



Merri-bek
City Council

COUNCIL AGENDA

PLANNING AND RELATED MATTERS

Wednesday 22 February 2023

Commencing 6.30 pm

Council Chamber, Merri-bek Civic Centre
90 Bell Street, Coburg

Language Link

This is the Agenda for the Council meeting.
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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 Merri-bek

Merri-bek City Council acknowledges the Wurundjeri Woi Wurrung people as the Traditional Custodians of the lands and waterways in the area now known as Merri-bek, 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 25 January 2023 be confirmed.

5. COUNCIL REPORTS

- | | | |
|-----|---|----|
| 5.1 | CITY DEVELOPMENT ACTIVITY REPORT - DECEMBER
QUARTER 2022 | 4 |
| 5.2 | 255-259 ALBERT STREET, BRUNSWICK - PLANNING
APPLICATION MPS/2020/528/A | 19 |

6. URGENT BUSINESS

5. COUNCIL REPORTS

5.1 CITY DEVELOPMENT ACTIVITY REPORT - DECEMBER QUARTER 2022

Group Manager City Development, Phillip Priest

City Development

Officer Recommendation

That Council notes the City Development Activity Report – December Quarter 2022.

REPORT

Executive Summary

The City Development Urban Planning and Planning Enforcement Units are managing to produce positive results with outstanding caseloads, that resulted from high staff turnover in 2021 now returned to manageable levels. Pleasingly both the planning application caseload awaiting a decision and the planning compliance caseloads awaiting resolution have continued to reduce in the December quarter. Reducing the outstanding caseloads and improving customer service timeframes, remains a focus area for these service units.

It is evident that in the second half of 2022, there has been a reduction in the number of planning applications being received by Council. If compared to 2021, there has been a 7 per cent reduction in applications received by calendar year. Pleasingly the number of decisions made in 2022, is the highest since 2018. If compared to 2021, there has been a 5 per cent increase in the number of planning decisions being made. It is noted the team has implemented several initiatives to improve effectiveness.

The area of focus for the team is to improve the timeliness of planning permit decisions, acknowledging that decision making within the 60 statutory days continues to be slightly below the metropolitan average. It is anticipated with individual planning officer caseloads now reduced, there will be an improvement to the timeliness of planning decisions. Pleasingly Vic Smart timeframes, for mostly minor matters, remains above the metropolitan average.

Planning compliance new case numbers are around the average expected for the quarter and the number of open cases remains steady. The proactive enforcement program is on track to achieve the end of year targeted number of developments audited.

VCAT activity, remains at a lower level when compared to the pre-COVID-19 case numbers.

Previous Council Decisions

City Development Activity Report - September Quarter 2022 – 23 November 2022

That Council notes the City Development Activity Report – September Quarter 2022.

1. Policy Context

The City Development Branch administers Council's town planning, building and environmental health decision-making and compliance responsibilities under the Moreland Planning Scheme, *Planning and Environment Act 1987*, *Building Act 1993*, *Building Regulations 2018*, *Building Code of Australia 2006*, *Food Act 1984*, and *Public Health and Wellbeing Regulations 2009*. This report has a focus on the Urban Planning and Planning Enforcement services within the Branch.

2. Background

This report shows the key operational performance and activity of the Urban Planning Unit and Planning Enforcement Unit within the City Development Branch. This includes analysis of:

- planning applications received, determined and outstanding
- planning application decision-making
- streamlined planning services
- planning enforcement caseload
- VCAT performance
- planning investment activity.

3. Issues

Urban Planning

Planning Permit activity

A total of 311 planning applications were received for the December quarter. This compared with 365 for the same quarter in 2021. A total of 352 planning applications were decided in the December quarter compared to 366 for the same quarter in 2021. Generally, the number of applications being received has been steady for the past two years, acknowledging a moderate slowing of applications being received in November and December of 2022. Pleasingly the number of decisions made in the December quarter exceeded the number of applications being received, which assists in reducing the overall caseload to 468. See figures 1 and 2 at **Attachment 1**.

