



Moreland
City Council

COUNCIL AGENDA

PLANNING AND RELATED MATTERS

Wednesday 23 March 2022

Commencing 6.30 pm

Council Chamber, Moreland Civic Centre, 90 Bell Street, Coburg

Language Link

This is the Agenda for the Council meeting.
For assistance with any of the agenda items,
please telephone 9240 1111.

這是市政會議的議程。您若在理解議程中有需要協助的地方，請打電話給“語言連接 (Language Link)”翻譯服務，號碼9280 1910。

Questo è l'ordine del giorno per la Riunione del consiglio Comunale. Se hai bisogno di aiuto sugli argomenti in discussione, sei pregato di telefonare al Language Link al numero 9280 1911.

Αυτή είναι η Ημερήσια Διάταξη για τη Συνεδρίαση του Συμβουλίου (Council Meeting). Για βοήθεια με οποιοδήποτε από τα θέματα της ημερήσιας διάταξης, παρακαλείστε να τηλεφωνήσετε στο Γλωσσικό Σύστημα (Language Link), στο 9280 1912.

هذا هو جدول أعمال اجتماع المجلس البلدي. للمساعدة بأي بند من بنود جدول الأعمال الرجاء الاتصال بخط Language Link على الرقم 9280 1913.

Belediye Meclisi Toplantısının gündem maddeleri burada verilmiştir. Bu gündem maddeleri ile ilgili yardıma ihtiyacınız olursa, 9280 1914 numaralı telefondan Language Link tercüme hattını arayınız.

Đây là Nghị Trình cuộc họp của Ủy Ban Quy Hoạch Đô Thị. Nếu muốn biết thêm chi tiết về đề tài thảo luận, xin gọi điện thoại cho Language Link qua số 9280 1915.

यह काउंसिल की बैठक का कार्यक्रम है। कार्यक्रम के किसी भी विषय के बारे में सहायता के लिए कृपया 9280 1918 पर फोन कीजिए।

这是市政府例会的议题安排，如果需要协助了解任何议题内容，请拨打9280 0750。

ਇਹ ਕੌਂਸਲ ਦੀ ਮੀਟਿੰਗ ਦਾ ਏਜੰਡਾ ਹੈ।
ਏਜੰਡੇ ਦੀ ਕਿਸੇ ਆਈਟਮ ਬਾਰੇ ਮਦਦ ਲਈ,
ਕ੍ਰਿਪਾ ਕਰਕੇ 9280 0751 ਤੇ ਟੈਲੀਫੋਨ ਕਰੋ।

Acknowledgement of the traditional custodians of the City of Moreland

Moreland City Council acknowledges the Wurundjeri Woi Wurrung people as the Traditional Custodians of the lands and waterways in the area now known as Moreland, and pays respect to their elders past, present, and emerging, as well as to all First Nations communities who significantly contribute to the life of the area.

- 1. WELCOME**
- 2. APOLOGIES**
- 3. DISCLOSURES OF CONFLICTS OF INTEREST**
- 4. MINUTE CONFIRMATION**

The minutes of the Planning and Related Matters Meeting held on 23 February 2022 be confirmed.

5. COUNCIL REPORTS

- | | | |
|-----|--|-----|
| 5.1 | 5-9 BRUNSWICK ROAD, BRUNSWICK EAST - PLANNING APPLICATION MPS/2019/546 | 4 |
| 5.2 | 52 HOLMES STREET, BRUNSWICK EAST - MPS/2020/427 | 77 |
| 5.3 | 8 ARNOLD STREET, BRUNSWICK EAST - PLANNING APPLICATION - MPS/2021/115 | 128 |

6. URGENT BUSINESS

5. COUNCIL REPORTS

5.1 5-9 BRUNSWICK ROAD, BRUNSWICK EAST - PLANNING APPLICATION MPS/2019/546

Director Place and Environment Joseph Tabacco

City Development

Executive Summary



Property:	5-9 Brunswick Road, BRUNSWICK EAST VIC 3057			
Proposal:	Construction of a multi-storey mixed use building with associated basement car parking containing office and food and drink premise, use of the land for dwellings, reduction of the statutory car parking requirements and alteration to access in a Transport Zone 2			
Zoning and Overlay/s:	<ul style="list-style-type: none">• Commercial 1 Zone• Design and Development Overlay Schedule 22• Parking Overlay Schedule 1• Environmental Audit Overlay• Development Contributions Plan Overlay			
Strategic setting:	Minimal housing growth	Incremental housing growth	Increased house densities encouraged	Significant housing growth
Objections:	34 objections, who raised the following key issues: <ul style="list-style-type: none">• Amenity impacts (loss of daylight, overshadowing and overlooking)• Car parking and traffic impacts• Visual bulk and setbacks			
Planning Information and Discussion (PID) Meeting:	<ul style="list-style-type: none">• Date: 8 February 2022• Attendees: 6 objectors, the applicant and 2 Council officers.• No changes were agreed to, however the meeting provided an opportunity for the objectors concerns to be discussed and helped inform the preparation of this report			
ESD:	<ul style="list-style-type: none">• BESS score of 60%• Minimum average NatHERS rating of 6.7 stars			
Key reasons for support	<ul style="list-style-type: none">• High quality architectural response.• External amenity impacts adequately managed• Good standard of amenity for future residents• Adheres to the guidance offered by the previous VCAT decision			
Recommendation:	Notice of Decision to Grant a Planning Permit be issued for the proposal.			

Officer Recommendation

That a Notice of Decision to Grant a Planning Permit No. MPS/2019/546 be issued for the construction of a multi-storey mixed use building with associated basement car parking containing office and food and drink premise, use of the land for dwellings, reduction of the statutory car parking requirements and alteration to access in a Transport Zone 2 at 5-9 Brunswick Road, BRUNSWICK EAST VIC 3057, subject to the following conditions:

Amended Plans

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans advertised 17 November 2021 but modified to show:
 - a) Screening to the eastern side of the balcony of Apartments 502 and 601 to avoid direct views into habitable room windows and private open space of existing dwellings in accordance with Standard D14 (Building Setback) at Clause 58.04-1. The screening should be to 1.7 metres above finished floor level and use vertical louvres with 45 degree tilt and be no more than 25 per cent permeable.
 - b) A screen diagram drawn at a scale of 1:50 which must include:
 - a) All dimensions, including the width of slats and the gap between slats.
 - ii. All side screens
 - iii. How compliance is achieved with the standard of Clause 55.04-6 (overlooking) of the Moreland Planning Scheme.
 - c) Deletion of the balcony on the eastern side of Apartment 103, to create a non-trafficable roof to ensure there is a minimum 3.0 metre boundary setback.
 - d) The deletion of the sliding door to Apartment 103, bedrooms as a consequence of condition 1c.
 - e) Details of screening to the balconies to limit internal views in accordance with Standard D15 (Internal Views) and Condition 1b.
 - f) At least 20 per cent of the bicycle parking devices designed to park bicycles horizontally (ie 1.8m long) in accordance with the Australian Standard for Bicycle Parking (AS2890.3).
 - g) Each bicycle parking devices dimensioned with all spaces 500mm wide and the horizontal and vertical bicycle spaces 1800mm and 1200mm long respectively, with every space accessed from a 1500mm wide access aisle as required by the Australian Standard for Parking Facilities – Bicycle Parking (AS2890.3).
 - h) The lifts are large enough to easily accommodate two cyclists with bikes plus other passengers.
 - i) Any level difference between the development and the public footpath made up using ramps or steps within the site, and a note that the levels of the footpath must not be altered.
 - j) Modifications to the verandah/ canopy over the footpath on Brunswick Road so that it is setback minimum 750mm from the kerb and constructed at a height of minimum 3m above the level of the footpath.
 - k) The Environmentally Sustainable Design initiatives that are required to be shown on plans, as contained within Condition 6 of this permit.
 - l) Any changes to the plans arising from the:
 - i. Landscape Plan in accordance with Condition 3 of this permit.
 - ii. Accessibility Report in accordance with Condition 10 of this permit.

- iii. Acoustic Report in accordance with Condition 12 of this permit.
- iv. Waste Management Plan in accordance with Condition 15 of this permit.
- m) The crossover and driveway in accordance with condition 41 (Department of Transport) of this permit.

Compliance with Endorsed Plans

- 2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority. This does not apply to any exemption specified in Clauses 62.02-1 and 62.02-2 of the Moreland Planning Scheme unless specifically noted as a permit condition.

Landscaping

- 3. Prior to the endorsement of plans, an amended landscape plan must be submitted to the Responsible Authority. The landscape plan must be generally in accordance with the plans advertised 6 May 2020 but amended to show:
 - a) Any changes required to align with the plans for endorsement.
 - b) The *Corymbia ficifolia* on the roof terrace replaced with *Gleditsia tricanthos* or a similar species.
 - c) A schedule that identifies the size of the canopy cover of proposed trees, climbers, planters, green roofs or green facades to satisfy Standard D10 of Clause 58.03-5.
 - d) Details of all planter boxes, above basement planting areas, green walls, rooftop gardens and similar, including:
 - i. Soil volume sufficient for the proposed vegetation
 - ii. Soil mix
 - iii. Drainage design
 - iv. Details of an automatic irrigation system, including maintenance program and responsibility for maintenance.

When submitted and approved to the satisfaction of the Responsible Authority, the landscape plan will be endorsed to form part of this permit. No alterations to the plan may occur without the written consent of the Responsible Authority.

- 4. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all landscaping works, including installation of automatic irrigation, must be completed in accordance with the endorsed landscape plan to the satisfaction of the Responsible Authority.
- 5. All landscaping and irrigation systems must be maintained to the satisfaction of the Responsible Authority in accordance with the endorsed landscape plans. Any dead, diseased or damaged plants must be replaced with a suitable species to the satisfaction of the Responsible Authority.

Environmentally Sustainable Design (ESD)

- 6. Prior to the endorsement of plans, 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. The plans must be generally in accordance with the plans received 27/09/2021 by SBE Version 8 but modified to show:
 - a) Amend the BESS report (and any other corresponding documentation to BESS IEQ Ventilation 2.1 to match the changes to operable windows required by Condition 6c-ii.

- b) A STORM report and stormwater management response that maintains a minimum STORM score of 100 per cent but is modified so that:
 - i. Water tank reliability is a minimum of 80 per cent
 - ii. The water tank size is updated in STORM, the SMP, BESS and on the plans.
 - iii. An updated WSUD plan using the roof plan including balconies and roof gardens, not the ground floor plan.
 - iv. Information on how the stormwater collected from trafficable areas will be filtered so it is suitable to be used for toilet flushing.
- c) Show the following ESD initiatives on the development plans:
 - i. Clearly draw and label the individual solar panels to show the 30KW system can fit without overshadowing.
 - ii. Additional operable living area windows for Apt. 104, 203, 204, 303, 304, 403, 404, 501, 504 and 506 to be improve cross ventilation.
 - iii. The correctly sized tank and any changes required by Condition 6b.
 - iv. Details on how the stormwater collected from trafficable areas will be filtered so it is suitable to be used for toilet flushing with the equipment to be clearly drawn and labelled on the plans.
 - v. Annotate the EV carparks.
 - vi. Details and the location of the composting system on the roof.
 - vii. Location of all the taps and floor waste to all balconies and courtyards.

Where alternative ESD initiatives are proposed to those specified in the conditions above, 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 Sustainability Management Plan and associated notated plans will be endorsed to form part of this permit. No alterations to the plan may occur without the written consent of the Responsible Authority.

- 7. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, the development must be constructed in accordance with the Sustainable Design Assessment (including any BESS and STORM reports and NatHERS Ratings) to the satisfaction of the Responsible Authority.
- 8. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, a report from the author of the Sustainability Management Plan (SMP) 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 (with documented evidence) that all measures specified in the SMP have been implemented in accordance with the approved plan.
- 9. All stormwater treatment devices (e.g. raingardens, rainwater tanks etc.) must be maintained to the satisfaction of the Responsible Authority to ensure water quality discharged from the site complies with the performance standard in the endorsed Sustainability Management Plan.

Accessibility

- 10. Prior to the endorsement of plans, an Accessibility Report prepared by a suitably qualified person must be submitted to the satisfaction of the Responsible Authority. The report must:
 - a) Align with the plans for endorsement

- b) Detail how the development will incorporate design features in accordance with Standard D17 (Accessibility) of Clause 58 of the Moreland Planning Scheme, including the detailed design of the adaptable bathrooms (e.g. confirmation of hobless showers and removable hinges to doors).

When submitted and approved to the satisfaction of the Responsible Authority, the Accessibility Report will be endorsed to form part of this permit. No alterations to the plan may occur without the written consent of the Responsible Authority. The recommendations of the report must be implemented to the satisfaction of the Responsible Authority prior to the occupation of the development.

- 11. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, a report from the author of the Accessibility Report, 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 Accessibility Report have been implemented in accordance with the approved report.

Acoustic Attenuation

- 12. Prior to the endorsement of plans, an Acoustic Report prepared by a qualified Acoustic Engineer must be submitted to the satisfaction of the Responsible Authority. The Report must:

- a) Align with the plans for endorsement.
- b) Recommendations of acoustic attenuation measures to be incorporated into the proposed development to minimise the impact of noise from the lift on the adjoining bedrooms.
- c) Recommendations of acoustic attenuation measures incorporated into the proposed development to minimise the impact of noise from adjoining businesses and traffic on the dwellings.

When submitted and approved to the satisfaction of the Responsible Authority, the Acoustic Report will be endorsed to form part of this permit. No alterations to the Acoustic Report may occur without the written consent of the Responsible Authority.

- 13. The building must be constructed and thereafter maintained in accordance with the recommendations contained within the approved Acoustic Report to the satisfaction of the Responsible Authority, unless with the further written approval of the Responsible Authority.
- 14. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, a report from the author of the Acoustic Report 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 Acoustic Report have been implemented in accordance with the approved Acoustic Report.

Waste Management

- 15. Prior to the endorsement of plans, an amended Waste Management Plan (WMP) must be submitted to the satisfaction of the Responsible Authority. The plan must be generally in accordance with the report advertised 6 May 2020 but modified to:

- a) Align with the plans for endorsement

When submitted and approved to the satisfaction of the Responsible Authority, the WMP will be endorsed to form part of this permit. No alterations to the WMP may occur without the written consent of the Responsible Authority.

- 16. The Waste Management Plan approved 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.

Environmental Audit

17. Before the construction or carrying out of buildings and works, or where no buildings and works are proposed, prior to the commencement of the permitted use or the issue of a statement of compliance under the *Subdivision Act 1988* (whichever is earlier), the owner(s) must provide:
 - a) a preliminary risk screen assessment statement in accordance with the *Environment Protection Act 2017* stating that an environmental audit is not required for the use or, if this permit authorises the construction or carrying out of buildings or works, is not required for the use for which the buildings or works are constructed or carried out; or
 - b) an environmental audit statement under Part 8.3 of the *Environment Protection Act 2017* must be issued stating that the land is suitable for the use or, if this permit authorises the construction or carrying out of buildings or works, is suitable for the use for which the buildings or works are constructed or carried out; or
 - c) an environmental audit statement under Part 8.3 of the *Environment Protection Act 2017* stating that the land is suitable for the use or, if this permit authorises the construction or carrying out of buildings or works, is suitable for the use for which the buildings or works are constructed or carried out, if the recommendations made in the statement are complied with.
18. Where an environmental audit statement is issued for the land, and any recommendation of that environmental audit statement requires any maintenance and/or monitoring of an ongoing nature, the Responsible Authority may require the Owner(s) to enter into an Agreement with the Responsible Authority pursuant to Section 173 of the *Planning and Environment Act 1987* that provides for the undertaking of the ongoing maintenance and/or monitoring as required by the environmental audit statement.
19. Where a Section 173 Agreement is required, the Agreement must be executed prior to the commencement of the permitted use, the issue of an Occupancy Permit under the *Building Act 1993* or the issue of a Statement of Compliance under the *Subdivision Act 1988* (whichever occurs first). 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).
20. Prior to any remediation works (if required) being undertaken in association with the environmental audit, a 'remediation works' plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must detail all excavation works as well as any proposed structures such as retaining walls required to facilitate the remediation works. Only those works detailed in the approved remediation works plan are permitted to be carried out prior to the issue of an environmental audit statement.
21. No works to construct the development hereby approved shall be carried out on the land and no building contract to construct the development hereby approved may be entered into, other than in accordance with a building contract that stipulates that works must not be commenced until such time as Conditions 17, 18 and 19 of this permit are satisfied.
22. Prior to commencement of the use, the issue of an Occupancy Permit under the *Building Act 1993* or the issue of a Statement of Compliance under the *Subdivision Act 1988* (whichever occurs first), written confirmation of compliance with all the recommendations of the environmental audit statement must be provided by an environmental auditor appointed under the *Environment Protection Act 2017*, including confirming that any requirements in the environmental audit statement recommendations regarding verification of works have been complied with. All the recommendations of the environmental audit statement must be complied with to the satisfaction of the Responsible Authority.

