction in car parking requirement,
  - alter access to a road in a Transport Zone 2, and
  - undertake buildings and works within the Specific Control Overlay, Schedule 15.

#### Hearing vacated

- 3 The hearing scheduled at 10:00am **on 12, 13, 14 and 15 February 2024** is vacated. No attendance is required.

Alison Glynn  
**Member**



## APPEARANCES

For applicant	Raffaele Pane, in person
For responsible authority	Anne Mare Roberts, town planner
For respondent	Mark Naughton with Thomas Morrison, solicitors of Planning Property Partners Pty Ltd. (and with Jian Wang of WL Newlands Pty Ltd on 9 November 2023)

## REMARKS

- 1 Pursuant to section 93(1) of the *Victorian Civil and Administrative Tribunal Act 1998*, this order is made at the request of the parties and with their consent.
- 2 The Tribunal regards the consent of the responsible authority to be a confirmation to the Tribunal that:
  - a the responsible authority is of the opinion that the permit or amended permit is appropriate having regard to the matters it is required to consider under section 60 of the Act, including the balanced application of the strategies and policies of the relevant planning scheme and is otherwise in conformity with the provisions of the planning scheme and the *Planning and Environment Act 1987*;
  - b the proposed orders will not result in any change to the proposed use or development which would materially affect any person other than the parties to the proceeding.
- 3 Based on the information available to the Tribunal, I consider it is appropriate to make these orders.

Alison Glynn  
**Member**



## APPENDIX A – PERMIT CONDITIONS

<b>PERMIT APPLICATION NO</b>	TPA/53513
<b>LAND</b>	186-192 Clayton Road CLAYTON VIC 3168

### WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

- Development and use a five storey building with basement car park for a medical centre, food and drink premises, shop, reduction in car parking requirement,
- alter access to a road in a Transport Zone 2, and
- undertake buildings and works within the Specific Control Overlay, Schedule 15.

## CONDITIONS

### Amended Plans Required

- 1 Before the development starts, three copies of plans drawn to scale and dimensioned must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the Permit. The plans must be generally in accordance with the plans prepared by Hatz Architects dated 28 November 2023 – Revision M2 and Landscape Plans prepared by 3 Acres Landscape Architects dated 16 November 2023 – Revision G but modified to show:
  - (a) Location and mechanism of carparking ventilation system including the location of exhaust vents and mechanical grills.
  - (b) Details of the material of construction of the 1.7metre high privacy screen to the first-floor open carpark along the southern elevation to provide a maximum of 25% transparency and provided with acoustic specifications to minimise noise.
  - (c) All carpark walls on the eastern side of the building to be of brick faced wall construction and be full height with the exception of the Level 1 open carpark eastern wall which is to have a minimum height of 2100 FFL and extend to the southern end of the carpark.
  - (d) Level 2 and 3 eastern facing windows with an outlook into the secluded private open space of 2 Whitburn Street and 2/1 Hourigan Avenue to be screened (maximum 25% transparency) to a minimum height of 1.7 metres above floor level.



- (e) Level 4 eastern facing windows with an outlook to the secluded private open space of 2 Whitburn Street and 2/1 Hourigan Avenue to be Avenue to be screened (maximum 25% transparency) to a minimum height of 1.7 metres above floor level.
- (f) Level 2, 3 and 4 south facing windows with an outlook to the secluded open space of 196 Clayton Road to be provided with a horizontal fin or equivalent to prevent downward viewing.
- (g) Any required fire services, electricity supply, gas and water meter boxes to be discreetly located and/or screened to complement the development. Any required services must be clearly detailed.
- (h) Trees to be retained numbered, and protective fencing shown surrounding all Council street-trees adjacent to the development and trees on adjoining properties within 3 metres of the boundary to be protected during the development in accordance with the Tree Management Plan required by Condition 9 of this Permit.
- (i) Existing trees identified in the Arboricultural Impact Assessment prepared by ARBKey dated 9 July 2021 as 41-49 (*Pittosporum tenuifolium* Kohuhu) along the eastern boundary and trees 70 and 71 (*Syzygium smithii* Lilly Pilly) along the southern boundary to be retained.
- (j) All car parking spaces adjacent to walls to be provided with a minimum 300mm clearance.
- (k) Car parking spaces numbered on the plans.
- (l) Details of all ramp grades to be shown.
- (m) The surface of the car park to be provided with a rough floor finish.
- (n) Floor, elevation and section plans to provide finished floor levels.
- (o) Location of the vehicle security panel door to the carpark to be shown on the ground floor plan with a notation stating that the premises door is only to be closed out of operating hours on the ground floor and elevation plans.
- (p) Location of any plant equipment proposed and to be provided within a sound attenuation enclosure.
- (q) Location of easement on the landscaping plan.
- (r) A notation on the site plan requiring that all disused or redundant vehicle crossovers must be removed; and the area reinstated as required by the Department of Transport and Planning.
- (s) All excavation and footing details in accordance with the Engineering Report required by SRLA Condition 36.
- (t) A Landscape Plan in accordance with Condition 3 of the permit.