It remains that most applications lodged and determined for the quarter were multi-unit development (106 received and 133 determined) and alterations and additions to buildings (50 received and 59 determined). See figure 3 at **Attachment 1**.

The percentage of applications determined within statutory timeframes for all inner metropolitan Councils averaged 59 per cent in the December quarter. Merri-bek average was slightly lower at 52 per cent. With the outstanding caseloads now reduced, an improvement to the timeliness of planning decisions is anticipated. See figure 4 at **Attachment 1**.

Councils streamlined planning services include Vic Smart and Fast Track (minor permit applications that do not qualify as Vic Smart) as well as the Commercial Priority Service, which is a service to assist businesses setting up or expanding in Merri-bek. Figure 5 in **Attachment 1** shows the improved performance of the Vic Smart application timeframes with 91 per cent determined within 10 days compared to the metropolitan average of 78 per cent. It is pleasing to be above the metropolitan average. There was 1 Fast Track and 8 Commercial Priority planning permits issued in the December quarter.

Heritage Victoria Permit Applications and Planning Proposals Under Consideration by the Minister for Planning

The Victorian Planning System provides the ability for the Minister for Planning to intervene in VCAT or Council decisions in certain circumstances. In 2020 the Development Facilitation Program (DFP) was established by the Minister for Planning to assess and determine planning applications for priority projects in Victoria. New planning provisions making the Minister for Planning responsible for deciding State Projects and other matters were also introduced in 2020/21. These projects are referred to Council for comments to inform the decision by the Minister for Planning.

In the fourth quarter of 2022 Council was consulted on one proposal:

- 1 Gronn Place, Brunswick West, which related to a planning permit application to construct town houses.

The Executive Director, Heritage Victoria sought advice from Council for the proposed demolition of the existing depot and the construction of a new depot at Fawkner Memorial Park, Hadfield (1187 Sydney Road and 100 Boundary Road, Hadfield).

Retrospective Planning Permits:

Retrospective planning applications seek approval for a use or development that has already taken place without the necessary planning approval. These applications are usually a result of planning enforcement action by Council's Planning Enforcement Unit. The planning compliance practice, encouraged by VCAT and the Magistrates Court, is to pursue retrospective planning approval when this may be possible, before occupying VCAT and Magistrates Court time. This quarter Council has received four retrospective planning permit applications. Also, 12 decisions were made on retrospective planning applications.

Council's performance at VCAT

In the December quarter, 12 applications for review of decisions were lodged at VCAT. The number of appeals was around average for the Covid-19 pandemic period over the last two years, while still well below averages of the pre-pandemic years, as shown in Figure 6 in **Attachment 1**. Of the 12 reviews lodged, 2 were against refusals, 2 against conditions imposed on a permit, and 8 by objectors against a Notice of Decision to Grant a Planning Permit.

Table 1 in **Attachment 2** is a more detailed list of all VCAT reviews lodged in the December 2022 quarter.

Only 7 VCAT decisions were handed down in the December quarter 2022 as shown in Table 2 in **Attachment 2**. In respect to success at VCAT, this is represented in Figures 9 and 10 in **Attachment 1**. The State Planning Permit Activity Reporting System (PPARS) indicates a VCAT success rate of 52 per cent for the 2022 calendar year. Importantly PPARS does not include cases resolved by consent of all parties, often following the circulation of revised plans. In contrast, if consented cases are included, Council's VCAT success rate would be 70 per cent for the 2022 calendar year which is lower when compared to 81 per cent for the 2021 calendar year (which had less decisions).