3D model

23. Prior to the commencement of the development, a 3D digital model of the approved development which is compatible for use on Council's Virtual Moreland tools and software for Council and community must be submitted to the satisfaction of the Responsible Authority. The model should be prepared in accordance with Moreland City Council's 3D model submission guidelines. A copy of the 3D model submission guidelines and further information on the Virtual Moreland Project can be found at <https://www.moreland.vic.gov.au/planning-building/3D-Guidelines/>. In the event that substantial modifications to the building envelope are approved under an amendment to this planning permit, a revised 3D digital model must be submitted to, and be to the satisfaction of the Responsible Authority.

Development Contributions

24. 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. The Development Infrastructure Levy is charged per 100 square metres of leasable floor space.

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:

- a) a maximum of 12 months from the date of issue of the Building Permit; or
- b) 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 Works Plan

25. Prior to the commencement of the development, a Public Works Plan and associated construction drawing specifications detailing the works to the land along Holmes Street directly in front of the site must be submitted to the satisfaction of the Responsible Authority. The Plan must include:
- a) All construction details in accordance with the Moreland City Council Technical Notes July 2019 (or any updated version).
 - b) A detailed level and feature survey of the footpaths and roads.
 - c) The upgrade of the footpath adjacent to the site. Public footpaths are to be reinstated to the previous levels with a maximum cross fall slope of 1 in 40 (2.5 per cent).
 - d) Any Council or service authority pole or pit within 1 metre of the proposed vehicle crossing, including the splays on the crossings, relocated or modified.
 - e) For any vehicle crossing not being used, the kerb, channel and footpath reinstated in accordance with condition 24 of this permit
 - f) Any necessary parking signs, in consultation with the Responsible Authority.
 - g) Any necessary drainage works.
 - h) The installation of bike hoops in consultation with the Responsible Authority.
 - i) The provision of four *Waterhousia floribunda* street trees in tree pits along the Brunswick Road frontage in appropriate locations in consultation with the Responsible Authority (Open Space Department).
 - j) Any other works to the public land adjacent to the development.

When submitted and approved to the satisfaction of the Responsible Authority, the Public Works Plan will be endorsed to form part of the permit. No alterations to the Public Works Plan may occur without the written consent of the Responsible Authority.

26. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all public works shown on the endorsed public works plan must be implemented to the satisfaction of the Responsible Authority at the expense of the owner of the land, unless otherwise agreed with prior written consent of the Responsible Authority

Engineering Matters

27. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority (Moreland City Council, City Infrastructure Department).
28. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, access to the site, any vehicle crossover and any ancillary road and road drainage works must be constructed in accordance with any requirement of the Responsible Authority (Moreland City Council, City Infrastructure Department).
29. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, 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.
30. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, the car park entry gate must be automatic and remote controlled.
31. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, bicycle signage that directs the cyclists to the bicycle facilities must be provided to the satisfaction of the Responsible Authority. Bicycle signage should be at least 0.3 metres wide and 0.45 metres high; display a white bicycle on a blue background on the top half of the sign and display information about the direction of facilities on the bottom half of the sign.

Stormwater

32. 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 (Note: Please contact Moreland City Council, City Infrastructure Department)
33. The surface of all balconies are to be sloped to collect the stormwater run-off into stormwater drainage pipes that connect into the underground drainage system of the development to the satisfaction of the Responsible Authority.
34. Stormwater from the land must not be directed to the surface of the right-of-way to the satisfaction of the Responsible Authority.

Car Parking

35. The area set aside for the parking of vehicles and access lanes shown on the endorsed plan must, to the satisfaction of the Responsible Authority:
 - a) Be completed prior to issue of an Occupancy Permit or issue of a Statement of Compliance, whichever occurs first.
 - b) Be maintained.
 - c) Be properly formed to such levels that it can be used according to the endorsed plan.

- d) Have the boundaries of all vehicle parking spaces clearly marked on the ground to accord with the endorsed plan.
- e) Not be used for any other purpose other than the parking of vehicles, unless with the prior written consent of the Responsible Authority.
- f) Be numbered to facilitate management of the car park.

General

- 36. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.
- 37. Unless with the prior written consent of the Responsible Authority, any plumbing pipe, ducting and plant equipment must be concealed from external views. This does not include external guttering or associated rainwater down pipes.
- 38. The shopfront window must not be painted or blocked out in any way to the satisfaction of the Responsible Authority.
- 39. All lighting of external areas must be designed not to emit direct light onto adjoining property to the satisfaction of the Responsible Authority.

Privacy screens to be installed and maintained

- 40. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes 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.

Department of Transport Conditions

- 41. The crossover and driveway is to be constructed to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria prior to the occupation of the buildings hereby approved.
- 42. All access to and from the site must be restricted to left in-left out movements only.

Permit Expiry

- 43. This permit will expire if one of the following circumstances applies:
 - a) the development is not commenced within three (3) years from the date of issue of this permit;
 - b) the development is not completed within five (5) 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.

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

Note 1: This permit contains a condition requiring payment of Development Contributions. The applicable development contribution levies are indexed annually. To calculate the approximate once off levy amount, please visit <http://www.moreland.vic.gov.au/planning-building/> and click on '[Moreland Development Contributions Plan \(DCP\)](#)'. Alternatively, please contact Moreland City Council on 9240 1111 and ask to speak to the DCP Officer.

Note 2: Should Council impose car parking restrictions in this street, the owners and/or

occupiers of the dwellings would not be eligible for resident parking permits to park on the street. Occupiers are eligible for the resident A parking permit which only permits parking in limited areas. The resident parking permits and Resident A parking permit are subject to future reviews and change. See Council's website for more information:

<https://www.moreland.vic.gov.au/parking-roads/parking-permits/residential-parking-permits/>

Note 3: Moreland City Council is committed to increasing the amount of affordable housing in the municipality. One way to do this, is through Homes for Homes, a social enterprise founded by the Big Issue that aims to raise new funds via voluntary tax-deductible donations on property transactions and invest those funds in building and managing new social and affordable dwellings. If you would like to help build homes for those in need, visit [Homes for Homes](#) and register your commitment to donate 0.1 per cent of the sale price of your dwelling(s).

Note 4: Separate consent may be required for construction works within the road reserve associated with this Planning Permit under the *Road Management Act 2004*. Please contact the Department prior to commencing any works.

Note 5: Contact needs to be made with CitiPower to determine whether CitiPower will require the power lines to be relocated away from the dwellings.

Note 6: Environmental Audit Notes

- 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 5 business days of issue, in accordance with Section 210 of the *Environment Protection Act 2017* (Vic).
- 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*.

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.

1. Background

Subject site

The site is located to the north side of Brunswick Road in Brunswick East, has a frontage of approximately 26 metres, a depth of 45.2 metres and a total site area of approximately 1,187 square metres. The site is not affected by any easements or restrictive covenants.

The site is occupied by a single storey dwelling at 5 Brunswick Road, and a two-storey commercial building at 7 – 9 Brunswick Road.

Surrounds

The site is situated in a mixed use area. Surrounding built form ranges from modern medium density developments to a mixture of single and double storey older buildings dispersed throughout the streetscape.

North

To the north, the site adjoins multiple properties located at 4 – 6, 8 and 12 Barkly Street. 4 – 6 Barkly Street is occupied by a part two and part three storey commercial building. 8 Barkly Street contains a three-storey building with office and car parking on ground level and dwellings above. 12 Barkly Street is occupied by a single storey warehouse building built to the boundaries.

East

To the east at 1-3 Brunswick Road is a seven-storey building comprising of offices on lower levels and dwellings above. Many of these neighbouring dwellings have their primary outlook towards the subject site.

West

The site to the west at 11- 15 Brunswick Road is a nine-storey building over three basement levels containing commercial on ground level and dwellings above. Many of the dwellings have their primary outlook towards the subject site.

South

Opposite the site on the south side of Brunswick Road, are double storey buildings used for commercial purposes and single storey dwellings, some of which are included in a Heritage Overlay.

A location plan forms **Attachment 1**.

The Proposal

The proposal is summarised as follows:

- Construction of a seven-storey building with an overall height of 22.6 metres (exclusive of lift overrun, roof services and roof terrace balustrade). Details of the development are as follows:
 - Two levels of basement car parking containing 49 car parking spaces.
 - An office and a food and drink premises at ground floor.
 - A total of 34 dwellings provided on the upper levels.
 - Communal facilities include a residential lounge/gym and two communal open space areas.
- Vehicle access and pedestrian access proposed from Brunswick Road.

The development plans form **Attachment 2**.

Amendment to Planning Application

To address Council's and objector's concerns, amended plans were submitted pursuant to Section 57A of the *Planning and Environment Act 1987* on 23 September 2021 and included the following changes:

- Reduction in the total number of dwellings from 37 to 34.
- Increase to the eastern side setbacks from 6.84 metres to 7.71 metres.
- Improvements relating to daylight levels to the apartments and ventilation to the corridors
- Internal layout changes to apartments.

Council decided to approve accept the amendment to the application.

Planning Permit and Site History

Planning application MPS/2017/6 was lodged with Council on 4 January 2017 seeking approval for the construction of a nine storey building above three levels of basement car parking containing food and drink premises, gymnasium and 59 dwellings.

Council raised concerns with the proposal and issued a refusal. The following were the key concerns:

- Insufficient commercial floor space at ground and first floor.
- Proposal did not achieve high quality design.
- Adverse amenity impacts to dwellings at 1 - 3 Brunswick Road.
- Poor internal amenity.
- Failed to achieve best practice in environmentally sustainable design (ESD).
- Poor activation to Brunswick Road.
- Absence of deep soil planting for canopy trees.

A VCAT review affirmed Council's decision. In *Paragon 23 Pty Ltd v Moreland CC [2018] VCAT 1234 (16 August 2018)* (the 'previous VCAT decision'), the Tribunal commented:

"...we are not persuaded that the building does achieve an acceptable outcome ... Whilst we agree with Council's submission that the extent of Mr Negri's changes are evidence that the proposal is not an exemplary architectural design, we have identified an even greater list of shortcomings which rule out conditional approval of this proposal."

Statutory Controls – why is a planning permit required?

Control	Permit Requirement
Commercial 1 Zone	Office and Retail Premises are Section 1 uses in the zone, meaning that a permit is not required for the uses. Clause 34.01-1: A permit is required for the use of the land for 'Dwelling' because the frontage at ground level exceeds two metres. Clause 34.01-4: A permit is required to construct a building or construct or carry out works.
Design and Development Overlay Schedule 22	Clause 43.02-2: A permit is required to construct a building or construct or carry out works.
Particular Provisions	Clause 52.06: A permit is required to reduce the car parking requirement from 66 spaces to 49 spaces. Clause 52.29: A permit is required to create/alter access to a Road in a Transport Zone 2.

The following Particular Provisions of the Moreland Planning Scheme are also relevant to the consideration of the proposal:

- Clause 45.03 Environmental Audit Overlay

- Clause 45.06: Development Contributions Plan Overlay
- Clause 45.09: Parking Overlay
- Clause 53.18: Stormwater Management in Urban Development
- Clause 58: Apartment Developments

2. Internal/External Consultation

Original Application

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
- Placing two signs on the Brunswick Road frontage of the site.

Amended Application

Public notification

Notification of the amended application has been made pursuant to Section 52 of the *Planning and Environment Act 1987* by sending notices to the owners and occupiers of adjoining and nearby land.

Council has received a total of 34 objections including 4 proforma objections to date. A map identifying the location of objectors forms **Attachment 3**.

The key issues raised in objections are:

- Loss of daylight to neighbouring balconies
- Overlooking
- Overshadowing existing roof terrace
- Devaluation of property
- Car parking and traffic impacts
- No demand for apartments in the area
- Anti-social behaviour
- Noise impacts
- Construction impacts
- Visual bulk and setbacks

Planning Information and Discussion meeting

A Planning Information and Discussion meeting was held on 8 February 2022 and attended by two Council Planning Officer, the applicant and approximately six objectors. The meeting provided an opportunity for the objectors concerns to be discussed and helped inform the preparation of this report.

Internal/External referrals

The proposal was referred to the following external agencies or internal branches/business units:

External Agency	Objection/No objection
Transport for Victoria	No objection subject to conditions included in the recommendation.

Internal Branch/Business Unit	Comments
Place and Environment - Urban Design Unit	Supports the proposal subject to modifications, which are addressed by conditions of the recommendation or as otherwise detailed in Section 4 of this report. Concerns relating to upper levels setbacks, street wall composition were addressed by amending the plans prior to notice.
City Infrastructure- Development Engineering Team	Supports the proposal. Recommended changes including dimensions for bike parking are addressed by conditions of the recommendation or as otherwise detailed in Section 4 of this report.
Place and Environment - ESD Team	Supports the proposal subject to modifications including improvement to ventilation, stormwater and solar PV which are addressed by conditions detailed in the recommendation. Subject to these conditions, the proposal will satisfy the objectives of Environmentally Sustainable Development policy.
City Infrastructure- Open Space Design and Development Team	Supports the proposal. Recommended changes related to soil depth, tree species selection, maintenance and street trees which are addressed by conditions of the recommendation or as otherwise detailed in Section 4 of this report.

3. Policy Implications

Planning Policy Framework (PPF):

The following policies are of most relevance to this application:

- Municipal Planning Strategy (Clause 2), including:
 - Vision (Clause 2.02)
 - Settlement (Clause 2.03-1)
 - Environmental and Landscape Values (Clause 2.03-2)
 - Environmental Risks and Amenity (Clause 2.03-3)
 - Built Environment and Heritage (Clause 2.03-4)
 - Housing (Clause 2.03-5)
 - Economic Development (Clause 2.03-6)
 - Transport (Clause 2.03-7)
 - Infrastructure (Clause 2.03-8)
- Settlement (Clause 11)
- Environmental Risks and Amenity (Clause 13):
 - Contaminated and Potentially Contaminated Land (Clause 13.04-1S)
 - Noise Abatement (Clause 13.05-1S and 13.05-1L)
- Built Environment (Clause 15.01), including:
 - Urban Design (Clause 15.01-1S, 15.01-1R & 15.01-1L)
 - Vehicle Access Design in Moreland (Clause 15.01-1L)
 - Building Design (Clause 15.01-2S & 15.01-2L)
 - Apartment developments in Moreland (Clause 15.01-2L)
 - Healthy Neighbourhoods (Clause 15.01-4S and 15.01-4R)
 - Neighbourhood Character (Clause 15.01-5S)

- Sustainable Development (Clause 15.02), including:
 - Energy and resource efficiency (Clause 15.02-1S)
 - Environmentally Sustainable Development (Clause 15.02-1L)
 - Energy efficiency in Moreland (Clause 15.02-1L)
- Residential Development (Clause 16.01), including:
 - Housing Supply (Clause 16.01-1S and 16.01-1R)
 - Homes in Moreland (Clause 16.01-2L)
 - Housing for People with Limited Mobility (Clause 16.01-1L)
 - Housing Affordability (Clause 16.01-2S & 16.01-2L)
- Economic Development (Clause 17), including:
 - Diversified economy (Clause 17.01-1S & 17.01-1R)
 - Employment Areas (Clause 17.01-1L)
- Transport (Clause 18), including:
 - Principal Public Transport Network (Clause 18.02-2R)
 - Sustainable Personal Transport (Clause 18.02-1S & 18.08-1R)
 - Sustainable Transport in Moreland (Clause 18.02-1L)
 - Car parking (Clause 18.02-4S & 18.02-4L)
- Infrastructure (Clause 19.02)

Human Rights Consideration

This application has been processed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Moreland Planning Scheme) reviewed by the State Government and which complies with the *Victorian Charter of Human Rights and Responsibilities Act 2006, including Section 18 (Taking part in public life)*. In addition, the assessment of the application has had particular regard to:

- Section 12: Freedom of movement
- Section 13: Privacy and Reputation
- Section 20: Property rights

The proposed redevelopment of private land does not present any physical barrier preventing freedom of movement. The right of the landowner to develop and use their land has been considered in accordance with the Moreland Planning Scheme. The privacy of nearby residents has also been considered as part of the application process.

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 have strategic policy support?

Both State and local planning policies support increased residential densities in locations that can take advantage of excellent access to public transport and other services within and in proximity to Activity Centres. The proposal enjoys strong strategic support at both State and Local level.

Does the built form respond to the preferred character of the area?

The proposed built form responds appropriately to the preferred character as defined in Schedule 22 of the Design and Development Overlay (DDO22). An assessment against DDO22 is provided below:

Building Height

DDO22 has a preferred maximum height of 21.6 metres (6 storeys) for the site with a street wall height of 14.5 metres (4 storeys). The proposal exceeds this height, with an overall height of 22.6 metres at 7 storeys (exclusive of lift overrun, roof services and roof terrace balustrade). The development provides a four-storey (14-metre-high) street wall that is of high architectural quality and complies with the street wall height specified in DDO22.

