

Moreland City Council

# COUNCIL AGENDA

## PLANNING AND RELATED MATTERS

WEDNESDAY 29 JANUARY 2020

COMMENCING 6.30 PM

COUNCIL CHAMBER, MORELAND CIVIC CENTRE,  
90 BELL STREET, COBURG

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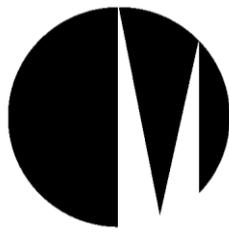
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**1. WELCOME**

**2. APOLOGIES**

Leave of absence has been granted to:

Cr. Abboud - 12 December 2019 to 10 February 2020 inclusive.

**3. DECLARATION OF INTERESTS AND/OR CONFLICTS OF INTERESTS**

**4. MINUTE CONFIRMATION**

The minutes of the Planning and Related Matters Meeting held on 18 December 2019 be confirmed.

**5. COUNCIL REPORTS**

**CITY FUTURES**

**DCF1/20      17 BAIRD STREET, FAWKNER - AMENDMENT TO PLANNING  
PERMIT MPS/2014/93 (D20/19265)**

**3**

**6. URGENT BUSINESS**

**DCF1/20 17 BAIRD STREET, FAWKNER - AMENDMENT TO PLANNING PERMIT MPS/2014/93 (D20/19265)**

**Director City Futures**

**City Development**

**Executive Summary**



<b>Property:</b>	17 Baird Street, Fawkner VIC 3060
<b>Approved permit allows:</b>	Buildings and works to construct additions to existing buildings (comprising of 10 classrooms, staff facilities and student amenities) including reduction of the car parking and bicycle requirements
<b>Proposal:</b>	<ul style="list-style-type: none"> <li>• Amend condition 3 of the planning permit to increase the maximum number of staff from:               <ul style="list-style-type: none"> <li>– Primary school - 71 staff</li> <li>– Secondary school - 40 staff</li> </ul>               to:               <ul style="list-style-type: none"> <li>– Primary school - 93 staff</li> <li>– Secondary school - 59 staff.</li> </ul> </li> <li>• Amend condition 4 of the planning permit to increase the maximum number of students from 970 to 1250.</li> <li>• Amend the permit preamble to remove the reference to a car parking reduction.</li> </ul>
<b>Zoning and Overlays:</b>	<ul style="list-style-type: none"> <li>• General Residential Zone Schedule 1 (GRZ1)</li> <li>• Development Contributions Plan Overlay (DCPO1)</li> <li>• Environmental Audit Overlay (EAO)</li> </ul>
<b>Objections:</b>	<ul style="list-style-type: none"> <li>• Three objections (two from the same address)</li> <li>• Key issues:               <ul style="list-style-type: none"> <li>– Traffic</li> <li>– Car parking</li> <li>– Impacts on education</li> </ul> </li> </ul>

<b>Key reasons for support</b>	<ul style="list-style-type: none"> <li>• Car parking is provided in excess of the requirements of the Moreland Planning Scheme</li> <li>• The Traffic Management Plan recommended by Condition 11 will ensure that traffic during the drop-off and pick-up periods will be effectively managed into the future</li> <li>• Condition 13 of the recommendation will require a commitment from the College to amend the Moreland Planning Scheme to manage any future growth of the College</li> <li>• The expansion of this non-government school is supported by the zone purpose. It is recognised that non-government schools play a significant role in the education of Victorian students</li> </ul>
<b>Recommendation:</b>	It is recommended that a Notice of Decision to Grant an Amended Planning Permit be issued

## Officer Recommendation

That a Notice of Decision to Amend Planning Permit No. MPS/2014/93/A be issued for buildings and works to construct additions to existing buildings (comprising of 10 classrooms, staff facilities and student amenities) including reduction of the bicycle requirements at 17 Baird Street, Fawkner, subject to the following conditions (**new and amended conditions are in bold**):

1. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
2. Prior to the commencement of the development a schedule of all proposed exterior decorations, materials, finishes and colours, including colour samples, must be submitted and approved by the Responsible Authority.

### Staff and Student Numbers

3. **The number of staff onsite must not exceed:**
  - **A maximum of 93 staff associated with the Primary School; and**
  - **A maximum of 59 staff associated with the Secondary School.**
4. **The total maximum number of students must not exceed 1,250.**

### Telecommunications

5. Prior to the occupation of the development all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land (including all existing and new buildings) must be underground to the satisfaction of the Responsible Authority.