- (u) A Sustainable Management Plan in accordance with Condition 4 of the permit.
- (v) Any notations or revisions as required by the recommendations of the Acoustic report prepared in accordance with Condition 5 of the permit.
- (w) A Car Parking Management Plan in accordance with Condition 6 of the permit.
- (x) A Green Travel Plan in accordance with Condition 7 of the permit.
- (y) A Waste Management Plan in accordance with Condition 8 of the Permit.
- (z) A Tree Management Plan in accordance with Condition 9 of the permit.

All to the satisfaction of the Responsible Authority.

### **No Alteration or Changes**

- 2 The development and use and the description of the use(s) as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

### **Landscape Plan**

- 3 Before the commencement of buildings and works, a Landscape Plan prepared by a Landscape Architect or a suitably qualified or experienced landscape designer, drawn to scale and dimensioned must be submitted to and approved by the Responsible Authority prior to the commencement of any works. When approved, the plan will be endorsed and will then form part of the Permit. The plan must be generally in accordance with the Landscape Plan prepared by 3 Acres, Rev G dated 16 November 2023 however amended to show:
  - (a) location of easement along the eastern boundary;
  - (b) all trees to be planted outside of easement;
  - (c) details of changes required by Condition 1 of this Permit including retention of trees 41-49 (*Pittosporum tenuifolium* Kohuhu) along the eastern boundary and trees 70 and 71 (*Syzygium smithii* Lilly Pilly) along the southern boundary; and
  - (d) a revised plant schedule to provide:
    - The inclusion of native species in the street frontages of the site.
    - The three proposed AS (*acmena smithii* DOW30 Sublime) to be replaced with three TRI (*tristaniopsis laurina* “DOW10” Luscious).

When approved the plan will be endorsed and will then form part of the permit.



## **Sustainable Design Assessment**

- 4 Concurrent with the endorsement of plans requested pursuant to Condition 1, a Sustainable Management Plan must be submitted to and approved by the Responsible Authority. The plan must be generally in accordance with the Sustainability Management Plan prepared by EcoResults Dated March 2023, except that the plan must be modified to show any changes required by Condition 1 of this planning permit.

Upon approval the Sustainable Design Assessment will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the Sustainable Design Assessment to the satisfaction of the Responsible Authority.

## **Acoustic Report**

- 5 Concurrent with the endorsement of plans pursuant to Condition 1, an Acoustic Report to the satisfaction of the Responsible Authority must be prepared by a suitably qualified Acoustic Engineer and must be submitted to and approved by the Responsible Authority. When approved, the Acoustic Report will be endorsed and will form part of this permit. The acoustic report must:

- (a) make recommendations to limit noise levels to and from the development to not exceed those required to be met under the Environment Protection Regulations 2021 and EPA Publication 1826.4 noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues, or any other equivalent or applicable State or relevant policy.
- (b) show all details of changes required by Condition 1 of this Permit.

The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.

## **Car Park Management Plan Required**

- 6 Before the development commences, a Car Park Management Plan 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 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) Any tandem spaces allocated to a single tenancy and for staff parking.
  - (c) Allocation of at grade spaces to the pharmacy and café and visitors for short term parking.



- (d) The management of car parking spaces and security arrangements for occupants of the development, including details on how visitors are to access car parking;
- (e) The Car Parking Management Plan must specify a requirement of no paid parking arrangement within public parking areas;
- (f) Details of wayfinding, cleaning and security of end of trip bicycle facilities;
- (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 this Permit; and,
- (i) Details regarding the management of loading and unloading of goods and materials.