The previous VCAT decision at paragraphs 16 to 23, considered what overall and street wall heights would achieve the DDO22 objectives. The following VCAT commentary has weight to the considerations of this application:

*20. We consider that a **reduction to a 4 level street wall** will provide a more appropriate urban design response from the 6 storey street walls to the west and the 4 storey street wall to the east. It will serve to break up what is a potentially an overly high, monolithic form from the larger site frontages. Subject to suitable articulation, materials and finishes of any revised building, it will provide a lower and more human scale as Brunswick Road approaches Nicholson Street without a central medium as occurs to the west. It will also provide a more sympathetic built form response to the single level residences across the street, some of which are in a heritage overlay. They are also included in a General Residential Zone 1 with a maximum building height of 11 metres.*

*21. Similarly, a reduction in the **overall height to six or seven storeys** will provide a transition from west to east subject to generous setbacks from the street frontage for the same reasons given above. In addition to an increase in setbacks from the eastern boundary, it will lead to an improved amenity for the west facing dwellings and terraces on the site to the east. **(emphasis added)***

The proposed overall and street wall height is consistent with the recommendations of the previous VCAT decision.

Design Quality

DDO22 seeks to 'promote design excellence and high quality contemporary and innovative architecture throughout the precinct'. The development provides high-quality internal spaces and high-quality architectural expression through the use of glazing and varied balustrade styles, to soften the appearance of the development. Council's Urban Design Unit are supportive of the appearance of the development. The design of the development is supported as it will contribute positively to the streetscape and fit in well with the surrounding context.

Commercial Floor Area

The proposed development does not provide commercial floor space at first floor, as sought by DDO22. However, the development provides 709 square metres of commercial floor space at ground floor, which provides a mixed-use development that adequately balances the commercial and residential elements of the building. Of relevance, the previous VCAT decision, stated:

'14. As discussed at the hearing, if Council is serious about achieving a specific land use mix, it needs to introduce such controls through a schedule to the Commercial 1 Zone. Such an approach has been taken by Stonnington City Council in the Chapel Street precinct. In the absence of such land use controls, there is no discretion to require a specific land use mix such as setting aside commercial floor space on the ground and first floors in accordance with local policy at Clause 21.03-1 and in DDO22.'

Public Realm

The development results in a quality and positive urban design outcome by providing a food and drink premise with a clear glazed entry directly from Brunswick Road. This contributes to the improvement of the streetscape and the pedestrian environment by providing activation and surveillance. Given that the site does not have rear access, it is inevitable that part of the site's frontage will be occupied by driveway and site services. However, the design of the development adequately balances the need for active frontages with the amount of frontage required for services and vehicle access. Additionally, the vehicle and pedestrian entry has been separated to minimise safety and visibility issues. Apartments on upper levels also have balconies oriented to the street allowing for passive surveillance

Does the proposal provide appropriate onsite amenity and facilities?

Most of the standards of Clause 58 are met or exceeded. It is noted that:

- Communal areas are provided on the sixth floor and on the roof top terrace (total of 228 square metres of communal open space), which exceeds the 115 square metres of communal open space required. The roof top terrace is partly covered, which allows for weather protection and year-round use.
- 97 per cent of dwellings are accessible, in excess of the 50 per cent required.
- 68 per cent of dwellings have natural cross ventilation, in excess of the 40 per cent required. Subject to a condition included in this recommendation, an additional 4 dwellings will have natural cross ventilation, increasing the total number of dwellings to 76 per cent.

Key issues from the Clause 58 assessment are discussed below.

Clause 58.03-5 – Landscaping

For sites with areas between 1001 square metres and 1500 square metres, Standard D10 (Landscaping) states that development should provide for deep soil area and canopy trees equating 7.5 per cent of the site area. The subject site has an area of 1,186 square metres, therefore 89 square metres of deep soil planting should be provided. If development cannot provide deep soil areas, an equivalent canopy cover could be provided through vegetated planters, green roofs or green facades. In this case, this approach is supported as the site is located in a Commercial 1 Zone and the site and surrounds are not characterised by landscaping.

The submitted landscape plans show the planting of two small sized trees and planter boxes with shrubs within the communal roof terrace and apartment balconies. Council's Open Space Unit have highlighted concerns with the small trees and species selected for the roof terrace and require further details in relation to soil volumes. These will be imposed as conditions should a permit be issued. In addition, a condition will require that the landscape plan demonstrate how equivalent canopy cover is provided, with planter dimensions to the satisfaction of Council to support tree planting. This will achieve an improved landscape outcome for the subject site. Furthermore, it is noted that the previous VCAT decision outlined support for the growing of canopy trees above basement and in planter structures, provided soil volume were sufficient.

Clause 58.04-1 - Building Setback

As discussed later in this report, the proposed development provides for adequate setbacks that are generally compliant with the setback requirements of Clause 15. 01-2L (Apartment Developments in Moreland).

Standard D14 of this clause seeks to avoid direct views into habitable room windows and private open space of dwellings without relying on screening, ensure adequate daylight and reasonable outlook is provided from new dwellings.

The development provides screening to the first floor east and west facing dwellings and the east facing windows of Apartments 203, 303 and 403, due to the limited separation between the dwellings and habitable spaces of the adjoining dwellings. Screening is also provided to the west facing windows on the fifth and sixth floors, which limit views into adjoining dwellings, while not compromising internal amenity through the use of vertical louvres. A condition will require screening be provided to the eastern side of the balcony of Apartments 502 and 601 to limit views into the adjoining dwellings. Majority of the apartments are either north facing or have a frontage to Brunswick Road. This together with limited screening will ensure that the level of daylight and outlook from the dwellings are not compromised, meeting the objectives of clause.

Clause 58.04-3 - Noise Impacts

An Acoustic Report was not provided as part of this application. Standard D16 of this clause states that *'noise sensitive rooms (such as living areas and bedrooms) should be located to avoid noise impacts from mechanical plants, lifts, building services, non-residential uses, car parking, communal areas and other dwellings'*. Given that the lift abuts a bedroom wall on levels 1-6, a condition will require an acoustic report be submitted ensuring that the lift does not cause unreasonable noise impacts to the adjoining bedrooms. A condition included in this recommendation also requires the acoustic report to ensure that development provides noise attenuation measures to minimise the noise impacts associated with nearby businesses and traffic, as sought by this standard and DDO22.

Does the proposal respond to Clause 15.01-2L (Apartment developments in Moreland)?

Clause 15.01-2L sets out building setback standards for apartment developments of five or more storeys. The objectives of the clause relate to daylight and outlook, future development opportunities of adjoining site and amenity impacts.

Building Setbacks

The proposed development is compliant with the setbacks set out in this clause except for the following:

Apartment No.	Required	Proposed
North		
101, 102, 103	6 metres (Living/Balcony Outlook)	2.7 metres
201, 202, 203, 301, 303, 303, 401, 402, 403	6 metres (Living/Balcony Outlook)	Between 5.7 to 6.2 metres
501, 502, 601	9 metres (Living/Balcony Outlook)	Between 5.7 metres to 8 metres
East		
103	3 metres (Bedroom Outlook)	None
104	6 metres (Living/Balcony Outlook)	3 metres
502	4.5 metres (Living/Balcony Outlook)	3 metres
West		
101 and 108	3 metres (Bedroom Outlook)	None
501, 504 and 601	4.5 metres (Bedroom Outlook)	3.5 metres

Northern Boundary

The variations to the living/balcony outlook of Apartments 101 to 103 from the northern boundary are supported given that the variations to the setbacks of the upper levels are minor and will allow adequate daylight into the balconies of the first-floor apartments. Council's ESD officers are generally satisfied with the level of daylight to the apartments of this development. Of the 15 non-compliant apartments facing the northern boundary, only 4 apartments are single aspect and these apartments comply with Standard D26 (Room Depth). The remaining non-compliant apartments are dual aspect and are afforded more access to daylight. This design therefore maintains outlook and daylight while ensuring that the future development opportunity of the neighbouring sites to the north are not impacted.

Eastern Boundary

The proposed setbacks to the living/balcony outlooks of Apartments 104 and 502 are consistent with the minimum three metre setback from the eastern boundary recommended in the previous VCAT decision. However, the location of the balcony for Apartment 103 along the eastern boundary would adversely impact on the outlook of the west facing balconies at 1-3 Brunswick Road and is inconsistent with the previous VCAT decision. A condition would therefore require the deletion of the balcony on the eastern side of Apartment 103. It should be noted that this condition would not result in a balcony/terrace area that continued to meet Standard D19 (Private Open Space).

Western Boundary

While screening is required to the balconies of Apartments 101 and 108, the variation to the bedroom outlook of these apartments from the western boundary is supported noting that the bedroom windows are setback 3.5 metres from the boundary. Adequate outlook and daylight will be maintained, and the adjoining dwellings will not be unreasonably impacted, due to the lightwell at 15 Brunswick Road providing adequate separation between the dwellings. Additionally, the 3.5 metre setback of the bedrooms of Apartments 501, 504 and 601 will provide a 9-metre separation from the dwellings at 15 Brunswick Road, ensuring a reasonable level of amenity is maintained.

Are there any unreasonable off-site amenity impacts?

The proposal will not cause unreasonable off-site amenity impacts for the following reasons:

- The proposed side setbacks ensure that the height of the development does not unreasonably overshadow the balconies of the adjoining properties. Although between 9.00am to 12.00pm at the equinox there will be additional shadows to the balconies at 15 Brunswick Road, there will be no additional shadows from 12.00pm onwards. It is considered that a development that complies with the preferred DDO22 height will cast similar shadows due to the constraint in the site's orientation. Additionally, as detailed above, except for levels 1, 5 and 6, the proposal complies with the setbacks required pursuant to Clause 15.01-2L from the western boundary.
- Between 9am and 2pm at the equinox the proposal will not cast additional shadows into the balconies or the rooftop deck at 1 Brunswick Road, ensuring that the amenity of these open spaces are maintained.
- The proposed side setbacks will lessen the visual and amenity impacts of the development when viewed from adjoining properties.

Has adequate car parking been provided?

The table below outlines the car parking requirements for the development based on the provisions of Clause 52.06 of the Moreland Planning Scheme:

Use	Total spaces required	Total spaces provided	Reduction sought
Dwellings	44	40	4
Office	13	8	5
Food and Drink Premises	9	1	8
Total	66	49	17

Clause 18.02-4L (Car parking in Moreland) supports reduced car parking rates in developments:

- within and close to activity centres
- with excellent access based on frequency and location to a range of public transport options
- with increased provision of bicycle parking above the rates specified in Clause 52.34.

The proposal is 30 metres outside the Activity Centre and has excellent access to public transport including a north-south tram connection and east-west bus connection. The development provides 53 bicycle parking spaces which is above the requirements specified in Clause 52.34 (requiring 13 spaces).

Council's Development Engineers are satisfied that car parking requirement can be reduced for this application.

Vehicles, whether related to this or other developments in the street, can only park on the street in accordance with any parking regulations. The number of vehicles that can park on the street and at what time will be dictated by the parking restrictions and the availability of on-street car spaces. It is expected that the level of parking provided will cater for car ownership levels of the occupiers.

What impact does the proposal have on car congestion and traffic in the local area?

In relation to traffic impacts, Council's Development Engineers have assessed the proposal and accept the calculations contained within the Traffic Report lodged with the application, which estimate one vehicle arriving or departing the site every 2 minutes on average during the peak hours. This remains within the road's design capacity and is not expected to cause traffic problems.

5. Response to Objector Concerns

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

- Loss of daylight to neighbouring balconies
- Overlooking
- Overshadowing existing roof terrace
- Car parking and traffic impacts
- Visual bulk and setbacks

Other issues raised by objectors are addressed below.

Property values

The Victorian Civil and Administrative Tribunal and its predecessors have generally found claims that a proposal will reduce property values are difficult, if not impossible, to gauge and of no assistance to the determination of a planning permit application. It is considered the impacts of a proposal are best assessed through an assessment of the amenity implications rather than any impact upon property values. This report provides a detailed assessment of the amenity impact of this proposal.

No demand for apartments in the area

The Victorian planning system does not enable Council to determine a planning permit application based on an assessment of demand. Whether or not a demand exists is not a relevant consideration on which Council can base a decision to either approve or refuse an application.

Anti-social behaviour

There is no evidence to link the development of private residential apartments with increased crime rates, anti-social behaviour or reduced safety for residents.

Noise Impacts

Concerns have been raised regarding the potential noise generated from the dwellings and communal open space after occupancy. Residential noise associated with a dwelling is considered normal and reasonable in an urban setting. Any future issues of noise disturbance, if they arise, should be pursued as a civil matter.

Construction issues

The Environment Protection Authority (EPA) provide guidelines and regulations that specify times for construction, to limit noise impacts. Noise and amenity impacts during the construction process are also regulated through Council's General Local Law, 2018. It is not considered necessary to require a Construction Management Plan for this development as the developer will be required to meet relevant Local Laws and EPA regulations regarding construction practices to ensure impacts are mitigated.

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

The proposal is a high-quality development that responds appropriately to the site context. Subject to conditions in the recommendation, the proposal provides a good standard of internal amenity for future occupants and will not have unreasonable off site amenity impacts.

On the balance of policies and controls within the Moreland Planning Scheme and objections received, it is considered that Notice of Decision to Grant a Planning Permit No MPS/2019/546 should be issued subject to the conditions included in the recommendation of this report.

Attachment/s

- | | | |
|---|--|------------|
| 1 | Location and Zoning Map 5-9 Brunswick Road, Brunswick East | D22/70547 |
| 2 | Development Plans 5-9 Brunswick Road, Brunswick East | D21/489883 |
| 3 | Objector Location Map - 5-9 Brunswick Road, Brunswick East | D22/64305 |

Location and Zoning Map

5-9 Brunswick Road, Brunswick East



Moreland City Council



Copyright (c) Moreland City Council. VicMap base data (eg. cadastral, property, topographic, planning, etc) sourced from the State of Victoria. The State of Victoria and Moreland City Council do not warrant the accuracy or completeness of information shown on this publication. Any person using or relying upon such information, does so on the basis that the State of Victoria and Moreland City Council shall bear no responsibility or liability whatsoever for any errors, faults, defects or omissions in the information. Melway map imagery - if depicted - is Copyright (c) Melway Publishing Pty Ltd (<http://www.austrway.com>).

PLANNING ENVIRONMENT ACT 1967
 MORELAND PLANNING SCHEME
 Advertised Document
 Advertised Plan Sheet 1 of 50
 Application No. MPS/2019/546
 Date: 17/11/2021

5-9 BRUNSWICK ROAD, BRUNSWICK EAST

TOWN PLANNING

NOVEMBER 2021

PEDDLE THORP

Northbank Place East
 Level 1, 525 Flinders St
 Melbourne VIC 3000
 Australia

P +61 3 9623 2222
 F +61 3 9623 2223
 E info@pta.com.au
 W www.pta.com.au

ACN 006 975 668

5-9 BRUNSWICK ROAD, BRUNSWICK EAST MIXED USE DEVELOPMENT		REVISION:	DATE:
PROJECT NO:	REASON FOR ISSUE:	5	NOVEMBER 2021
37-0074	TOWN PLANNING		

PLANNING ENVIRONMENT ACT 1967
MORLAND PLANNING SCHEME
Advertised Document
Advertised Plan Sheet 2 of 50
Application No. MPS/2019/546
Date: 17/11/2021

D. TECHNICAL DRAWINGS

5-9 BRUNSWICK ROAD, BRUNSWICK EAST

PEDDLE THORP

Northbank Place East
Level 1, 525 Flinders St
Melbourne VIC 3000
Australia

P +61 3 9623 2222
F +61 3 9623 2223
E info@pta.com.au
W www.pta.com.au
ACN 006 975 668