### Stormwater and Legal Point of Discharge

6. Prior to the commencement of the development, a legal point of discharge is to be obtained, and where required, a stormwater drainage plan showing how the site will be drained from the property boundary to the stated point of discharge, must be submitted to and approved by the Responsible Authority.
7. All stormwater from the land, where it is not collected in rainwater tanks for re-use, must be collected by an underground pipe drain approved by and to the satisfaction of the Responsible Authority (Moreland City Council, City Infrastructure Department).

### Expiry

8. This permit will expire if one of the following circumstances applies:
  - a) the development is not commenced within two (2) years from the date of issue of this permit;
  - b) the development is not completed within four (4) years from the date of issue of this permit.

The Responsible Authority may extend the period 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.

### Amended Plans

9. **Prior to the increase in staff and student numbers allowed by Conditions 3 and 4 of this amended planning permit, 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 must be generally in accordance with the plans prepared by Design Core Architects Pty Ltd and endorsed on 7 June 2017 but modified to show:**
  - a) **40 bicycle parking spaces constructed to AS2890.3 (Bicycle Parking Racks).**
  - b) **Any details arising from the Traffic Management Plan required by Condition 11 of this permit.**
10. **Prior to the increase in staff and student numbers as allowed by Conditions 3 and 4 of this amended planning permit, the bicycle parking spaces as shown on the endorsed plan must be installed to the satisfaction of the Responsible Authority.**

### Traffic Management Plan

11. **Prior to the increase in staff and student numbers as allowed by Conditions 3 and 4 of this amended planning permit, a Traffic Management Plan (TMP) must be submitted to and approved by the Responsible Authority. The TMP must be prepared by a suitably qualified person and must include the following:**
  - a) **All current traffic management measures being undertaken onsite including staffing levels, designated drop-off/pick-up areas, staggered start/finish times, traffic movements within the site, signage and educational materials provided to staff/students/families.**
  - b) **All new traffic management measures that will be undertaken to ensure that the additional traffic generation resulting from the increased staff and student numbers will not unreasonably impact the surrounding road network and will not conflict with the Prayer Hall Management Plan registered on title.**

**When submitted and approved to the satisfaction of the Responsible Authority, the TMP and any associated notated plans will form part of this permit.**

12. **The vehicle traffic to the College must be managed in accordance with the recommendations contained within the approved Traffic Management Plan to the satisfaction of the Responsible Authority. The Traffic Management Plan endorsed under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.**

### Planning Scheme Amendment

13. **Prior to 30 April 2020, the land owner must submit a request to the Responsible Authority for an amendment to the Moreland Planning Scheme to guide the future expansion and operation of the College. The amendment request must be prepared in accordance with the relevant guidance from the Department of Environment, Land, Water and Planning website.**

### Prayer Hall

14. **The number of patrons allowed in the Prayer Hall must not exceed the amounts specified in Section 2 of the Prayer Hall Management Plan registered on title.**

**1. Background**

**Subject site**

The subject site is located at 17 Baird Street, Fawkner, on the north side of Roma Street, between William Street to the west and James Street to the east. The site contains a school known as Darul Ulum College of Victoria (the College) which caters for students from prep to year 12 and has a variety of buildings up to three storeys in height, outdoor play areas, car parking and a Prayer Hall. The site is located within the General Residential Zone (GRZ1) and has a total area of 24,530 square metres. Access to the school is currently available via Link Parade, Baird Street, Miller Street and Victory Street to the south of the site.

There is a Section 173 agreement registered on the Certificate of Title containing a Management Plan for the operations of the Prayer Hall, including operating hours and patron numbers.

**Surrounds**

The surrounding area has a mixed character of land uses and planning controls.

To the north of the site is John Fawkner College, located in a Public Use Zone (PUZ2).

To the east of the site is Evans Reserve, located in a Public Park and Recreation Zone (PPRZ) which includes open parkland and a scout hall. Council is currently undergoing a land swap with the College that will result in the western side of Evans Reserve becoming part of the College and 21-23 Marjory Street and 16-18 Victory Street (currently owned by the College) becoming part of the public reserve.

To the south of the site, land uses are typically residential. Miller Street divides this residential area between the General Residential Zone (west) and the Neighbourhood Residential Zone (east).

To the west of the site is C B Smith Reserve, located in the PPRZ.

A location plan forms **Attachment 1**.

**Planning Permit and other history**

Planning Permit MPS/2014/93 was issued on 4 February 2015. The original planning permit sought approval for the construction of an extension to the existing school building in the southwest corner of the site and an increase in staff and student numbers. This permit includes conditions that regulate student and staff numbers.

Minor amendments have followed the grant of this permit allowing for predominantly internal changes to the size and number of classrooms.