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.

### **Green Travel Plan**

- 7 Before the development commences, 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) A description of the location in the context of alternative modes of transport;
  - (b) Details of end of trip facilities provided;
  - (c) Education and awareness initiatives and incentives for employees and customers to encourage more sustainable modes of travel to/from the site;
  - (d) Management practices identifying sustainable transport alternatives;
  - (e) Consider the provision of electric vehicle charging facilities;
  - (f) Lobby areas of building to include real time information of train, tram and bus services;
  - (g) Details of bicycle spaces for staff;
  - (h) Employee packs (ie, myki cards for new workers);
  - (i) An obligation to update the plan not less than every 5 years;
  - (j) Details of when and how this travel plan will be available for new staff; and



- (k) Any other relevant matters.

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

### **Waste Management Plan**

- 8 Concurrent with the endorsement of plans, a Waste Management Plan must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the Permit. The Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by Ratio dated April 2022 but modified to show:

- (a) Amended hours of collection to be consistent with operating hours of the medical centre as required by Condition 14.

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

### **Tree Management Plan**

- 9 Concurrent with the submission of amended plans required by Condition 1 and prior to any demolition or site works, a Tree Management Plan (TMP) must be submitted to and approved by the Responsible Authority. The TMP must be prepared by a suitably qualified and experienced Arborist and must set out recommendations and requirements in relation to the management and maintenance of Trees on the adjoining property at 196 Clayton Road and the Council street-tree in Whitburn Street.

The TMP must be approved by the Responsible Authority prior to the commencement of any works, including demolition and/or levelling of the site. The TMP must make specific recommendations in accordance with the Australian Standard AS4970: 2009 - Protection of Trees on Development Sites and detail the following to the satisfaction of the Responsible Authority ensuring the trees to be retained remain healthy and viable during construction:

- (a) A Tree Protection Plan drawn to scale that shows:
- i Tree protection zones and structural root zones of all trees to be retained;
  - ii All tree protection fenced off areas and areas where ground protection systems will be used;
  - iii The type of footings within any tree protection zones;
  - iv Any services to be located within the tree protection zone and a notation stating all services will either be located outside of the tree protection zone, bored under the tree protection zone, or



installed using hydro excavation under the supervision of the Project Arborist; and

- v A notation to refer to the Tree Management Plan for specific detail on what actions are required within the tree protection zones.
- (b) Details of how the root system of any tree to be retained will be managed. This must detail any initial non-destructive trenching and pruning of any roots required to be undertaken by the Project Arborist.
- (c) Supervision timetable and certification of tree management activities required by the Project Arborist to the satisfaction of the responsible authority; and
- (d) Any remedial pruning works required to be performed on tree canopies located within subject site. The pruning comments must reference Australian Standards 4373:2007, Pruning of Amenity Trees and a detailed photographic diagram specifying what pruning will occur.

The recommendations contained in the approved tree management plan must be implemented to the satisfaction of the Responsible Authority.

### **Construction Management Plan**

- 10 Prior to the commencement of any site works (including demolition) a Construction Management Plan (CMP) must be submitted and approved by the Responsible Authority. No works are permitted to occur until the Plan has been endorsed by the Responsible Authority. Once endorsed, the CMP will form part of the permit and must be implemented to the satisfaction of the Responsible Authority. The CMP must address the following issues:
- (a) Appropriate measures to control noise, dust and water and sediment laden runoff;
  - (b) Appropriate measures for the prevention of silt or other pollutants from entering into the Council's underground drainage system or road network;
  - (c) Appropriate measures relating to removal of hazardous or dangerous material from the site, where applicable;
  - (d) A plan showing the location and design of a vehicle wash-down bay for construction vehicles on the site so as to prevent material leaving the site and being deposited on Council's road network;
  - (e) A program for the cleaning and maintaining surrounding road surfaces;
  - (f) A site plan showing the location of any site sheds, on-site amenities, building waste storage and the like, noting that Council does not support the siting of site sheds within Council's road reserves;