5-9 BRUNSWICK ROAD, BRUNSWICK EAST
MIXED USE DEVELOPMENT

PROJECT NO:
37-0074

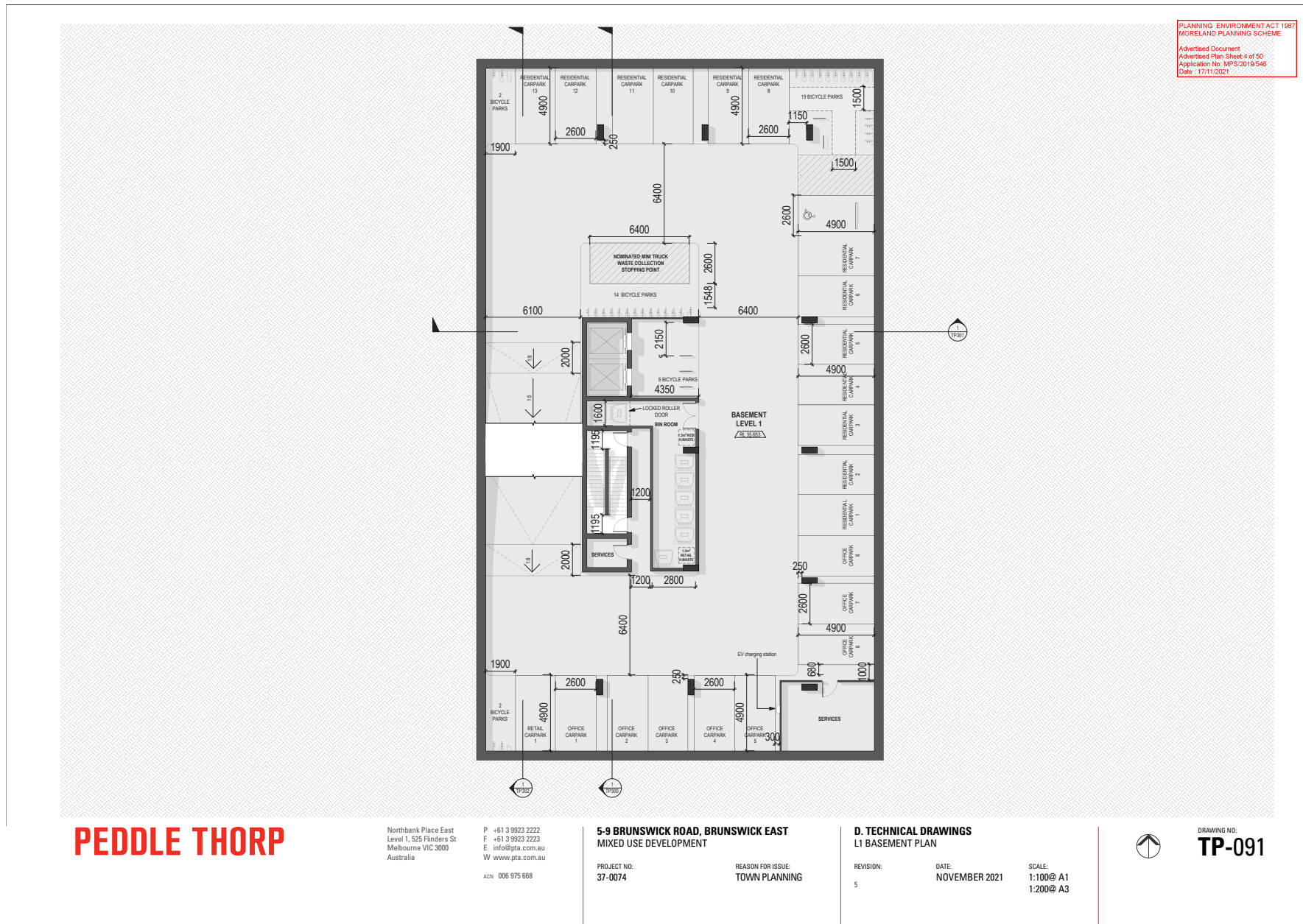
REASON FOR ISSUE:
TOWN PLANNING

REVISION:
5

DATE:
NOVEMBER 2021



DRAWING NO:
TP-090





5.2 52 HOLMES STREET, BRUNSWICK EAST - MPS/2020/427

Director Place and Environment Joseph Tabacco

City Development

Executive Summary



Property:	52 Holmes Street, BRUNSWICK EAST VIC 3057			
Proposal:	Construction of a five storey building containing retail premises, offices and dwellings and a reduction in the standard car parking requirements			
Zoning and Overlay/s:	<ul style="list-style-type: none">• Commercial 1 Zone (C1Z)• Design and Development Overlay (DDO24)• Parking Overlay (PO1)• Environmental Audit Overlay (EAO)• Development Contributions Plan Overlay (DCPO1)			
Strategic setting:	Minimal housing growth	Incremental housing growth	Increased house densities encouraged	Significant housing growth
Objections:	<ul style="list-style-type: none">• 13• Key issues:<ul style="list-style-type: none">• Height exceeding DDO24• Mass and bulk• Car parking, vehicle access and traffic impacts• Impacts to off-site amenity• Safety concerns from adjoining service station			
Planning Information and Discussion (PID) Meeting:	<ul style="list-style-type: none">• Date: 1st March 2022• Attendees: 4 objectors, the applicant, and 2 Council officers• In response to concerns raised by the objectors' a permit condition will require a traffic warning system for the laneway to address potential conflicts.			
ESD:	<ul style="list-style-type: none">• Minimum average NatHERS rating of 7.4 stars.			
Accessibility:	<ul style="list-style-type: none">• Adaptable apartments comprise 50% of the proposal.			
Key reasons for support	<ul style="list-style-type: none">• The built form meets the objectives of DDO24, noting the upper level is highly concealed from the street.• The proposed commercial and residential uses are complementary to the uses in the surrounding area and consistent with the vision for this location. The ground floor commercial uses provide appropriate activation of the street.• The site is well located along a tram line to support the reduction in car parking.			
Recommendation:	Notice of Decision to Grant a Planning Permit be issued for the proposal.			

Officer Recommendation

That a Notice of Decision to Grant a Planning Permit No. MPS/2020/427 be issued for the construction of a five storey building containing retail premises, offices and dwellings and a reduction in the standard car parking requirements at 52 Holmes Street, Brunswick East, subject to the following conditions:

Amended Plans

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the advertised plans but modified to show:
 - a) The finished floor level of the balconies associated with Offices 1 and 2;
 - b) The height of balustrades and/or planter boxes of the balconies associated with Offices 1 and 2 clearly shown on the elevations;
 - c) Screening to Apartments 11 and 14 to limit downward views into the courtyards of Apartments 1, 3, 4 and 7 in accordance with the requirements Standard D15 (internal views);
 - d) The storage calculation on the Development Summary Table and in the Detail Plans to include all internal storage, in accordance with the requirements of Standard D20 (storage);
 - e) The Studies of Apartments 2 and 9 increased in width to 3 metres, provided with a robe against the internal wall perpendicular to the door and relabeled as a "bedroom";
 - f) The Study to Apartment 16 increased in width to 3 metres and the glazed entry to Shop 2 repositioned 260mm to the south to maintain a consistent width of the vertical break within the front façade.
 - g) The width of the Living Areas of Apartments 20 and 24 increased to 3.6 metres by reducing the width of the balconies;
 - h) "Bed 2" of Apartments 19 and 23 deleted, replaced with an open study or similar;
 - i) Detailed plans for Apartments 19 and 23;
 - j) The roof over Apartment 23 correctly drawn to depict the skylight to Apartment 19;
 - k) The internal reconfiguration of Apartments 5, 6, 12 and 13 amended generally in accordance with the discussion plans received 21 February 2022 with the following modifications:
 - i. A minimum width of 3.3 metres provided to the living areas; and
 - ii. A minimum of 8 square metres provided to the balconies.
 - l) The use of Material 11 (Matt white colorbond cladding) across the eastern and western sides of the lift overrun to provide a consistent and more simplified appearance;
 - m) Details of the material of the balcony soffits on the material schedule, to be a fine grain high-quality cladding (such as timber battens);
 - n) A design detail of the letterboxes, to include a high quality material finish;
 - o) The proposed verandahs (to Holmes Street) setback a minimum of 750mm from the kerb and with a height of less than 3 metres above the level of the footpath in accordance with Clause 507 of the Building Regulations 2006.
 - p) Details of all roof top services and associated screening;

- q) Bicycle racks that provide 0.5 metres spacing between bikes;
- r) The columns in the car park placed outside the 'clearance required' areas of each car parking space in accordance with Diagram 1 of Clause 52.06 (Car Parking) of the Moreland Planning Scheme;
- s) An area within the site for an accessible boundary trap;
- t) Any changes in accordance with the Landscape Plan required by Condition 3 of this permit;
- u) All measures recommended by the acoustic report as required by Condition 12 of this permit documented on the plans;
- v) The location of any substation and or fire booster cabinet as may be required by the power company and fire authority for this development. All services must be incorporated into the building design (i.e. not free standing or pole mounted in the street) to ensure minimal impact on the visual amenity of the public realm and the architectural integrity of the building.
- w) The Environmentally Sustainable Design initiatives that are required to be shown on plans, as contained within Condition 6b) of this permit.
- x) Any changes as required to align with the amended Waste Management Plan as required by Condition 10 of this permit.

Compliance with Endorsed Plans

2. The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority. This does not apply to any exemption specified in Clauses 62.02-1 and 62.02-2 of the Moreland Planning Scheme unless specifically noted as a permit condition.

Landscaping

3. Prior to the endorsement of plans, an amended landscape plan must be submitted to the Responsible Authority. The landscape plan must be generally in accordance with the advertised plans but modified to show:
 - a) Details of landscaping within all balcony planter boxes and roof top terrace
4. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all landscaping works, including installation of automatic irrigation, must be completed in accordance with the endorsed landscape plan to the satisfaction of the Responsible Authority.
5. All landscaping and irrigation systems must be maintained to the satisfaction of the Responsible Authority in accordance with the endorsed landscape plans. Any dead, diseased or damaged plants must be replaced with a suitable species to the satisfaction of the Responsible Authority.

Environmentally Sustainable Design

6. Prior to the endorsement of plans, an amended Sustainability Management Plan (SMP) and plans must be submitted to the satisfaction of the Responsible Authority. The SMP must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the SMP prepared by Northern Environmental Design dated 10 August 2021, but modified to include the following changes:
 - a) Any changes as necessary to reflect the plans for endorsement.
 - b) Show the following ESD initiatives on the development plans:
 - i. The location and size of fire test water tank/s including details of fire water recycling system
 - ii. Roof plan to show the proposed location, approximate size and number of

individual panels, orientation and tilt angle that make up the 24KW PV system

- iii. The location of electric heat pump hot water units
- iv. Key ESD initiatives notes on plans to be updated to specify hot water systems as electric heat pump
- v. Location of all common area submeters and individual tenant utility meters
- vi. Plans to note specification of a 40 Amp 3-phase sub-circuit with wiring and conduit from a main switchboard to a dedicated EV parking space complete with circuit breaker at point of use for a future entry level fast charging station.
- vii. External operable shading devices to West facing glazing of all exposed bedrooms and living/dining areas, to block peak summer afternoon sun. A product diagram of the proposed device must be provided.

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 SDA and associated notated plans will be endorsed to form part of this permit. No alterations to the SDA may occur without the written consent of the Responsible Authority.

- 7. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all works must be undertaken in accordance with the endorsed Sustainability Management Plan to the satisfaction of the Responsible Authority.
- 8. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, a report from the author of the Sustainability Management Plan (SMP) 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 (with documented evidence) that all measures specified in the SMP have been implemented in accordance with the approved plan.
- 9. All stormwater treatment devices (e.g., raingardens, rainwater tanks etc.) must be maintained to the satisfaction of the Responsible Authority to ensure water quality discharged from the site complies with the performance standard in the endorsed Sustainability Management Plan.

Waste Management Plan

- 10. Prior to the endorsement of plans, an amended Waste Management Plan (WMP) must be submitted to the satisfaction of the Responsible Authority. The plan must be generally in accordance with the report prepared by Northern Environmental Design dated 10 August 2021 but modified to:

- a) Include separate glass collection and organics collection.

When submitted and approved to the satisfaction of the Responsible Authority, the WMP will be endorsed to form part of this permit. No alterations to the WMP may occur without the written consent of the Responsible Authority.

- 11. The Waste Management Plan approved 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.

Acoustic Attenuation

12. Prior to the endorsement of plans, an amended Acoustic Report must be submitted and approved to satisfaction of the Responsible Authority. The Report must be generally by in accordance with the report prepared by O'Callaghan Consulting Engineers dated 5 August 2021 but modified to include:
 - a) Recommendations of acoustic attenuation measures to be incorporated into the proposed development to minimise the impact on the apartments of noise from:
 - i. Road traffic;
 - ii. The ground floor commercial tenancies;
 - iii. Mechanical plant noise associated with the restaurant use; and
 - iv. Plant equipment including the lift.

When submitted and approved to the satisfaction of the Responsible Authority, the Acoustic Report will be endorsed to form part of this permit. No alterations to the Acoustic Report may occur without the written consent of the Responsible Authority.

13. The building must be constructed and thereafter maintained in accordance with the recommendations contained within the approved Acoustic Report to the satisfaction of the Responsible Authority, unless with the further written approval of the Responsible Authority.
14. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, a report from the author of the Acoustic Report 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 Acoustic Report have been implemented in accordance with the approved Acoustic Report.

Accessibility

15. Prior to the occupation of the development, the recommendations of the approved Accessibility Report prepared by Equal Access Dated 15 July 2021 must be implemented to the satisfaction of the Responsible Authority. No alterations to the plan may occur without the written consent of the Responsible Authority.
16. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, a report from the author of the Accessibility Report, 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 Accessibility Report have been implemented in accordance with the approved report.

Environmental Audit

17. Before the construction or carrying out of buildings and works, or where no buildings and works are proposed, prior to the commencement of the permitted use or the issue of a statement of compliance under the *Subdivision Act 1988* (whichever is earlier), the owner(s) must provide:
 - a) A preliminary risk screen assessment statement in accordance with the *Environment Protection Act 2017* stating that an environmental audit is not required for the use or, if this permit authorises the construction or carrying out of buildings or works, is not required for the use for which the buildings or works are constructed or carried out; or
 - b) An environmental audit statement under Part 8.3 of the *Environment Protection Act 2017* must be issued stating that the land is suitable for the use or, if this permit authorises the construction or carrying out of buildings or works, is suitable for the use for which the buildings or works are constructed or carried out; or

- c) An environmental audit statement under Part 8.3 of the *Environment Protection Act 2017* stating that the land is suitable for the use or, if this permit authorises the construction or carrying out of buildings or works, is suitable for the use for which the buildings or works are constructed or carried out, if the recommendations made in the statement are complied with.
18. Where an environmental audit statement is issued for the land, and any recommendation of that environmental audit statement requires any maintenance and/or monitoring of an ongoing nature, the Responsible Authority may require the Owner(s) to enter into an Agreement with the Responsible Authority pursuant to Section 173 of the *Planning and Environment Act 1987* that provides for the undertaking of the ongoing maintenance and/or monitoring as required by the environmental audit statement.
19. Where a Section 173 Agreement is required, the Agreement must be executed prior to the commencement of the permitted use, the issue of an Occupancy Permit under the *Building Act 1993* or the issue of a Statement of Compliance under the *Subdivision Act 1988* (whichever occurs first). 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).
20. Prior to any remediation works (if required) being undertaken in association with the environmental audit, a 'remediation works' plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must detail all excavation works as well as any proposed structures such as retaining walls required to facilitate the remediation works. Only those works detailed in the approved remediation works plan are permitted to be carried out prior to the issue of an environmental audit statement.
21. No works to construct the development hereby approved shall be carried out on the land and no building contract to construct the development hereby approved may be entered into, other than in accordance with a building contract that stipulates that works must not be commenced until such time as Conditions 17, 18 and 19 of this permit are satisfied.
22. Prior to commencement of the use, the issue of an Occupancy Permit under the *Building Act 1993* or the issue of a Statement of Compliance under the *Subdivision Act 1988* (whichever occurs first), written confirmation of compliance with all the recommendations of the environmental audit statement must be provided by an environmental auditor appointed under the *Environment Protection Act 2017*, including confirming that any requirements in the environmental audit statement recommendations regarding verification of works have been complied with. All the recommendations of the environmental audit statement must be complied with to the satisfaction of the Responsible Authority.

Safety Management Study

23. Prior to the commencement of the use or buildings and works associated with the use a Safety Management Study (SMS) must be undertaken in consultation with the owners of 54 Holmes Street (Viva Energy Australia Pty Ltd) and submitted to the Responsible Authority.

When submitted and approved to the satisfaction of the Responsible Authority, the SMS will be endorsed to form part of this permit. The recommendations of the approved SMS must be implemented to the satisfaction of the Responsible Authority. No alterations to the SMS may occur without the written consent of the Responsible Authority.

3D Model

24. Prior to the commencement of the development, a 3D digital model of the approved development which is compatible for use on Council's Virtual Moreland tools and software for Council and community must be submitted to the satisfaction of the Responsible Authority. The model should be prepared in accordance with Moreland City Council's 3D model submission guidelines. A copy of the 3D model submission guidelines and further information on the Virtual Moreland Project can be found at <https://www.moreland.vic.gov.au/planning-building/3D-Guidelines/>. In the event that substantial modifications to the building envelope are approved under an amendment to this planning permit, a revised 3D digital model must be submitted to, and be to the satisfaction of the Responsible Authority.

Car Parking and Vehicle Access

25. Prior to the occupation of the development, any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority (Moreland City Council, City Infrastructure Department).
26. The vehicular traffic on the basement ramp is to be controlled by traffic signals to avoid cars meeting at the bend on the ramp.
27. A traffic signaling system must be installed on the external wall of the building facing south to alert on-coming vehicles entering the laneway from Mitchell Street of any vehicles that are about to exit the site. The signaling system must not detrimentally impact the amenity of adjoining properties through noise or light spill
28. All parking spaces are to be marked with the associated apartment or shop number to facilitate management of the car park to the satisfaction of the Responsible Authority.
29. The bicycle storage room is to have self-closing and self-locking doors or gates that are only accessible using keys, codes or swipe cards in accordance with the Australian Standard for Bicycle Parking (AS2890.3).

Public Works

30. Prior to the commencement of the development, a Public Works Plan and associated construction drawing specifications detailing the works to the land along Holmes Street directly in front of the site must be submitted to the satisfaction of the Responsible Authority. The Plan must include:
 - a) All construction details in accordance with the *Moreland City Council Technical Notes July 2019* (or any updated version).
 - b) A detailed level and feature survey of the footpaths and roads.
 - c) The upgrade of the footpath adjacent to the site. Public footpaths are to be reinstated to the previous levels with a maximum cross fall slope of 1 in 40 (2.5%).
 - d) For any vehicle crossing not being used, the kerb, channel and footpath reinstated in accordance with condition 25 of this permit
 - e) Any necessary parking signs, in consultation with the Responsible Authority.
 - f) Any necessary drainage works.
 - g) The installation of bike hoops in consultation with the Responsible Authority.
 - h) The provision of new street tree planting along Holmes Street in appropriate locations in consultation with the Responsible Authority (Open Space Department).
 - i) Any other works to the public land adjacent to the development.
31. The difference between the existing public footpath level and the floor level on the endorsed plans must be made up with ramps or stairs within the site to facilitate pedestrian access.