There are 19 other planning permits that have been issued for the site. Two of particular note are:

Proposal	Decision
MPS/2006/550 Buildings and works for an extension to the existing Place of Worship (used in conjunction with the existing education facility), including a roofed prayer hall, courtyard, two general purpose rooms, minaret, amenities block and a store room and a waiver of the standard car parking requirement.	Permit issued on 28 March 2007. The permit allowed for the waiver of 270 parking spaces for the extension to the prayer hall, acknowledging that that the prayer hall would be predominantly operating as an ancillary element to the school.

Proposal	Decision
MPS/2016/951 Alterations to the existing school car park and construction of internal fencing, in accordance with the endorsed plans	Permit issued 16 November 2017. This permit provided additional car parking along the southern perimeter of the school to address car parking and traffic congestion issues associated with the school and prayer hall.

In 2014, community complaints regarding car parking, traffic and general amenity in the local area of the College resulted in Council appointing a community working group and independent facilitator to explore potential responses to the concerns raised. Following the working group, a three-stage traffic and car parking plan was implemented, as per the decision of the 10 December 2014 Council meeting (DCI89/14). In response to the traffic issues identified in the area, the College entered into an agreement pursuant to Section 173 of the *Planning and Environment Act 1987* enabling a Management Plan for the operation of the prayer hall to be registered on title. The Management Plan limits the operating hours and patron numbers of the prayer hall. During school hours, the maximum number of patrons allowed in the prayer hall is 1230. The College has advised that only male students in Grades 4 and above use the prayer hall and students do not use the prayer hall at the same time as members of the community. As such, the proposed increase to student and staff numbers will not conflict with the maximum number of patrons allowed in the prayer hall. For clarity, a condition has been included in the recommendation restricting the number of patrons in the prayer hall not exceed the numbers outlined in the Prayer Hall Management Plan.

This application is reported to the Planning and Related Matters Council meeting at the request of the Group Manager City Development.

### The Proposal

The proposal seeks to amend Conditions 3 and 4 of the current planning permit to:

- Increase the maximum number of students from 970 to 1250
- Increase the maximum number of staff from:
  - Primary school - 71 staff
  - Secondary school - 40 staff

To:

- Primary school - 93 staff
- Secondary school - 59 staff

The application does not seek any additional buildings or works. The college has outlined that they can accommodate the additional students within the existing buildings.

### Statutory Controls – why was a planning permit originally required?

Control	Permit Requirement
Clause 32.08: General Residential Zone	A permit was required to construct a building or construct or carry out works for a use in Section 2 of Clause 32.08-1.
Clause 52.06 (Car Parking)	A permit was required to reduce the car parking requirement from 119 spaces to 111 spaces.
Clause 52.34 (Bicycle Facilities)	A permit was required to reduce the bicycle facility requirements.

The proposed amendments do not trigger any additional planning controls.

The following clauses of the Moreland Planning Scheme are relevant to the consideration of the proposal:

- Clause 22.02: Discretionary Uses in Residential Zones.
- Clause 52.06: Car Parking. Since the approval of Planning Permit MPS/2016/951 in 2017 which allowed works to increase the number of car parking spaces available at the College, the number of car parking spaces available exceeds the requirements of Clause 52.06-5, in regard to the proposed increase in student/staff numbers. Refer to Section 4 of the report.
- Clause 52.34: Bicycle Facilities. Subject to a condition, the application will meet the statutory requirement for bicycle facilities with respect to the additional staff and students. Refer to Section 4 of the report.

## 2. Internal/External Consultation

### Public notification

Notification of the application has been undertaken pursuant to Section 52 of the *Planning and Environment Act 1987* by:

- Sending notices to the owners and occupiers of adjoining and nearby land;
- Sending notices to the owners and occupiers of properties who objected to the previous applications; and,
- By placing four signs on the boundaries of the site.

Council has received three objections to date (two from the same address). A map identifying the location of objectors forms **Attachment 2**.

The issues raised in objections are:

- Traffic
- Car parking
- Educational impacts including classroom overcrowding, enrolment projections and the viability of public education

### Internal referrals

The proposal was referred to the following internal units:

Internal Unit	Comments
Development Engineer	No objections were offered to the proposal subject to a condition being included in the recommendation requiring a Traffic Management Plan to be submitted and endorsed as part of the permit. Refer to Section 4 of the report.