- (g) Measures to provide for public Safety and site security;
- (h) A plan showing the location of parking areas for construction and sub-contractors' vehicles on and surrounding the site, to ensure that vehicles associated with construction activity cause minimum disruption to surrounding premises. Any basement car park on the land must be made available for use by sub-constructors/tradespersons upon completion of such areas, without delay;
- (i) A Traffic Management Plan showing truck routes to and from the site;
- (j) A swept path analysis demonstrating the ability for trucks to enter and exit the site in a safe manner for the largest anticipated truck associated with the construction;
- (k) Appropriate measures to ensure that sub-contractors/tradespersons operating on the site are aware of and adhere to the requirements of the CMP;
- (l) The provision of contact details of key construction site staff; and
- (m) Include a requirement that except with the prior written consent of the Responsible Authority, a requirement that demolition, excavation or construction works must only be carried out during the following hours:
  - Monday to Friday (inclusive) – 7am to 6pm;
  - Saturday – 9am to 1pm;
  - Saturday – 1pm to 5pm (Only activities associated with the erection of buildings that does not exceed the EPA guidelines)
  - No works are permitted on Sundays or Public Holidays.

The provisions, recommendations and requirements of the endorsed Construction Management Plan must be implemented and complied with by all contractors to the satisfaction of the Responsible Authority.

### **Landscaping prior to occupation**

- 11 Before the occupation of the buildings allowed by this permit, landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority and then maintained, to the satisfaction of the Responsible Authority.

### **No material near Council street-trees**

- 12 No building material, demolition material, excavation or earthworks shall be stored or stockpiled within the Council street-trees to be retained during the construction period of the development hereby permitted without the prior written consent of the Responsible Authority.



### **Privacy screens**

- 13 Prior to the occupancy of the development, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained ongoing to the satisfaction of the Responsible Authority. The use of obscure film fixed to transparent glass or windows is not considered to be 'obscure glazing' or an appropriate response to screen overlooking.

### **Hours of Operation**

- 14 The medical centre allowed under this permit may operate only during the following hours, except with the prior written consent of the Responsible Authority:
- Monday to Friday – 8am to 7pm
  - Saturday 8am to 5pm.
- 15 The food and drink premises (café) and shop (pharmacy) allowed by this permit may operate only during the following hours, except with the prior written consent of the Responsible Authority:
- Monday to Friday –8am to 7pm
  - Saturday and Sunday 8am to 5pm.

### **Delivery Hours**

- 16 All deliveries must be conducted so as not to cause any unreasonable disturbance to nearby residential properties and may only take place during the following times:
- Monday to Friday – 8.00am -7.00pm
  - Saturday: 8:00am to 1:00pm
  - Sunday: No deliveries permitted,
- to the satisfaction of the Responsible Authority.

### **Loading and Unloading**

- 17 All loading and unloading of vehicles must be carried out and be conducted in a manner that does not cause any interference with the circulation and parking of vehicles on the land, to the satisfaction of the Responsible Authority.

### **Amenity of Area**

- 18 The amenity of the area must not be detrimentally affected by the use or development, through the:
- transport of materials, goods or commodities to or from the land;
  - appearance of any building, works or materials;



- emission of noise; and
- storage of prescribed waste,

To the satisfaction of the Responsible Authority.

### **Ongoing Management of Noise Levels**

- 19 Noise levels to and from the development must not exceed those required to be met under the Environment Protection Regulations 2021 and EPA Publication 1826.4 noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues, or any other equivalent or applicable State or relevant policy.

### **Infectious Wastes**

- 20 Any prescribed waste (as defined by the EPA) which leaves the premises of generation must be disposed of in accordance with Environmental Protection Authority (EPA) requirements.

### **Car Parking and Driveways to be Constructed**

- 21 Before the use starts or any building is occupied, areas set aside for parked vehicles and access lanes as shown on the endorsed plans must be:
  - constructed to the satisfaction of the Responsible Authority;
  - properly formed to such levels that they can be used in accordance with the plans;
  - surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority;
  - drained, maintained and not used for any other purpose to the satisfaction of the Responsible Authority;
  - line-marked to indicate each car space and all access lanes to the satisfaction of the Responsible Authority.
  - Parking areas and access lanes must be kept available for these purposes at all times.