General Amenity

32. Lighting on each balcony must be designed to not emit light direct onto adjoining property to the satisfaction of the Responsible Authority.
33. 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.
34. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.
35. Unless with the prior written consent of the Responsible Authority, any plumbing pipe, ducting and plant equipment must be concealed from external views. This does not include external guttering or associated rainwater down pipes.
36. The ground level windows facing Holmes Street must not be painted or blocked out in any way to the satisfaction of the Responsible Authority.

Stormwater

37. 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 (Note: Please contact Moreland City Council, City Infrastructure Department).
38. Stormwater from the land must not be directed to the surface of the laneway to the satisfaction of the Responsible Authority.

Development Contributions

39. 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. The Development Infrastructure Levy is charged per 100 square metres of leasable floor space.

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:

- a) a maximum of 12 months from the date of issue of the Building Permit; or
- b) 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.

Expiry Conditions

40. 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;
 - c) the use is not commenced 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;

- i. within six months after the permit expires to extend the commencement date.

- ii. within 12 months after the permit expires to extend the completion date of the development if the development has lawfully commenced.

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

Note 1: This permit contains a condition requiring payment of Development Contributions. The applicable development contribution levies are indexed annually. To calculate the approximate once off levy amount, please visit <http://www.moreland.vic.gov.au/planning-building/> and click on 'Moreland Development Contributions Plan (DCP)'. Alternatively, please contact Moreland City Council on 9240 1111 and ask to speak to the DCP Officer.

Note 2: Should Council impose car parking restrictions in this street, the owners and/or occupiers of the dwellings would not be eligible for resident parking permits to park on the street. Occupiers are eligible for the resident A parking permit which only permits parking in limited areas. The resident parking permits and Resident A parking permit are subject to future reviews and change. See Council's website for more information: <https://www.moreland.vic.gov.au/parking-roads/parking-permits/residential-parking-permits/>

Note 3: Contact needs to be made with CitiPower to determine whether CitiPower will require the power lines to be relocated away from the dwellings.

Note 4: Moreland City Council is committed to increasing the amount of affordable housing in the municipality. One way to do this, is through Homes for Homes, a social enterprise founded by the Big Issue that aims to raise new funds via voluntary tax-deductible donations on property transactions and invest those funds in building and managing new social and affordable dwellings. If you would like to help build homes for those in need, visit [Homes for Homes](#) and register your commitment to donate 0.1 per cent of the sale price of your dwelling(s).

Note 5: Separate consent may be required for construction works within the road reserve associated with this Planning Permit under the *Road Management Act 2004*. Please contact the Department prior to commencing any works.

Note 6: Environmental Audit Notes

- 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 5 business days of issue, in accordance with Section 210 of the *Environment Protection Act 2017* (Vic).
- 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.

1. Background

Subject site

The subject site is located on the east side of Holmes Street, located approximately 280 metres south of Moreland Road and 285 metres north of Albion Street. The site has a frontage of 20.12 metres to Holmes Street, a maximum depth of 38.45 metres and an overall area of approximately 774 square metres. There are no easements affecting the site.

A two-storey building that is built to all boundaries has been constructed on the land. There is currently no vehicle access to the site.

There are no restrictive covenants indicated on the Certificate of Title.

Surrounds

The surrounding area is highly mixed in character. There are a number of industrial and commercial sites, with high site coverage and limited landscaping. There are also examples of small-scale dwellings and more contemporary multi-unit developments. Buildings in the surrounding area range from one to three storeys in height. In addition, the area forms part of the Nicholson Street/Holmes Street/Moreland Road Neighbourhood Centre and is therefore undergoing change, with high density residential development occurring within the broader site context.

The immediate context includes:

- Commercial land on the east side of Holmes Street.
- A service station to the north.
- Single storey dwellings and three storey townhouses on the west side of Holmes Street.
- Double storey warehouses fronting the laneway to the east.

A location plan forms **Attachment 1**.

The proposal

The proposal is summarised as follows:

- Construction of a five-storey building. Details of the building are as follows:
 - Two basement levels containing 28 car spaces.
 - Two retail premises and two offices at ground floor
 - 24 dwellings comprising of:
 - 5 one-bedroom dwellings
 - 18 two-bedroom dwellings
 - 1 three-bedroom dwelling
 - The dwellings have private open space areas ranging in size from 8 square metres to 68 square metres and a communal open space area on the roof.
- A total of 64 bicycle spaces are provided at ground floor.
- A maximum building height of 18.468 metres.
- The materials comprise of a mix of brick, concrete and cladding.

The development plans form **Attachment 2**.

Statutory Controls – why is a planning permit required?

Control	Permit Requirement
Commercial 1 Zone	Clause 34.01-4: A permit is required to construct a building or construct or carry out works.

Control	Permit Requirement
	Clause 34.01-1: A permit is required for use of the land for 'Dwelling' as the ground level frontage exceeds two metres. Shop and Office are Section 1 uses in the zone, meaning that a permit is not required for these uses.
Design and Development Overlay	Clause 43.02-2: A permit is required to construct a building or construct or carry out works.
Car Parking	Clause 52.06: A permit is required for a reduction in the standard car parking requirement from 40 to 28 spaces.

The following Particular Provisions of the Moreland Planning Scheme are also relevant to the consideration of the proposal:

- Clause 45.03: Environment Audit Overlay.
- Clause 45.06: Development Contributions Plan Overlay
- Clause 45.09: Parking Overlay (Schedule 1).
- Clause 52.34: Bicycle Parking.
- Clause 53.18: Stormwater Management in Urban Development
- Clause 58: Apartment Developments

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
- Placing 2 signs on the site (one on the Holmes Street frontage and one in the south-western corner of the site, facing the Right of Way)

Council has received 13 objections to date. A map identifying the location of objectors forms **Attachment 3**.

The key issues raised in objections are:

- Height exceeding DDO24 control and at odds with surrounding character
- Car parking reduction and impact on on-street parking
- Safety and noise concerns associated with use of laneway
- Increased traffic congestion
- Poor offsite amenity, including overshadowing, loss of daylight, overlooking, visual bulk, noise
- Minimal size of apartments
- Lack of loading zone
- Impacts of proximity to service station, including hazardous materials and services, not adequately considered.

A Planning Information and Discussion meeting was held on 1 March 2022 and attended by two Council Planning Officers, the applicant and four objectors. The meeting provided an opportunity to explain the application, for the objectors to elaborate on their concerns, and for the applicant to respond.

Following discussions at the meeting no changes were made by the applicant, but a condition was included on the permit requiring the installation of a traffic signal facing south to alert on-coming vehicles entering the laneway from Mitchell Street of any vehicles about to exit the site, thereby avoiding conflict along the lane.

Internal referrals

The proposal was referred to the following internal branches/business units:

Internal Branch/Business Unit	Comments
Urban Design Unit	Supports the proposal and are satisfied with the street presentation and overall built form. Recommended changes to minor material changes and are addressed by conditions of the recommendation.
Development Engineering Team	Supports the proposal. The basement design is satisfactory and the car parking reduction is considered acceptable. Recommended changes include a requirement for bike racks to provide 0.5 metres clearance between spaces which will reduce the number of bicycle spaces, but will still far exceed the requirement of 7 spaces. Other recommended changes are addressed by conditions of the recommendation.
ESD Team	Supports the proposal. Changes to the layout of Dwellings 5, 6, 12 and 13 are recommended to improve daylight to the living areas. This is considered further in Section 4 of the report.

3. Policy Implications

Planning Policy Framework (PPF):

The following policies are of most relevance to this application:

- Municipal Planning Strategy (Clause 2), including:
 - Vision (Clause 2.02)
 - Settlement (Clause 2.03-1)
 - Environmental and Landscape Values (Clause 2.03-2)
 - Built Environment and Heritage (Clause 2.03-4)
 - Housing (Clause 2.03-5)
 - Economic Development (Clause 2.03-6)
 - Transport (Clause 2.03-7)
- Settlement (Clause 11)
- Environmental Risks and Amenity (Clause 13):
 - Contaminated and Potentially Contaminated Land (Clause 13.04-1S)
 - Noise Abatement (Clause 13.05-1S and 13.05-1L)
- Built Environment (Clause 15.01), including:
 - Urban Design (Clause 15.01-1S, 15.01-1R & 15.01-1L)
 - Vehicle Access Design in Moreland (Clause 15.01-1L)
 - Building Design (Clause 15.01-2S & 15.01-2L)
 - Apartment developments in Moreland (Clause 15.01-2L)
 - Building Design in Neighbourhood and Local Centres (Clause 15.01-2L)
 - Healthy Neighbourhoods (Clause 15.01-4S and 15.01-4R)
 - Neighbourhood Character (Clause 15.01-5S)

- Sustainable Development (Clause 15.02), including:
 - Energy and resource efficiency (Clause 15.02-1S)
 - Environmentally Sustainable Development (Clause 15.02-1L)
 - Energy efficiency in Moreland (Clause 15.02-1L)
- Residential Development (Clause 16.01), including:
 - Housing Supply (Clause 16.01-1S and 16.01-1R)
 - Homes in Moreland (Clause 16.01-2L)
 - Housing for People with Limited Mobility (Clause 16.01-1L)
 - Housing Affordability (Clause 16.01-2S & 16.01-2L)
- Economic Development (Clause 17), including:
 - Diversified economy (Clause 17.01-1S & 17.01-1R)
 - Employment Areas (Clause 17.01-1L)
 - Business (Clause 17.02-1S)
- Transport (Clause 18), including:
 - Sustainable Personal Transport (Clause 18.02-1S & 18.08-1R)
 - Sustainable Transport in Moreland (Clause 18.02-1L)
 - Car Parking in Moreland (18.02-4L)
- Infrastructure (Clause 19.02), including:
 - Energy supply (Clause 19.01-1S & 19.01-1L)
 - Open Space (Clause 19.02-6S, 19.02-6R & 19.02-6L)
 - Development infrastructure (Clause 19.03)

Human Rights Consideration

This application has been processed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Moreland Planning Scheme) reviewed by the State Government and which complies with the *Victorian Charter of Human Rights and Responsibilities Act 2006, including Section 18 (Taking part in public life)*. In addition, the assessment of the application has had particular regard to:

- Section 12: Freedom of movement
- Section 13: Privacy and Reputation
- Section 20: Property rights

The proposed redevelopment of private land does not present any physical barrier preventing freedom of movement. The right of the landowner to develop and use their land has been considered in accordance with the Moreland Planning Scheme. The privacy of nearby residents has also been considered as part of the application process.

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 have strategic policy support?

The proposal has been assessed against the purpose of the Zone, along with the relevant objectives of the planning policy framework and is deemed to have strategic policy support. In particular:

- The design is responsive to the policy directions contained within Building Design (Clause 15.01-2S & 15.01-2L) and Urban Design (Clause 15.01-1S & 15.01-1R).

- The subject site is located within the Nicholson Street/Holmes Street/Moreland Road Neighbourhood Centre. This is an area where strategic direction at Clause 2.03-1 seeks to accommodate an increase in density and scale of built form appropriate to the centre's role in the Activity Centre Hierarchy, but at a lesser intensity and scale to the larger centres of Coburg, Brunswick and Glenroy.
- The reduction in car-parking is consistent with Sustainable Transport in Moreland (Clause 18.02-2L) and Car parking in Moreland (18.02-4L).

Does the proposal respond to the preferred future built form of the area?

The built form is appropriate, subject to conditions to alter certain materials on the façade. Key pieces of policy are as above and the Design and Development Overlay – Schedule 24.

Building Height

DDO24 informs that the subject site is within a Focus Area for Change where building heights *should* not exceed 13.5 metres/four storeys. The proposal is for a building of five storeys with a maximum height of 16.545 metres (excluding the lift overrun, noting that DDO24 does not include such services in the building height calculation).

Clause 15.01-2L (Building Design in Neighbourhood and Local Centres) seeks to limit buildings to four storeys in height unless either the prevailing height is five or more storeys, or the site is large enough to mitigate the visual impacts.

Although the built form in this location is mostly single or double storey, the site is located in a section of Holmes Street that is expected to undergo considerable development in accordance with the objectives of the DDO24. The street wall height along Holmes Street is only four storeys, consistent with policy at Clause 15.01-2L (Building Design and Neighbourhood and Local Centres). The fifth level is setback 7.2 metres from the front boundary, with balconies encroaching 3.7 metres into this setback. The front section of this level, including the balcony is also setback 2 metres from the side boundaries. These setbacks greatly reduce the visibility of the upper level. The applicant has prepared sightline diagrams demonstrating that the fifth level will not be visible to pedestrians standing opposite the site on the western side of Holmes Street. It is acknowledged that the upper storey will still be visible from oblique angles, until such time as the other properties along the eastern side of Holmes Street are developed in a similar manner. In the meantime, the building will largely present to Holmes Street as four storeys.

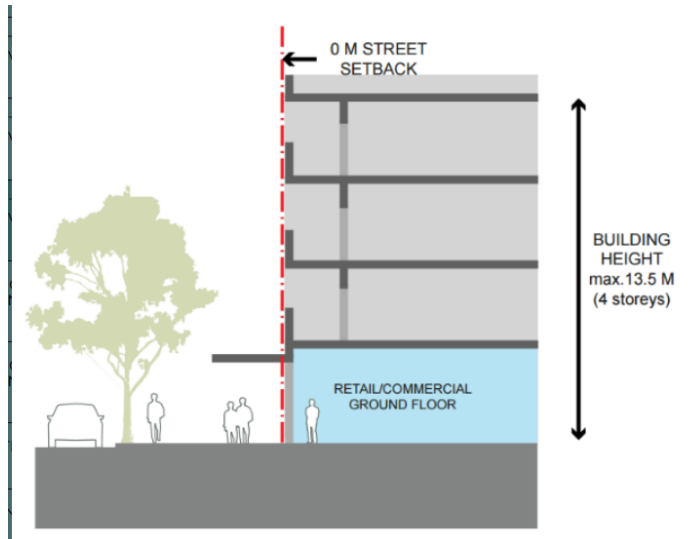
The fifth storey will be more visible to nearby residential properties to the north-east, south-east and east. To the south-east are 3 properties within the General Residential Zone, Schedule 1 (GRZ1). The impact of the height to these properties is mediated by the ROW which separates them from the subject site, and the design response whereby the building does not extend beyond the rear of the buildings along the western side of the ROW.

To the north-east 150 Donald Street is zoned GRZ1. It is, however, physically separated from the subject site via the adjoining commercial properties. Furthermore, it has been developed with six, three storey townhouses with limited outlook to the subject site.

There are also residential properties to the east, within the Neighbourhood Residential Zone, Schedule 1 (NRZ1). The impacts of the height are mediated by their physical distance from the site, the presence of buildings between them and the site, a ROW which acts as a further buffer and the rear setbacks at the upper levels.

Setback Requirements

The ground, first, second and third floors are built to the front boundary. DDO24 does not specify any preferred street wall height, but the front setback requirements outline that buildings with ground floor retail or commercial uses should be constructed to the street boundary. Figure 1 of DDO24 (see below) also shows all levels (13.5 metres / four storeys) built to the boundary. Accordingly, the four storey street wall with a recessed upper level is an appropriate building form for the streetscape given the ground floor commercial uses.



With the exception of the light courts on either side of the building and the 2 metre setback of the front section of the upper level the building is constructed to the side boundaries, consistent with the requirements of the DDO24 for the Commercial 1 Zone.

To the rear (abutting 52A Holmes St) the ground floor is setback at least 4.18 metres, with a balcony in the north-eastern corner associated with Office 1 built to the northern and eastern (rear) boundaries. A 6 metre rear setback is provided from either the balconies or external walls on the levels above. Whilst being consistent with DDO24, compliance with Clause 15.01-2L (Apartment Development in Moreland) is not achieved which sets out a 9 metre building setback of the living room or main balcony to the side or rear boundary for a building height of 5-8 storeys, and a 4.5 metre setback for a bedroom outlook. The fifth storey maintains the 6.14 metre setback from the rear boundary to the balconies which falls short of the 9 metres outlined under Clause 15.01-2L.

Whilst not compliant with the numeric requirements, the design of the upper level is an appropriate response to the building setback and separation strategies of Clause 15.01-2L for the following reasons:

- Allows adequate daylight to living rooms and balconies as evidenced by the daylight modelling accompanying the Sustainable Management Plan.
- Does not result in any overlooking to any existing sensitive interfaces and avoids overlooking (within 9 metres) should 52A Holmes Street be similarly developed.
- Provides a reasonable outlook from the living areas, noting that the setback from the living rooms to the rear boundary is in the realm of 9 metres.
- Does not inhibit the development potential of 52A Holmes Street, given there would be at least 12 metres separation were it to adopt the same setbacks as this proposal.
- Does not result in unreasonable amenity impacts to adjoining properties to the north, south or east.