## 3. Policy Implications

### Planning Policy Framework (PPF)

The following State Planning Policies are of most relevance to this application:

- Clause 18: Transport
- Clause 19.02-2S: Educational Facilities
- Clause 19.02-3S: Cultural Facilities

## **Local Planning Policy Framework (LPPF)**

The following Key Strategic Statements of the Municipal Strategic Statement (MSS) and the following Local Planning Policies are of most relevance to this application:

Municipal Strategic Statement:

- Clause 21.01 Municipal Profile
- Clause 21.02 Vision

Local Planning Policies:

- Clause 22.02 Discretionary Uses in Residential Zones

## **Human Rights Consideration**

This application has been assessed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Moreland Planning Scheme) reviewed by the State Government and the Victorian Charter of *Human Rights and Responsibilities Act 2006*. In particular, regard was given to:

- Section 14: Freedom of thought, conscience, religion and belief
- Section 15: Freedom of expression
- Section 16: Peaceful assembly and freedom of association
- Section 17: Protection of families and children
- Section 18: Taking part in public life
- Section 19: Cultural rights

The application does not limit human rights, but rather supports the cultural and religious rights of the College community.

## **4. Issues**

In considering this application, regard has been given to the State and Local Planning Policy frameworks, the provisions of the Moreland Planning Scheme, objections received and the merits of the application.

### **Does the proposal enjoy strategic policy support?**

The importance of education is recognised within the Planning Policy Frameworks, including Clause 19.02-2S (Education facilities). It is acknowledged that non-government schools play a significant role in the education of Victorian children. This support needs to be balanced against the sites proximity to public and active transport routes, local amenity and the orderly planning of the area.

### **Has adequate car parking been provided?**

Pursuant to Clause 52.06-5 of the Moreland Planning Scheme, a total of 163 car parking spaces are required for the College, based on the proposed number of staff. The College currently has 169 car parking spaces on site, as per the alterations to the car park approved by Planning Permit MPS/2016/951 in 2017. The proposed increase in students and staff satisfies the Moreland Planning Scheme with respect to the provision of car parking.

The application was referred to Council’s Development Engineer who undertook site inspections of the College during school drop-off times and Friday afternoon prayer. It was observed that peak car parking demand at the College occurs during the morning drop-off and afternoon pick-up as well as at Friday afternoon prayer time. On Friday afternoons between approximately 12.30 pm and 2.10 pm, the car park fills to capacity in preparation for prayer. After prayer finishes, the car park empties by 2:30pm, well before school pick-up times (which peak between 3.30 pm and 4 pm). Outside of these peak periods car parking at the College is generally at 30 per cent capacity. Given these observations, and that the College has enough car parking spaces to meet the statutory car parking requirement for the school, it is considered that adequate car parking has been provided to meet both the needs of the College and the Prayer Hall.

**Has adequate bicycle parking been provided?**

Pursuant to Clause 52.34 (Bicycle Facilities) of the Moreland Planning Scheme, a planning permit is required to vary, reduce or waive the requirements of Clause 52.34-5. In applying this requirement, only the additional number of students and staff can be considered. The table below outlines the statutory bicycle parking requirement of the planning scheme:

User	Additional number of students/staff	Bicycle Parking Requirement
Primary school staff	22	1
Secondary school staff	19	1
Students (over year 4)	193	38
<b>Total number of bicycle spaces required</b>		<b>40</b>

The College has outlined within their application that they would be amenable to a condition being included in the recommendation requiring additional bicycle racks being provided on site. A condition of the recommendation requires amended plans to illustrate compliance with the statutory requirement.

**What impact does the proposal have on traffic in the local area?**

Council’s Development Engineers have assessed the proposal, including site visits and a review of the current site conditions and traffic management strategies. Council’s Development Engineers observed good traffic management practices at the College in the morning drop-off and afternoon pick-up peak times. These traffic management practices are not regulated by the existing planning permit, but rather are managed at the direction of the College. It is considered that the additional staff and student numbers can be accommodated, provided that these traffic management practices are continued. As such, a condition has been included in the recommendation requiring a Traffic Management Plan to be submitted and endorsed. The following comments on the application were made by Council’s Development Engineer:

- During the peak drop-off/pick-up times, traffic into the school is mainly accommodated by Baird Street and Link Parade with vehicles leaving the school exiting along Miller Street. Traffic flow through the car park at these times is assisted by at least two staff to ensure a continuous flow of traffic.
- The College have incorporated designated drop-off and pick-up areas within the carpark which were observed to be utilised in good effect.
- The traffic and car parking demand generated by the Prayer Hall does not overlap with the College’s start and finish times. The College has outlined that Friday afternoon prayer occurs between 1.30 pm and 2.15 pm (daylight savings/summer time) or between 12.30 pm and 1.15 pm (winter).