### **Use of car parking spaces and driveways**

- 22 The areas set aside for car parking shown on the endorsed plans must be made available for use free of charge to employees and visitors at all times and must not be used for any other purpose.
- 23 Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose, to the satisfaction of the Responsible Authority.

- 24 Parking areas and access lanes must be kept available at all times to the satisfaction of the Responsible Authority.

### **Lighting of carparks and accessways**

- 25 Low intensity / baffled lighting must be provided to ensure that car park areas and pedestrian accessways are adequately illuminated without any unreasonable loss of amenity to the surrounding area, to the satisfaction of the Responsible Authority.

### **Security Fencing**

- 26 The eastern and southern setback of the building shall be made secure by appropriate fencing minimum 1.8m high at the north-east corner and south-west corner of the building to prevent access to the eastern and southern setback area. These setback areas shall only be accessed for maintenance purposes and access to landscaping.

### **Ongoing Architect Involvement**

- 27 As part of the ongoing consultant team, Hatz Architects or an architectural firm which is acknowledged to have comparable skill and expertise 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.

### **Plant / Equipment or features on roof**

- 28 No equipment, services, architectural features or structures of any kind, including telecommunication facilities, other than those shown on the endorsed plans shall be permitted above the roof level of the building unless otherwise agreed to in writing by the Responsible Authority.
- 29 Motors for equipment and air-conditioning/heating units to be located to limit noise nuisance created to neighbours or insulated/sound proofed in accordance with any applicable EPA legislation.

### **Drainage and Stormwater**

- 30 All stormwater collected on the site from all hard surface areas must not be allowed to flow uncontrolled into adjoining properties or the road reserve.
- 31 All stormwater collected on the site is to be detained on site to the predevelopment level of peak stormwater discharge. The design of any internal detention system is to be approved by Council's Engineering Department prior to drainage works commencing. Further information

regarding the design of the on-site detention system is provided in the notes section of this Permit.

### **Vehicle Crossovers**

- 32 All new vehicle crossings are to be no closer than 1.0 metre, measured at the kerb, to the edge of any power pole, drainage or service pit, or other services. Approval from affected service authorities is required as part of the vehicle crossing application process.

### **Department of Transport and Planning (PPR-38890/22)**

- 33 Prior to the occupation of the development, all disused or redundant vehicle crossings must be removed, and the area reinstated to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.
- 34 Prior to occupation of the development, the proposed crossover and driveway are to be constructed to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.
- 35 Vehicles must enter and exit the site in a forward direction at all times.

### **Suburban Rail Loop Conditions (SCO15/2023/03)**

- 36 Unless otherwise agreed in writing with Suburban Rail Loop Authority, before the development starts (including demolition), detailed design drawings must be submitted to the satisfaction of Suburban Rail Loop Authority. When approved, the plans will be endorsed by the Responsible Authority and will then form part of the permit. The plans must be drawn to scale with dimensions, be generally in accordance with the plans by HATZ Architects date stamped 09 March 2023 with the cover sheet Revision P noted as Issued to Consultants but modified to show:
- (a) all excavation and footing details in accordance with the Engineering Report required by Condition 36 (Engineering Report) below:
  - (b) excavation depths for all buildings, structures and retaining walls (including excavation required for services and utilities) to be shown at Australian Height Datum (AHD) on floor plans and elevations;
  - (c) foundations and footing designs of all buildings, structures and retaining walls, (including pile designs and associated loadings if applicable).
- 37 Unless otherwise agreed in writing with Suburban Rail Loop Authority, before the development starts (including demolition and excavation) and before the submission of plans under Condition 35 (Amended Plans), an Engineering Report from a suitably qualified engineer must be submitted to and approved by the Suburban Rail Loop Authority. The report must outline the design, management and construction

techniques to be implemented prior, during and following construction to prevent any impact on Suburban Rail Loop East and associated infrastructure. Once approved, the Engineering Report will form part of the planning permit. All relevant structural and geotechnical issues must be considered and the report must demonstrate the following:

- (a) that the building footings will not compromise the structural integrity of, or damage or displace Suburban Rail Loop East and associated infrastructure. In this case, the following would be considered to satisfy this requirement:
  - i demonstrating that the increase in unfactored loading from the footings of the development at a level of RL 50 m AHD beneath the south-eastern corner of the building does not exceed 50 kPa would be considered to satisfy this requirement (unloading from basement excavations should not be included in this assessment);
  - ii that the development and construction methods will appropriately manage and mitigate any impacts from construction vibration on Suburban Rail Loop East and associated infrastructure.
  - iii that the development will be designed to accommodate the anticipated settlements up to 15 mm at the estimated footing level from tunnel excavation of Suburban Rail Loop East and associated infrastructure. These peak values are expected immediately above the tunnel alignment.
- 38 All design, excavation and construction must be undertaken in accordance with the Engineering Report approved under Condition 36 (Engineering Report) unless alterations or modifications are approved in writing by Suburban Rail Loop Authority.
- 39 Where any alterations or modifications to the plans endorsed under Condition 35 (Amended Plans) are not consistent with the Engineering Report prepared in accordance with Condition 36 (Engineering Report) (above), the prior written consent of Suburban Rail Loop Authority must be obtained.
- 40 Unless otherwise agreed in writing with Suburban Rail Loop Authority, before development starts (including demolition and bulk excavation), a Demolition and Construction Management Plan must be submitted to the satisfaction of Suburban Rail Loop Authority. The Demolition and Construction Management Plan must include details of (but not be limited to) management proposals to minimise impacts to Suburban Rail Loop East and associated infrastructure during demolition and construction, and must set out objectives and performance and monitoring requirements for:
  - (a) the demolition and construction program;

- (b) any demolition, excavation or construction mitigation measures identified in the Engineering Report in accordance with Condition SC2 (Engineering Report).
  - (c) preferred arrangement for trucks delivering to the land, including delivery and unloading and expected duration and frequency;
  - (d) protection of infrastructure to ensure Suburban Rail Loop East and associated infrastructure is not damaged during demolition or construction;
  - (e) an outline of requests to occupy public footpaths or roads, Suburban Rail Loop Authority area land or anticipated disruptions to local services;
  - (f) management of drainage, effluent, material stockpiles, fencing and hoardings to ensure Suburban Rail Loop Authority area land or Suburban Rail Loop East and associated infrastructure is not used for, or impacted by these activities;
  - (g) measures to ensure that all works on the land will be carried out in accordance with the Demolition and Construction Management Plan.
- 41 All demolition and construction works must be carried out in accordance with the approved Demolition and Construction Management Plan. The Demolition and Construction Management Plan must be implemented at no cost to Suburban Rail Loop Authority.
- 42 Unless otherwise agreed in writing with Suburban Rail Loop Authority, the permit holder must ensure that no Suburban Rail Loop East infrastructure, assets or services are damaged or altered as a result of the development. Any damage must be rectified to the satisfaction of the Suburban Rail Loop Authority, at the full cost of the permit holder.
- 43 Any boreholes, geotechnical investigations or intrusive ground investigations must be first approved in writing by Suburban Rail Loop Authority. Any submission to Suburban Rail Loop Authority for approval must include, to the satisfaction of Suburban Rail Loop Authority, details of their location and depth, and the methods and management processes that will be adopted to avoid impacts to the Suburban Rail Loop structures.
- 44 All boreholes must be backfilled to the satisfaction of Suburban Rail Loop Authority using a grout bentonite mix (3% bentonite) or satisfactory equivalent and in accordance with Southern Rural Water (SRW) licence conditions.
- 45 Unless otherwise agreed in writing, the permit holder must give Suburban Rail Loop Authority at least 10 business days' notice of the expected date of commencement.



### **Completion of Buildings and Works**

- 46 Once the development has started it must be continued and completed, to the satisfaction of the Responsible Authority.

### **Permit Expiry**

- 47 This Permit will expire in accordance with section 68 of the Planning and Environment Act 1987, if one of the following circumstances applies:
- (a) The development has not started before two (2) years from the date of issue.
  - (b) The development is not completed before four (4) years from the date of issue.
  - (c) The use is not started before 4 years of this permit.

In accordance with Section 69 of the Planning and Environment Act 1987, the Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or:

- within six (6) months afterwards if the development has not commenced; or
- within twelve (12) months afterwards if the development has not been completed.

Council and the Victorian Civil and Administrative Tribunal are unable to approve requests outside of the relevant time frame.

**– End of conditions –**