In these circumstances it is considered appropriate that Council apply discretion in supporting a variation to the building separation requirement.

Frontage Requirements

DDO24 and Clause 15.01-1L (Urban Design in Moreland) seek to have active frontages, with the former specifying that 65-80 per cent of the frontage should be glazed. The ground floor facing the street consists of two shop fronts (nominated as a restaurant and a café) as well as the residential entry for the apartments. The glazing associated with these windows and doors occupies almost 75 per cent of the frontage width, hence satisfying the requirement of DDO24. Furthermore, they are noted to be clear glazing, allowing for suitable passive surveillance and street activation.

The first, second and third levels all include balconies constructed to the street wall, as well as one habitable room window to the boundary and an additional window set further back. This design provides suitable activation to the street at the upper levels, as well as the opportunity for passive surveillance, particularly from the balconies which are enclosed by transparent balustrades.

A continuous awning is provided over the footpath, to enhance the pedestrian experience and provide weather protection. With a height of 3.6 metre above the footpath level and a setback of 0.75 metres from the street, the design is appropriate for the streetscape.

Car Parking and Vehicle Entry / Site Services / Landscaping

Car parking is provided off the ROW at the rear of the site and is therefore not visible from the street maintaining the existing pedestrian experience along Holmes Street.

Services have been appropriately integrated into the design of the building, not detracting from the front façade. Details of any sub-station and or fire/water meters will need to be further detailed to the satisfaction of the Responsible Authority.

A waste storage area is provided to the rear of the building, not visible to the street. The waste collection vehicle will be required to reverse 34 metres down the length of the laneway, but Council's Engineers have not raised any concerns with this arrangement. Solar panels have been indicated on the roof plan and a condition of the permit will require the individual units be shown on the plan. Details of any roof top services and associated screening will be conditioned to be provided to the satisfaction of the responsible authority, noting that the majority of air conditioning units are provided on individual balconies

Given the site is within a commercial zone there are no relevant landscaping requirements under DDO24. However, the proposal has incorporated landscaping into the design through the use of planter boxes at the rooftop terrace level, as well as on several balconies. The landscape plan only shows the rooftop and a permit condition will therefore require it be updated to show all planter box locations.

Does the proposal result in any unreasonable off-site amenity impacts?

The off-site amenity impacts through the proposed building design have been discussed above, as has the location of nearby residential land.

There is only one residential property within 9 metres of a balcony (129 Mitchell Street). However, within this 9 metres there is only an outbuilding hence there is no overlooking of secluded private open space or habitable rooms.

Regarding overshadowing, the submitted diagrams demonstrate minimal overshadowing of nearby secluded private open space of residential properties to the south-east, leaving most of it unshadowed. Furthermore, the reduction of built form at the rear of the site (i.e. not extending past the western edge of the laneway) minimises the overshadowing impacts of the proposed built form.

The site is earmarked for increased density, hence the associated residential noise is considered appropriate in this setting. There may be increased vehicular noise along the ROW but this is consistent with policy contained within DDO24 which seeks to provide rear access where possible.

Does the proposal provide appropriate onsite amenity and facilities?

Clause 58.04-2 Internal Views (Standard D15)

There is the potential for overlooking from the bedrooms that face onto the light courts into the private open space (courtyards) of Dwellings 1, 3, 4 and 7 at the base of the light courts. A permit condition will require screening to limit downward views into these spaces.

Clause 58.05-3 Private Open Space (Standard D19)

Dwellings 5, 6, 12 and 13 are one bedroom apartments requiring a balcony with a minimum area of 8 square metres and a minimum dimension of 1.8 metres. The plans depict 8 square metre balconies with satisfactory dimensions, however the area also includes half the wall that divides it from the adjoining balcony. If the area is measured from wall to wall they actually only achieve an area of 7.63 square metres. Changes to these apartments will be required in response to ESD concerns (discussed further below) but the conditions will require balconies with at an area of at least 8 square metres.

Clause 58.05-4 Storage (Standard D20)

The storage areas listed in the development summary table indicate numerous apartments that either do not provide the minimum internal storage, the minimum total storage, or both. However, the storage calculations demonstrated on the detail plans indicate that only the storage areas of the wardrobes have been included in the calculation. Storage available elsewhere in the apartments (kitchen, bathroom, laundries) has not been included. A permit condition will require the storage details on the development summary and detail plans updated to incorporate all internal storage, to clearly demonstrate compliance with the requirements of Standard D20.

Clause 58.07-1 Functional Layout (Standard D25)

Apartments 5, 6, 12 and 13 contain one bedroom and accordingly require a minimum area of 10 square metres for the living area with a minimum width of 3.3 metres. They are shown on the detail plan to have an area of 13 square metres but only a minimum width of 2.6 metres. Changes to these apartments will be required in response to ESD concerns (discussed further below) but the conditions will require the Living Areas as at least 3.3 metres wide.

Apartments 4, 7, 11, 14, 20 and 24 each contain two bedrooms, requiring a minimum width of 3.6 metres and a minimum area of 12 square metres for their living rooms. They are all either shown with an area of 13 square metres, and a minimum width of either 3.3 metres or 3.4 metres. Similar to the above, compliance can be achieved for Apartments 4, 7, 11 and 14 by moving the dining table closer to the kitchen. There is scope to increase the widths of Apartments 20 and 24 by reducing the width of balconies by 0.3 metres, which would result in a 2 metre width which is still compliant with Standard D19. Whilst this would reduce the rear setback from 9.016 metres to 8.716 metres it is only a small reduction, would not change the setbacks of the balconies and would improve internal amenity. This will be required via a permit condition.

Apartments 2, 9 and 16 are all one bedroom apartments with an additional enclosed study. The study of Apartment 16 is only 2.74 metres x 2.3 metres. Given these minimal dimensions it is likely that it would serve as a study rather than an extra bedroom. However, the studies of Apartments 2 and 9 are 3.58 metres x 2.74 metres. Presumably they have only been provided a width of 2.74 metres to allow an appropriate light court to the window of adjacent bedroom. Were their width increased to 3 metres this would reduce the width of the light court from 2.1 metres to 1.84 metres, which would still be acceptable in accordance with the requirements of Standard D27. The room could accommodate a 0.6 metre wide wardrobe against the internal wall and still provide a length of 2.98 metres. Given the current dimensions of the room it is conceivable that it could be sought to be used as a bedroom. It is therefore considered appropriate to condition it to be increased in size and provided with a wardrobe to provide for a suitable level of internal amenity. The living areas and balconies are suitably designed to meet the requirements for 2 bedroom apartments.

Clause 58.07-3 Windows (Standard D27)

Bed 2 of Apartments 19 and 23 are reliant on daylight from secondary areas. Whilst they have been provided skylights the daylight remains poor due to the depth of the “snorkels” which do not comply with the requirements of Standard D27. Given the aforementioned changes that will be required to Apartments 2 and 9 (increased from one to two bedroom apartments) it is considered reasonable to require the deletion of the second bedrooms from Apartments 19 and 23, and allow them to be turned into open studies or the like.

Has adequate car and bicycle parking been provided?

The table below outlines the car parking requirements for the development based on the provisions of Clause 52.06 of the Moreland Planning Scheme:

Use	Total spaces required	Total spaces provided	Reduction sought
Dwellings	25	24	1
Office	4	2	2
Food and Drink Premises	11	2	9
Total	40	28	12

Clause 18.02-4L (Car parking in Moreland) supports reduced car parking rates in developments:

- *Within and close to activity centres*
- *With excellent access based on frequency and location to a range of public transport options*
- *With increased provision of bicycle parking above the rates specified in Clause 52.34.*

The proposal is located within the Nicholson Street/Holmes Street/Moreland Road, Coburg Neighbourhood Centre, approximately 225 metres north of the Brunswick Activity Centre (Lygon Street). There is a Route 1 and Route 6 tram stop directly in front of the site and a Route 510 bus stop within 320 metres of the site. The proposal also provides generous provision of secure bicycle parking spaces on-site.

The applicant’s traffic report assesses the parking demand for the residential component of the proposal as being 23.33 spaces based on 2016 ABS data. The provision of 24 spaces on site is consistent with this finding. The dwellings will not be eligible for parking permits in the event that parking restrictions are imposed by Council on the street. This is included as a note on the planning permit in the recommendation.

Two spaces have been provided for the two food and drinks premises, which will allow some on site staff parking. Customer demand for parking can be accommodated in the surrounding streets, noting that it is not practical for on-site short term parking to be provided in the basement, and that the existing use is reliant on on-street parking. The office use requires four spaces and provides two spaces on site. This is appropriate given the nearby public transport options and results in a reduced demand in car parking generated by the current office use.

Vehicles, whether related to this or other developments in the street, can only park on the street in accordance with any parking regulations. The number of vehicles that can park on the street and at what time will be dictated by the parking restrictions and the availability of on-street car spaces. It is expected that the level of parking provided will cater for car ownership levels of the occupiers.

Are adequate loading/unloading facilities provided?

There is no specific requirement within the Scheme for the provision of a dedicated loading facility for the commercial premises. Clause 65.01, however, does require consideration of the adequacy of loading and unloading facilities. There are 'No Stopping' restrictions on Holmes Street immediately in front of the site, as well as a clearway between the hours of 6:30am – 9:30am Monday – Friday. Accordingly, any on-street loading/unloading will need to occur either from in front of 46A, 46B and 54 Holmes Street after 9.30am on weekdays. It is also noted that there is a 30 minute on-street loading zone around the corner on Donald Street. There is also the capacity for staff to use the basement car spaces for the loading/unloading of minor goods. Given the small size of the commercial premises Council's Engineers consider this response to be acceptable.

What impact does the proposal have on car congestion and traffic in the local area?

In relation to traffic impacts, Council's Development Engineers have assessed the proposal and consider that the use and development will result in 17 additional vehicle movements each peak hour. This remains within the capacity of the ROW and is not expected to cause unacceptable congestion at nearby intersections. Council's Engineers consider that potential conflicts along the ramp or along the laneway will be rare but avoidance of such conflict can be minimised through permit conditions requiring the installation of traffic signal systems to alert on-coming vehicles entering the laneway from Mitchell Street of any vehicles about to exit the site.

Does the proposal incorporate adequate Environmental Sustainable Design (ESD) features?

The development will comply with Clause 15.02-1L (Environmental Sustainable Design), subject to conditions. Concerns were raised by Council's ESD team regarding daylight to several apartments. The applicant has provided discussion plans demonstrating the reconfiguration of Apartments 5, 6, 12 and 13 which results in improved daylight and can maintain compliance with the requirements of Clause 58, subject to minor conditions. This change will be required via permit conditions. As such, the proposal can be accepted as it has the capacity to comply with best practice environmentally sustainable design subject to conditions and further information being shown on the plans.

The discussion plans form **Attachment 4**.

Is the site potentially contaminated?

The site is covered by an Environmental Audit Overlay. A Preliminary Site Investigation (PSI) was submitted with this application identifying that there is potentially for contaminated, both from on site and off site sources and that further investigation is required due to the sensitive nature of the proposed use. Conditions will be included on the permit requiring compliance with the requirements of the *Environment Protection Act 2017*, and the preparation of a Safety Management Study in consultation with the owners of the adjoining petrol station.

5. Response to Objector Concerns

All of the issues raised by objectors have been addressed in Section 4 of this report.

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

The proposal is a high-quality mixed-use development that responds appropriately to the site context and will provide increased housing in an area identified for significant growth. Subject to conditions in the recommendation, the proposal will provide a good standard of internal amenity for future occupants.

On the balance of policies and controls within the Moreland Planning Scheme and objections received, it is considered that Notice of Decision to Grant a Planning Permit No MPS/2020/427 should be issued subject to the conditions included in the recommendation of this report.

Attachment/s

<u>1</u>	Location Map - 52 Holmes Street, Brunswick East	D22/65634
<u>2</u>	Development Plans - 52 Holmes Street, Brunswick East	D22/80671
<u>3</u>	Objector Location Map - 52 Holmes Street, Brunswick	D22/65616
<u>4</u>	Discussion Plans - 52 Holmes Street, Brunswick East	D22/80882

5.3 8 ARNOLD STREET, BRUNSWICK EAST - PLANNING APPLICATION - MPS/2021/115

Director Place and Environment Joseph Tabacco
City Development

Executive Summary



Property:	8 Arnold Street, BRUNSWICK EAST VIC 3057			
Proposal:	Construction of five double storey dwellings and a reduction of two car parking spaces			
Zoning and Overlay/s:	<ul style="list-style-type: none"> Neighbourhood Residential Zone Schedule 1 Development Contributions Plan Overlay 			
Strategic setting:	Minimal housing growth	Incremental housing growth	Increased house densities encouraged	Significant housing growth
Objections:	<ul style="list-style-type: none"> 14 objections raising the following key issues: <ul style="list-style-type: none"> Parking and traffic impacts; Neighbourhood character; Non-compliances with Clause 55 			
Planning Information and Discussion (PID) Meeting:	<ul style="list-style-type: none"> Date: 14 February 2022 Attendees: 5 objectors, the applicant, two Council officers, and Cr James Conlan No changes were agreed to however the meeting provided an opportunity for the objectors concerns to be discussed and helped inform the preparation of this report 			
ESD:	<ul style="list-style-type: none"> Subject to conditions the development will achieve a NatHERS rating of 6.5 			
Accessibility:	<ul style="list-style-type: none"> 40% of the dwellings are adaptable 			
Key reasons for support	<ul style="list-style-type: none"> Appropriate built form No unreasonable off-site amenity impacts. Acceptable car parking and traffic impacts 			
Recommendation:	Notice of Decision to Grant a Planning Permit be issued for the proposal.			

Officer Recommendation

That a Notice of Decision to Grant a Planning Permit No. MPS/2021/115 be issued for the construction of five double storey dwellings and a reduction to the statutory car parking spaces at 8 Arnold Street, BRUNSWICK EAST subject to the following conditions:

Amended Plans Required

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans advertised on 10/11/2021 but modified to show:
 - a) Increased canopy tree planting and permeability within the secluded private open spaces of dwellings 3 and 4, by:
 - i. Deleting the cantilevered first floor elements for dwellings 3 and 4 above the deck and subsequent internal rearrangement without further alterations to the building envelopes.
 - ii. Nominating the decking within the rear yards as being permeable.
 - iii. A reduction in the depth of the open pergolas within the rear yards of Dwellings 3 and 4 to accommodate canopy tree planting.
 - b) A reduction in the overshadowing in accordance with sketch plans referenced as SK-12 and dated 3.3.22.
 - c) The location of air-conditioning units within the secluded private open space of each dwelling.
 - d) Dwelling 1 Bedroom 4 notated as being screened to a height of 1.7 metres in accordance with Standard B22 at Clause 55.04-6 (Overlooking).
 - e) An amended schedule of all proposed exterior decorations, materials, finishes and colours, including colour samples to confirm:
 - i. The screen devices to east facing windows and first floor balconies have 25% transparency in accordance with Standard B22, Clause 55.04-6 (overlooking);
 - ii. proposed method of bike storage within the carports of Dwellings 1 and 2 which must be in accordance with Australian Standard for Bicycle Parking (AS2890.3);
 - iii. the toaster rack rails in the communal bike storage area replaced with individual bike hoops in accordance with Australian Standard for Bicycle Parking (AS2890.3); and
 - iv. The roof, screening devices and accent elements in a lighter shade to assist with reducing urban heat island effect.
 - f) A screen diagram drawn at a scale of 1:50 which details the screen associated with the east-facing habitable room windows and first floor balconies of all dwellings. This diagram must include:
 - i. All dimensions, including the width of slats and the gap between slats;
 - ii. All side screens; and
 - iii. How compliance is achieved with the standard of Clause 55.04-6 (overlooking) of the Moreland Planning Scheme.
 - g) The street tree and trees within the rear yards of dwellings at 10 Arnold Street notated as being retained
 - h) Any changes to the plans arising from the Landscape Plan in accordance with Condition 3 of this permit.
 - i) Tree protection zones in accordance with Condition 6 of this permit, to all trees marked as retained on the plans.
 - j) The Environmentally Sustainable Design initiatives that are required to be shown on plans, as contained within Condition 8(c) of this permit.

Compliance With Endorsed Plans

2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority. This does not apply to any exemption specified in Clauses 62.02-1 and 62.02-2 of the Moreland Planning Scheme unless specifically noted as a permit condition.