### **How will the expansion of the school be managed into the future?**

While the College has confirmed that the current proposal for additional students will be accommodated within existing buildings, it is apparent that the College will continue to expand into the future. Notably, Council is currently finalising a land swap with the College that will allow for the College to be expanded east into the area currently occupied by Evans Reserve. The land swap was proposed at a public forum which consisted of Council Officers, a former Councillor, representatives from the College, a private facilitator and local residents which was held in September/October 2013. There is a current subdivision application (SP/2019/274) before Council in preparation for the land swap.

In response to Clause 22.02 (Discretionary Uses in Residential Zones) of the Moreland Planning Scheme, the College submitted a Draft Master Plan outlining how the school intends to manage its future expansion. The Draft Master Plan forms **Attachment 3**.

Stage 1 of the draft Master Plan involves the construction of a new car park at 21-25 Elizabeth Street. Part of this car park has been constructed without the benefit of a planning permit. The College has agreed to rectify this non-compliance via the lodgement of a planning application by April 2020. As this car park is not required to satisfy the statutory requirements of the Moreland Planning Scheme, a condition requiring the submission of this application has not been included in the recommendation. The draft Master Plan does not propose any changes to the Prayer Hall which is managed by the existing Prayer Hall Management Plan that is registered on title.

To ensure that the growth of the College is appropriately planned into the future, it is recommended that the College commit to an amendment to the Moreland Planning Scheme. This will allow consideration of the future expansion of the College as proposed in the draft Master Plan. The amendment process also allows for community input and consultation. A condition has been included in the recommendation requiring the College to submit a request to amend the Moreland Planning Scheme, prior to 30 April 2020.

### **Is the site potentially contaminated?**

The site is affected by an Environmental Audit Overlay. It specifies:

*Before a sensitive use (residential use, child care centre, pre-school centre or primary school) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, either:*

- *A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or*
- *An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.*

The site has a Statement of Environmental Audit issued 19 November 2003 registered under the address 1 Roma Street. The Statement of Environmental Audit confirms that the land is suitable for the use as a school.

## **5. Response to Objector Concerns**

The following issues raised by objectors are addressed in Section 4 of this report:

- Car parking
- Traffic

Other issues raised by objectors are addressed below.

## **Educational impacts**

A key issue raised in the objections was the impact of the increased student numbers on education, both at Darul Ulum College and on other nearby schools, including John Fawcner College. These concerns related to classroom overcrowding, enrolment projections and the viability of public education. Classroom size is legislated by the *National Construction Code* (2016) and requires 2 square metres per student. A general sized classroom of 60 square metres can therefore accommodate 30 students. The College has a number of classroom sizes available, catering for full sized and half size classes. The number of students available in a class is controlled by College policy at 28 students per class. These concerns are beyond the scope of the Moreland Planning Scheme and cannot be considered as part of the assessment of the application. The application was advertised to the Minister of Education during public notice who did not object.

## **6. Officer Declaration of Conflict of Interest**

Council Officers involved in the preparation of this report do not have a conflict of interest in this matter.

## **7. Financial and Resources Implications**

There are no financial or resource implications.

## **8. Conclusion**

Subject to conditions, it is considered that the proposed increase in staff and student numbers is acceptable. The existing car parking spaces exceed the statutory car parking requirement. The conditions included in the recommendation will ensure that the increased staff and student numbers do not have unreasonable impacts on the amenity or traffic conditions of the surrounding neighbourhood or conflict with the Prayer Hall Management Plan as registered on Title.

On the balance of policies and controls within the Moreland Planning Scheme and the objections received, it is considered that a Notice of Decision to Grant an Amended Planning Permit No MPS/2014/93/B should be issued for 'Buildings and works to construct additions to existing buildings (comprising of 10 classrooms, staff facilities and student amenities) including reduction of the bicycle requirements' subject to the conditions included in the recommendation of this report, including:

- Permit pre-amble amended to remove the reference to a car parking reduction
- Amendment to Condition 3 to reflect the increased staff numbers
- Amendment to Condition 4 to reflect the increased student numbers
- Addition of Condition 9, requiring 40 additional bicycle spaces
- Addition of Condition 10 requiring the bicycle spaces to be installed
- Addition of Condition 11 requiring a Traffic Management Plan
- Addition of Condition 12 requiring the Traffic Management Plan to be complied with
- Addition of Condition 13 requiring a commitment to amend the Moreland Planning Scheme
- Addition of Condition 14 outlining that the number of patrons allowed in the Prayer Hall is managed by the Prayer Hall Management Plan.

## **Attachment/s**

<a href="#">1</a> ↓	Location and Zoning Map	D20/22210
<a href="#">2</a> ↓	Objector Location Map	D20/22211
<a href="#">3</a> ↓	Draft Master Plan	D20/22212