Landscaping

3. Prior to the endorsement of plans, an amended landscape plan must be submitted to the Responsible Authority. The landscape plan must be generally in accordance with the plan prepared by PD Studio advertised 10/11/2021 but amended to show:
 - a) Any changes required to align with the plans for endorsement.
 - b) The permeable areas within the rear yards of Dwellings 3 and 4 dimensioned as achieving a minimum area 4.5 x 4.5 metres in accordance with condition 1(a) of this permit.
 - c) Identification of any existing trees and vegetation on site and adjoining land proposed to be removed and retained, including the tree protection zone(s) of trees to be retained and protected.
 - d) Strategies for the retainment of vegetation (i.e. barriers and signage during the construction process) consistent with any conditions of this permit.
 - e) Details of the location and type of all garden beds, and paved and sealed areas. Porous/permeable paving, rain gardens and other water sensitive urban design features must be in accordance with the Sustainability Design Assessment.
 - f) A schedule of all proposed trees, shrubs and ground covers, including numbers, size at planting, size at maturity, botanical names and common names. The flora selection and landscape design should be drought tolerant and based on species selection recommended in the Moreland Landscape Guidelines 2009.
 - g) The provision two canopy trees within the front setback, reaching a mature height of 6 - 8 metres and a canopy width of at least 5 metres to assist in the integration of the development within the existing streetscape. The tree species must be selected according to the available space, in accordance with the Moreland Tree Planting Manual for Residential Zones, 2019.
 - h) The provision of one canopy tree within the rear yards of Dwellings 3 and 4 reaching a mature height of 6 - 8 metres, and a canopy width of at least 5 metres. The tree species must be selected according to the available space, in accordance with the Moreland Tree Planting Manual for Residential Zones, 2019.
 - i) The provision of one canopy tree within the rear yards of Dwellings 1, 2 and 5 reaching a mature height of 6 - 8 metres and a canopy width of at least 3 metres. The tree species must be selected according to the available space, in accordance with the Moreland Tree Planting Manual for Residential Zones, 2019.
 - j) The provision of screen planting within the rear yards of Dwellings 1 - 5 along the boundary where it adjoins the secluded private opens space of the dwellings at 10 Arnold Street. The screen planting must be integrated with other landscaping and shrubs within the rear yards. Trees must be a species to meet a minimum height of 2 metres at maturity, and the tree species selected according to the available space, in accordance with the Moreland Tree Planting Manual for Residential Zones, 2019.
 - k) Notes and diagrams detailing the establishment and maintenance of all proposed trees, shrubs and ground covers.

When submitted and approved to the satisfaction of the Responsible Authority, the landscape plan will be endorsed to form part of this permit. No alterations to the plan may occur without the written consent of the Responsible Authority.

4. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all landscaping works must be completed in accordance with the endorsed landscape plan to the satisfaction of the Responsible Authority.
5. All landscaping must be maintained to the satisfaction of the Responsible Authority in accordance with the endorsed landscape plans. Any dead, diseased or damaged plants must be replaced with a suitable species to the satisfaction of the Responsible Authority.

Tree Protection

6. Prior to development commencing (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), all council trees and the trees marked on the endorsed plans as being retained and protected must have a Tree Protection Zone (TPZ) in accordance with AS4970 Protection of Trees on Development Sites to the satisfaction of the Responsible Authority. The TPZ must meet the following requirements:

- a) Tree Protection Fencing

Tree Protection Fencing (TPF) is to be provided to the extent of the TPZ, calculated as being a radius of 12 x Diameter at Breast Height (DBH – measured at 1.4 metres above ground level as defined by the Australian Standard AS 4970.2009). The TPF may be aligned with roadways, footpaths and boundary fences where they intersect the TPZ.

If works are shown on any endorsed plan of this permit within the confines of the calculated TPZ, then the TPF must be taken in to only the minimum amount necessary to allow the works to be completed.

The TPF must be erected to form a visual and physical barrier, be a minimum height of 1.5 metres above ground level and of mesh panels, chain mesh or similar material. A top line of high visibility plastic tape must be erected around the perimeter of the fence.

- b) Signage

Fixed signs are to be provided on all visible sides of the TPF clearly stating “Tree Protection Zone – No entry. No excavation or trenching. No storage of materials or waste.”. The TPF signage must be complied with at all times.

- c) Irrigation

The area within the TPZ and TPF must be irrigated during the summer months with 1 litre of clean water for every 1cm of trunk girth measured at the soil/trunk interface on a weekly basis.

- d) Provision of Services

All services (including water, electricity, gas and telephone) must be installed underground, and located outside of any TPZ, wherever practically possible. If underground services are to be routed within an established TPZ, this must occur in accordance with Australian Standard AS4970.

7. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, the owner must pay Council the amenity value, removal, replacement and establishment costs in accordance with the Moreland Urban Forest Strategy 2017 for any street tree damaged through the building works, to the satisfaction of the Responsible Authority.

Environmentally Sustainable Development

8. Prior to the endorsement of plans, an amended Sustainable Design Assessment (SDA) and plans must be submitted to the satisfaction by the Responsible Authority. The SDA must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the SDA prepared by Above and Beyond Energy Solutions Advertised 30/06/2021, but modified to include the following changes:
- a) Provide updated preliminary NatHERS ratings assessments for all dwellings demonstrating a minimum 6.5 NatHERS star rating average across both dwellings.
 - b) Amend the BESS report (and any other corresponding documentation) to:
 - i. Enter the preliminary NatHERS data in the Dwelling Energy Profiles as per the updated NatHERS ratings.
 - c) Show the following ESD initiatives on the development plans:
 - i. Increase the size of the window to Dwelling 2 study/library. The window must be operable (not awning opening), and provided with shading in accordance with condition 8c)(ii).
 - ii. External operable shading devices to all west facing habitable room glazing to block peak summer sun. A product diagram or section detail of the proposed device must be provided.
 - iii. Double glazing to all habitable rooms to be annotated on each individual glazing unit on elevation plans and specified on the material/colour schedule.
 - iv. Size and location of all rainwater tanks.
 - v. The location of designated electric vehicle parking bay(s) and location of charging infrastructure.
 - d) A STORM report and stormwater management response that maintains a minimum STORM score of 100%.
 - e) An amended stormwater catchment plan (based on the roof plan) that is consistent with the STORM report, clearly showing:
 - i. All stormwater catchment areas (impervious areas and roofs) clearly marked and dimensioned and connected to corresponding Water Sensitive Urban Design (WSUD) treatment measures;
 - ii. Any untreated roofs/impervious surfaces clearly identified.
 - iii. That any trafficable balcony runoff will not be directed into the proposed rainwater tanks.
 - iv. The size and location of rainwater tanks in accordance with the stormwater report and include a clear annotation stating that tanks will be collecting rainwater from all roofed areas and will be servicing all the toilets (washing machine, irrigation) within each dwelling.
 - v. The downpipe locations and how they will be connected to the rainwater tanks without the need for charged piping systems underneath dwellings footings or slabs.

Where alternative ESD initiatives are proposed to those specified in the conditions above, 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 Sustainable Design Assessment and associated notated plans will be endorsed to form part of this permit. No alterations to the plan may occur without written consent from the Responsible Authority.

9. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all works must be undertaken in accordance with the endorsed Sustainable Design Assessment (including any BESS and STORM reports) to the satisfaction of the Responsible Authority.
10. Prior to the issuing of a Certificate of Occupancy or Statement of Compliance, whichever comes first, of any dwelling approved under this permit, a report/checklist must be submitted to the Responsible Authority. The report/checklist must be to the satisfaction of the Responsible Authority and must confirm (with suitable evidence) that measures specified in the endorsed Sustainable Design Assessment have been implemented in accordance with the approved plans.
11. All stormwater treatment devices (e.g., raingardens, rainwater tanks etc.) must be maintained, to ensure water quality discharged from the site complies with the performance standard in the endorsed Sustainable Design Assessment.

Waste Management

12. The Waste Management Plan approved 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.

Development Contributions

13. Prior to the issue of a Building Permit in relation to the development approved by this permit, a Development Infrastructure Levy and Community Infrastructure Levy must be paid to Moreland City Council in accordance with the approved Development Contributions Plan. The Development Infrastructure Levy and Community Infrastructure Levy is charged per dwelling.

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:

- a) a maximum of 12 months from the date of issue of the Building Permit; or
- b) 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.

Car Parking and Vehicle Access

14. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, the rear laneway must be constructed and drained full width from a point opposite the eastern boundary of the site to a point 4 metres west of the western boundary of the garage to Council's standards using construction plans approved by Council and the works supervised by Council.
15. Any ramp from the garage floor to either laneway must be contained entirely within the site leaving the laneway levels unaltered.
16. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, the carport roller doors must be automatic and remote controlled.

Undergrounding Cables

17. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, 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.

Stormwater

18. 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 (Note: Please contact Moreland City Council, City Infrastructure Department).
19. Stormwater from the land must not be directed to the surface of the right-of-way to the satisfaction of the Responsible Authority.

General Amenity

20. Unless with the prior written consent of the Responsible Authority, any plumbing pipe, ducting and plant equipment must be concealed from external views. This does not include external guttering or associated rainwater down pipes.
21. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.
22. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, bollard lighting as shown on the endorsed plans, standing no higher than 1.2 metres above ground level, is to be installed and maintained on the land to automatically illuminate pedestrian access to the dwellings between dusk and dawn with no direct light emitted onto adjoining property to the satisfaction of the Responsible Authority.
23. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, lighting shown as installed on each balcony on the endorsed plans must be designed to not emit light direct onto adjoining property to the satisfaction of the Responsible Authority.
24. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes 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.

Permit Expiry

25. 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.

Notes

Note 1: This permit contains a condition requiring payment of Development Contributions. The applicable development contribution levies are indexed annually. To calculate the approximate once off levy amount, please visit <http://www.moreland.vic.gov.au/planning-building/> and click on 'Moreland Development Contributions Plan (DCP)'. Alternatively, please contact Moreland City Council on 9240 1111 and ask to speak to the DCP Officer.

Note 2: Should Council impose car parking restrictions in this street, the owners and/or occupiers of the dwellings would not be eligible for resident parking permits to park on the street. Occupiers are eligible for the resident A parking permit which only permits parking in limited areas. The resident parking permits and Resident A parking permit are subject to future reviews and change. See Council's website for more information: <https://www.moreland.vic.gov.au/parking-roads/parking-permits/residential-parking-permits/>.

Note 3: Further approvals are required from Council's City Infrastructure Department who can be contacted on 8311 4300 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.

Note 4: Moreland City Council is committed to increasing the amount of affordable housing in the municipality. One way to do this, is through Homes for Homes, a social enterprise founded by the Big Issue that aims to raise new funds via voluntary tax-deductible donations on property transactions and invest those funds in building and managing new social and affordable dwellings. If you would like to help build homes for those in need, visit [Homes for Homes](#) and register your commitment to donate 0.1 per cent of the sale price of your dwelling(s).

1. Background

Subject site

The site is located to the north side of Arnold Street with a frontage of 10.36 metres, a depth of 76.2 metres, and a total site area of 871 square metres. The site is not affected by any easements or restrictive covenants. The title confirms rite of passage to the laneways at the rear of the site and the laneway along the eastern boundary.

The site is occupied by a single-storey, weatherboard, Victorian-era dwelling with pressed sheet metal roof. There are several outbuildings and some canopy trees within the large rear yard.

Vehicle access to the site is provided via the unconstructed laneway at the rear of the site, which provides access to Glenlyon Road to the north. Access is also accommodated via gates on the eastern boundary which open to the shared laneway between the subject site and 6 Arnold Street.

Surrounds

The surrounding area is characterised as an established residential area with a mix of dwelling types.

The eastern end is characterised by a more traditional and lower-density scale of detached dwellings and unit developments. These are typically single or double storey in height, comprising of three or four dwellings which have since been subdivided. In contrast, the western end is typified by medium-density infill development of larger landholdings, with two and three storey townhouses on compact lots.

Immediately adjoining the site to the east and west are unit and townhouse developments. Opposite (south) are detached single storey dwellings, and to the north is the rear unconstructed laneway. North of the laneway are unit developments and rear yards of dwellings facing Glenlyon Road.



Fig. 1: Subject site as viewed from Arnold Street (taken by planning officer 24/11/2020)



Fig. 2: Subject site eastern elevation as viewed from shared laneway with 6 Arnold Street (taken by planning officer 24/11/2020)



Fig. 3: Rear of subject site looking east (taken by planning officer 24/11/2020)



Fig. 4: Rear of subject site looking west (taken by planning officer 24/11/2020)

A location and zoning plan form **Attachment 1** and **Attachment 2** respectively.

The proposal

The proposal is summarised as follows:

Dwelling	Bedrooms	Car spaces	Open Space
Dwelling 1	4	1 space	<ul style="list-style-type: none"> Rear yard 32.7sqm Balcony 6.11sqm Front yard 43.47sqm
Dwelling 2	4	1 space	<ul style="list-style-type: none"> Rear yard 38.32sqm Balcony 8.15sqm
Dwelling 3	2	1 space	<ul style="list-style-type: none"> Rear yard 42.44sqm Balcony 5.75sqm
Dwelling 4	2	1 space	<ul style="list-style-type: none"> Rear yard 42.91sqm Balcony 5.67sqm
Dwelling 5	4	2 spaces	<ul style="list-style-type: none"> Rear yard 46.62sqm Balcony 6.51sqm

All dwellings have a 'traditional' layout with kitchen/living/dining areas and secluded private open space at the ground floor, and bedrooms/bathrooms/secondary living spaces at the first floor.

Dwellings 1 and 2 are provided with one car space each, accessed via the shared laneway (R4) at the front of the site. Car spaces for dwellings 3-5 are provided at the rear of the site with access via the laneway from Glenlyon Rd (R6 and A-1).

Pedestrian access for Dwelling 1 is provided directly via Arnold St, while access to Dwellings 2-5 are proposed via a new communal pedestrian path along the eastern boundary of the site.

The development plans form **Attachment 3**.

Amendment to Planning Application

To address objector's concerns, amended plans were submitted pursuant to Section 57A of the Planning and Environment Act 1987 on 12 October 2021 and included changes to the internal layout and reduction of two car parking spaces to Dwellings 1 and 2.

Council decided to accept the amendment to the application.

Statutory Controls – why is a planning permit required?

Control	Permit Requirement
<u>Neighbourhood Residential Zone</u>	A permit is required to construct more than one dwelling on a lot. No permit is required to use land as a dwelling.
<u>Particular Provisions</u> Clause 52.06-3	A permit is required to reduce the car parking requirement from 8 spaces to 6 spaces.

The following Particular Provisions of the Moreland Planning Scheme are also relevant to the consideration of the proposal:

- Clause 45.06: Development Contributions Plan Overlay
- Clause 53.18: Stormwater Management in Urban Development
- Clause 55: Two or more dwellings on a lot and residential buildings

2. Internal/External Consultation

Original application

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
- Placing 3x signs on the south (front), north (rear) and east (side) boundaries of the site

Amended application

Public notification

Notification of the amended application has been made pursuant to Section 52 of the *Planning and Environment Act 1987* proposal to the same extent as originally taken.

Council received a total of 14 objections. A map identifying the location of objectors forms **Attachment 4**.

The key issues raised in objections are:

- Parking and traffic impacts;
- Negative impact on neighbourhood character.
- Overdevelopment
- Off-site amenity impacts, including visual bulk, overlooking, overshadowing, noise.
- Equitable development of 6 Arnold Street.
- Warehousing of the planning permit.

Consultation

A Planning Information and Discussion meeting was held on 14 February 2022 and attended by Cr James Conlan, two Council Planning Officers, the applicant and five objectors. The meeting provided an opportunity to explain the application, for the objectors to elaborate on their concerns, and for the applicant to respond.

Internal/external referrals

Referral to external agencies was not required. The proposal was referred to the following internal branches/business units:

Internal Branch/Business Unit	Comments
Urban Design Unit	Supports the proposal subject to modifications, which are addressed by conditions of the recommendation or as otherwise detailed in Section 4 of this report.
Transport - Development Engineering	Supports the proposal. Key points relate to vehicle access, bicycle storage and general engineering conditions. Recommended changes are addressed by conditions of the recommendation or as otherwise detailed in Section 4 of this report.
Sustainable Built Environment - ESD Team	Supports the proposal subject to changes. Key issues relate to not meeting a 6.5 star average NatHERS rating, the WSUD response and missing annotations from the plans. Recommended changes are addressed by conditions of the recommendation and are considered further in Section 4 of this report.

3. Policy Implications

Planning Policy Framework (PPF):

The following policies are of most relevance to this application:

- Municipal Planning Strategy (Clause 2), including:
 - Vision (Clause 2.02)
 - Settlement (Clause 2.03-1)
 - Environmental and Landscape Values (Clause 2.03-2)
 - Environmental Risks and Amenity (Clause 2.03-3)
 - Built Environment and Heritage (Clause 2.03-4)
 - Housing (Clause 2.03-5)
 - Transport (Clause 2.03-7)
 - Infrastructure (Clause 2.03-8)
- Settlement (Clause 11)
- Built Environment (Clause 15.01), including:
 - Urban Design (Clause 15.01-1S, 15.01-1R & 15.01-1L)
 - Vehicle Access Design in Moreland (Clause 15.01-1L)
 - Building Design (Clause 15.01-2S & 15.01-2L)
 - Healthy Neighbourhoods (Clause 15.01-4S and 15.01-4R)
 - Neighbourhood Character (Clause 15.01-5S)
 - Minimal and Incremental Change Areas (Clause 15.01-5L)
- Sustainable Development (Clause 15.02), including:
 - Energy and resource efficiency (Clause 15.02-1S)
 - Environmentally Sustainable Development (Clause 15.02-1L)
 - Energy efficiency in Moreland (Clause 15.02-1L)

- Residential Development (Clause 16.01), including:
 - Housing Supply (Clause 16.01-1S and 16.01-1R)
 - Homes in Moreland (Clause 16.01-2L)
 - Housing for People with Limited Mobility (Clause 16.01-1L)
 - Housing Affordability (Clause 16.01-2S)
- Transport (Clause 18), including:
 - Car parking in Moreland (18.02-4L)
- Infrastructure (Clause 19.02), including:
 - Energy (Clause 19.01-1S & 19.01-1L)
 - Development infrastructure (Clause 19.03)

Human Rights Consideration

This application has been processed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Moreland Planning Scheme) reviewed by the State Government and which complies with the *Victorian Charter of Human Rights and Responsibilities Act 2006, including Section 18 (Taking part in public life)*. In addition, the assessment of the application has had particular regard to:

- Section 12: Freedom of movement
- Section 13: Privacy and Reputation
- Section 20: Property rights

The proposed redevelopment of private land does not present any physical barrier preventing freedom of movement. The privacy of nearby residents has been considered as part of the application process. The right of the landowner to develop and use their land has been considered in accordance with the Moreland Planning Scheme.

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 have strategic policy support?

The subject site is located within the Neighbourhood Residential Zone which recognises areas of single and double storey residential development and seeks to ensure that new developments respect the identified neighbourhood character.

Council's Housing Framework Plan at Clause 2.04 designates this location for minimal housing growth. In these areas, Clause 16.01-2L encourages a mix of single dwellings and lower density multi-dwelling developments that contribute to a low density, open and landscaped character.

The proposal represents a level of minimal change because, while five dwellings may represent an increase in density within the site, it is a scale and intensity of development that is not inconsistent with that to be found in the immediately surrounding area. The surrounding area is characterised by older unit developments and more recently compact townhouse developments, and the decline of traditional, detached dwellings. The proposal provides permeability, private open space and garden areas which exceeds the requirements of Clause 55 (Rescode). Additionally, a site coverage of 51.28 per cent is proposed which is less than the maximum 60 per cent stipulated in Standard B8 of Clause 55.03-3 (Site coverage)

Clause 16.01 of the Moreland Planning Scheme encourages *higher density housing development on sites that are well located in relation to activity centres, employment corridors and public transport*. The site's location is close to public transport and services in the Brunswick Activity Centre which aligns with this Planning Policy objective of envisaging an increase in housing density in well serviced areas.

The proposal therefore has strategic policy support and is not considered to be an overdevelopment of the site.

Does the proposal respond to neighbourhood character, positively contribute to the local context and enhance the public realm?

Built form and visual bulk

Clause 15.01-5L (Minimal and incremental change areas) seeks to encourage development within the rear of lots to be single storey unless either "*the prevailing context is not one of open rear yards and garden outlooks; or the building envelope respects the existing character*" [emphasis added]. The double storey form proposed throughout the length of the lot is considered acceptable given that the site does not form part of an 'open rear yard' character.

The adjoining property to the west is a unit development with their secluded private open spaces (SPOS) located between each dwelling on that site, throughout the length of the lot. The proposal does not include any walls on boundary to the west and is setback generously from the neighbouring SPOS. To the east, the site adjoins the vehicle access way of 6 Arnold St, which is not considered to be a sensitive interface. Stepping in the built form, window arrangements, and variation in materials between the ground and first floor creates articulation in the buildings and assist with alleviating visual bulk impacts. Breaks in the built form at the first floor also assist in providing a visual break when viewed from adjoining properties.

Similarly to the rear, the laneway provides for a break of approximately 6m between adjoining areas of SPOS to the north, which largely features development along the rear boundary. In addition to this, the carports for Dwellings 3-5 creates an additional 6.2m setback from the rear boundary before double storey form begins.

Landscaping

A site visit and aerial photograph imagery confirms that where sites have been developed as units or townhouses, canopy tree planting within rear yards is not a defining feature. Rather, shrub planting throughout the site and smaller canopy trees within front setbacks are the emerging landscape character.

The Landscaping Objective at Clause 55.03-8 requires consideration to be given to the retention of existing trees and protection of any predominant landscape features of the neighbourhood. There are no specific vegetation protection overlays applicable to the site. The trees proposed to be removed are small canopy trees located within the rear yard (x5) and a cherry blossom tree within the front setback. These trees are not considered of such importance to warrant significant redesign to enable their retention.

The proposal includes a landscape plan that details shrub and canopy tree planting throughout the site. The application was received prior to the gazettal of Amendment C189 which introduced changes to Standard B13, Clause 55.03-8 (Landscaping). The submitted landscape plan shows a canopy tree reaching a height of 8-15m at maturity within the front setback, which complies with the new Standard, but does not detail canopy spread and is not a species contained within the Moreland Tree Planting Manual for Residential Zones 2019. The rear yards of all dwellings do not meet the 4.5 x 4.5m minimum dimension required by Standard B13, and do not propose a tree with a canopy spread of at least 5m at maturity.

Whilst canopy trees in rear yards are not a defining feature of the area, there are policy ambitions to not accept the status quo by encouraging the provision of canopy tree planting in rear yards. The narrow lot width makes compliance with 4.5m x 4.5m permeable area challenging, however with conditions can be achieved for dwellings 3 and 4. For the remaining secluded open space areas and with conditions there will be a mixture of smaller canopy trees and screen planting.

To better integrate the development with the landscape character of the street, a condition of the recommendation has been included requiring the replacement of the proposed canopy tree within the front setback with a species nominated in the Moreland Tree Planting Manual for Residential Zones, 2019 that achieves the requirements of B13. Another condition has been included to require a second canopy tree, to provide greater canopy cover. This will exceed the requirements of Standard B13.

A condition contained in the recommendation requires an amended landscape plan to be submitted showing these changes. Subject to these changes, the proposal is considered to improve landscaping throughout the site.

The proposed landscaping along the pedestrian walkway to Dwellings 2-5 and rear car parking facilities assists in softening the appearance of the built form, while creating for an attractive circulation space around the front of dwellings, in accordance with Clause 15.01-2S (Building Design).

Car parking facilities

The proposal seeks to utilise the rear laneway accessed via Glenlyon Road for vehicle access for Dwellings 3-5. This is supported in light of Clause 15.01-1L (Vehicle access design in Moreland), which seeks to *“ensure development utilises rear laneways for vehicle access where possible to allow street frontages to prioritise pedestrian movement and safety and to create active frontage”*.

Dwellings 1 and 2 are proposed to have access via the existing laneway (R4 on the title) that exists between 6 Arnold Street and the subject site. This is supported as the car spaces are located behind Dwelling 1, and are only visible from an oblique angle. This responds to Clause 15.01-2L (Building Design in Moreland) which seeks to *“design car parking facilities (crossovers, access ways, garages and carports) so to not dominate the streetscape”*.

Does the proposal result in any unreasonable off-site amenity impacts?

Walls on boundary and side setbacks

Except for the eastern wall for Dwelling 1 which is constructed along the boundary with laneway R4, there are no other walls on boundaries proposed.

The development has been sensitively designed by providing side and rear setbacks from the lot boundaries. Although there are non-compliances with the side and rear setback envelope in standard B17 at Clause 55.04-1, these variations are supported for the following reasons:

- the variations are where the dwelling adjoins a 3.06m wide Council laneway which is not anticipated to be developed into the future;
- the variations are minor encroachments of less than 1 metre into B17 envelope which do not meaningfully create visual bulk impacts; and
- encroachment is a result of framing elements to the façades of Dwellings 2-5, which provide for additional articulation and sense of address along the eastern elevation.

Overshadowing and loss of daylight

Objectors have raised concerns regarding shadowing impacts from the proposal. Standard B21 at Clause 55.04-5 requires consideration of shadows to secluded private open space (SPOS) of an existing dwelling. There are no areas of secluded private open space adjoining the subject site to the east at 6 Arnold Street. Additional shadows cast from the proposal will be to the communal driveway.

Between 9am and 10am on 21 September, the proposal will cast additional shadows into the neighbouring SPOS of dwellings at 10 Arnold Street. While the additional shadow at 9am will be to an area of 8.9 sqm, by 10am the area of additional shadow will reduce to 1.26sqm. By 11am, there will be no additional shadows to these neighbouring SPOS. To ensure daylight is not unreasonably reduced at 9am, a condition of the recommendation has been included requiring the modification of the first-floor of Dwelling 2, which casts the majority of the additional shadow to 1/10 Arnold Street's SPOS at 9am. Discussion plans showing these changes forms Attachment 5.

Considering the constraints of the subject site, the design response, and the inner-city context, subject to this condition, it is determined that the proposed level of additional overshadowing will not result in unreasonable detrimental impact on the amenity of existing dwellings, and is considered to meet the objective of Clause 55.04-5.

Objectors have raised concerns regarding shadows cast to existing habitable room windows, which is best assessed via the daylight standards. The development has been adequately setback from adjoining properties to allow for adequate daylight in accordance with Standard B19 of Clause 55.04-3.

Views and Privacy Impacts

Standard B22 at Clause 55.04-6 requires a new habitable room window, balcony, deck to avoid direct views into habitable room windows and SPOS of an existing dwelling within a distance of 9 metres. The neighbouring dwellings at 6 and 10 Arnold Street have windows and secluded areas within 9 metres of the subject site.

The proposal has been designed to ensure that all first floor habitable room windows and balconies with a view into these adjoining windows and SPOS are screened. A condition forms part of the recommendation requiring that screening complies with Standard B22 including the submission of a screening diagram showing compliance.

Noise

Concerns are raised regarding the potential noise generated from the dwellings after occupancy, particularly from air-conditioning units. Relevantly standard B24 at cl55.04-8 seeks to *'contain noise sources in developments that may affect existing dwellings'*. At the PID held on 14 February 2022 the applicant clarified that any air-conditioning units would be contained within the rear yards of dwellings and not on the roof. A condition of the recommendation requires the location of these units to be shown on the plans.

Does the proposal provide appropriate onsite amenity and facilities?

The proposal provides for appropriate onsite amenity for future residents of the proposed dwellings in the following regard:

- All new windows are provided with light courts in excess of the requirements of Standard B27 of Clause 55.05-3.
- Each dwelling is provided with a ground floor area of SPOS in excess of the minimum 25 square metres required to satisfy Standard B28 of Clause 55.05-4. Additionally, each dwelling is provided with a first floor balcony.
- Dwellings 3-5 are provided with daylight access that complies with Standard B29 of Clause 55.05-5. The solar access to dwelling 2 can be improved via modifications to the first floor, which can be achieved via permit conditions.

Dwellings 1 seeks a very minor variation due to the corner of their first floor balcony, however this is accepted as the balcony provides for an area where daylight can be enjoyed in addition to the ground floor rear and front yards.

Car parking spaces, bicycle requirements, vehicle access, and traffic impacts

Car parking spaces

A total of 8 resident car spaces are required for the dwellings. As the site is located within the Principal Public Transport Network (PPTN), no visitor spaces are required. The development provides 6 on-site spaces, which is a reduction of two resident spaces. Clause 18.02-4L (Car parking in Moreland) supports reduced car parking rates in developments:

- within and close to activity centres
- with excellent access based on frequency and location to a range of public transport options
- with increased provision of bicycle parking above the rates specified in Clause 52.34.

The site is in the Principal Public Transport Network (PPTN), and is well located to public transport option including buses (Glenlyon Rd to the north) and tram routes (Lygon and Nicholson Streets to the east and west respectively). Therefore, a reduction of two car spaces is supported.

Bicycle requirements

The bicycle space requirements at Clause 52.34 does not apply to this application, however the proposal provides for two resident parking spaces allocated to Dwellings 1 and 2 in lieu of car parking, and an additional three communal bike spaces for other dwellings to use. Conditions have been included in the recommendation for clarification on the type of bike spaces proposed to ensure that these are constructed in accordance Australian Standard for Bicycle Parking (AS2890.3) which, amongst other things, requires bicycle spaces to be secured.

Vehicle access

Objectors from 6 Arnold Street have raised concerns regarding trespassing onto private property as a result of vehicle access from the laneway to the east of the site (Laneway R4). Vehicle access to the site via this laneway is an existing condition. The laneway is 3.06m wide, which meets the minimum requirement for accessways pursuant to Clause 52.06-9 (Car Parking). Additionally, swept path diagrams demonstrate that vehicles can enter and exit the two car spaces for Dwellings 1 and 2 without needing to trespass on the private land of 6 Arnold Street.

Laneway A-1 that runs north-south at the rear of the site, accessed via Glenlyon Rd is constructed, however laneway R6 that runs east-west along the rear of the subject site is currently unfinished. In order to facilitate access without causing damage to cars and further deterioration of the laneway, a condition of the recommendation has been included requiring the laneway to be finished for a distance of 4m west of the title boundary, as shown in pink at the rear of the site on the development plans.

Traffic impacts

In relation to traffic impacts, Council's Development Engineers have assessed the proposal and consider that the additional traffic generated from the proposal will remain within both street's capacity and is not expected to cause traffic problems.

Vehicles, whether they are related to this or other developments in the street, can only park on the street in accordance with any parking regulations. The number of vehicles that can park on the street and at what time will be dictated by the parking restrictions and the availability of on street car spaces. The dwellings will not be eligible for on-street parking permits in the event that parking restrictions are imposed by Council on the street. This is included as a note on the planning permit in the recommendation.

What impact does the proposal have on pedestrian safety, amenity and access to the impacted sites?

The proposal utilises the rear laneway for vehicle access for 3 out of 5 dwellings, to allow street frontages to prioritise pedestrian movement and safety and to create active frontages. Additionally, no additional vehicle crossings are proposed at the Arnold Street frontage of the site to detract from existing pedestrian paths.

8 Arnold street also seeks to use Laneway R4 (the lane to the east) for pedestrian entry to Dwellings 2-5. Given 6 Arnold Street relies on pedestrian access via Laneway R4 as an existing condition, this outcome is established and considered acceptable. The additional one vehicle proposing access to 8 Arnold Street from this laneway is not considered to worsen pedestrian safety in any significant way. Lighting has also been provided within the site to illuminate pedestrian paths between dusk and dawn for safety.

Is the proposal accessible to people with limited mobility?

Clause 16.01-3L (Housing diversity in Moreland) encourages the provision of housing that can be lived in by people with limited mobility (or easily adapted to be lived in). Clause 55.02-3 also seeks to ensure that in developments of ten or more dwellings, at least one dwelling contains a kitchen, bath or shower, and a toilet and wash basin at ground floor level.

Entrances to dwellings are at the ground floor and are flush with the finished surface level surrounding the development. Dwellings 2 and five also provides a bedroom, living area, kitchen, private open space, bathroom and toilet on entry level.

For a development of this size (less than 10 dwellings) this is considered to be a positive outcome and allows for adaptive housing for all types of residents into the future.

5. Response to Objector Concerns

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

- Parking and traffic impacts;
- Negative impact on neighbourhood character.
- Overdevelopment
- Off-site amenity impacts, including visual bulk, overlooking, overshadowing, noise impacts

Other issues raised by objectors are addressed below.

Demand, equitable development rights and 'warehousing' permits

Demand

The Victorian planning system does not enable Council to determine a planning permit application based on an assessment of demand. Whether or not a demand exists is not a relevant consideration on which Council can base a decision to either approve or refuse an application.

Equitable development rights

Equitable development rights for 6 Arnold Street have been raised as a concern. *Gesher Pty Ltd v Yarra CC [2015] VCAT 506* summarises the many VCAT decisions determining what constitutes as 'equitable' development, as follows:

- *Equitable does not mean equal.*
- *Development should not be too dependent on borrowing from neighbouring sites for its amenity.*
- *Development should not unreasonably fetter redevelopment opportunities on adjoining sites.*

- *In the absence of a specific proposal for an adjoining property, development should not have to satisfy a speculative or hypothetical worst case scenario on an adjoining property.*
- *The site size, proportion and context will influence how amenity can be equitably shared between adjoining sites.*

In considering the equitable development rights of the neighbouring property at 6 Arnold Street, the development does not propose any built form directly on the boundary shared with 6 Arnold Street, and 'builds in' its own amenity in the form of setbacks from property boundaries. Therefore, the proposal is not considered to unreasonably impact on the 'equitable development' rights of 6 Arnold Street.

Warehousing' permits

Objectors have concerns regarding the permit applicant's intent to obtain a permit and sell the land with a permit for development without acting upon it ('warehousing' the permit for a windfall). This is not a relevant consideration in the assessment of the current application. This matter will be considered should a permit be granted and an extension to the permit be sought in the future.

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

On the balance of policies and controls within the Moreland Planning Scheme and objections received, it is considered that Notice of Decision to Grant a Planning Permit No MPS/2021/115 should be issued subject to the conditions included in the recommendation of this report.

Attachment/s

1	Location Map - 8 Arnold Street, Brunswick East	D22/65730
2	Zoning Map - 8 Arnold Street, Brunswick East	D22/65732
3	Development Plans - 8 Arnold Street, Brunswick East	D22/65729
4	Objector Location Map - 8 Arnold Street, Brunswick East	D22/65731
5	Discussion Plans 3/3/2022 - 8 Arnold Street, Brunswick East	D22/89039