Some VCAT decisions of interest are detailed below:

- 251-265 Lygon Street and 1A Pitt Street, Brunswick East VCAT decision, related to an apartment building (amongst other things). Whilst VCAT overturned Council's refusal, there were some positive improvements made to the proposal such as a height reduction from 8 storeys to 7 storeys (secured by amended VCAT plans) and conditions seeking greater upper level setbacks.
- 35-39 Sydney Road, Coburg, VCAT decision, related to a condition that sought to limit the height of the building to the 18m discretionary height nominated in the Activity Centre Zone. In deleting the condition VCAT noted (amongst other things) that the height is purposely not mandatory and able to be exceeded.

Planning Enforcement

Planning enforcement activity can be categorised as either 'reactive enforcement' or 'proactive enforcement'. Reactive enforcement is investigating complaints about land use and development that may have occurred without a planning permit or may not accord with a planning permit. Proactive enforcement is proactively checking compliance with a planning permit as the building work and preparation for the new use or development is occurring.

Reactive enforcement activity

A total of 91 complaints were received and 90 cases were closed in the December quarter of 2022/23. This resulted in a negligible increase in the outstanding reactive enforcement caseload from 166 to 167 active cases. Figure 1 in **Attachment 3** shows how the reactive enforcement caseload has decreased from January 2021 and then remained relatively steady for the past 12 months.

Figure 2 in **Attachment 3** shows the outcomes of investigations over the December quarter. The most common outcome was that the investigation found there to be no planning breach identified (34 cases), followed by cases where a breach was identified and voluntary compliance was achieved (27 cases). One (1) case was closed after planning infringement notices were issued and paid. There were no cases closed in this quarter following escalation to VCAT or the Magistrates' Court.

Proactive enforcement activity

Each year the proactive planning enforcement program aims to audit at least 80 medium density developments and 10 developments where the planning permit was issued by the Planning and Related Matters (PARM) Council meeting, or a refusal was overturned at VCAT. Figure 3 in **Attachment 3** shows that 43 audits commenced in the first half of 2022/23. This comprises 38 audits of medium density developments and 5 audits of planning decisions made at PARM or overturned at VCAT. At the half-way point of the year, the proactive enforcement program is more-or-less on track to achieve the end of year target.

A total of 39 planning breaches were rectified through the proactive enforcement program in the December quarter. These are breaches that would otherwise have been passed on to new owners of the developments. The different types of breaches resolved are shown in Figure 4 in **Attachment 3**. Breaches relating to Environmentally Sustainable Design (ESD) requirements were the most common. This includes requirements such as the provision of solar PV, passive ESD features like double glazing, external shading to windows, and water sensitive urban design features like rain gardens and permeable surfaces.

Human Rights Consideration

The implications of this report have been assessed in accordance with the requirements of the Charter of Human Rights and Responsibilities and it was found that it does not contravene any of these sections and supports the following rights

- Section 18: Taking part in Public Life
- Section 13: Privacy and Reputation
- Section 20: Property Rights.

4. Community consultation and engagement

No consultation was required to inform the preparation of this report.

5. Officer Declaration of Conflict of Interest

Council officers involved in the preparation of this report have no conflict of interest in this matter.

6. Financial and Resources Implications

There are no financial and/or resource implications as a result of this report. The ongoing operation of the Urban Planning Unit and Planning Enforcement Unit can be met with existing operational resources and budget.




In terms of overall development in Merri-bek during the December quarter developments to the value of \$155 million have been approved by planning permits issued by the Urban Planning Unit, compared to \$127 million during the same quarter in 2021.

A total of \$1.2 million was collected during the December quarter in Public Open Space Contributions which will help fund the provision of new or enhanced public open space.

7. Implementation

The performance of Urban Planning and Planning Enforcement Units within Council's City Development Branch will continue to be monitored with the activity report for the next quarter to be presented to the April Planning and Related Matters Council meeting.

Attachment/s

- | | | |
|--|--|-----------|
| 1  | Urban Planning December quarter data | D23/55147 |
| 2  | VCAT review lodged and determined | D23/55149 |
| 3  | Planning Enforcement December quarter data | D23/55294 |

Attachment 1 – Urban Planning December 2022 Quarterly Data

PART 1 - volume

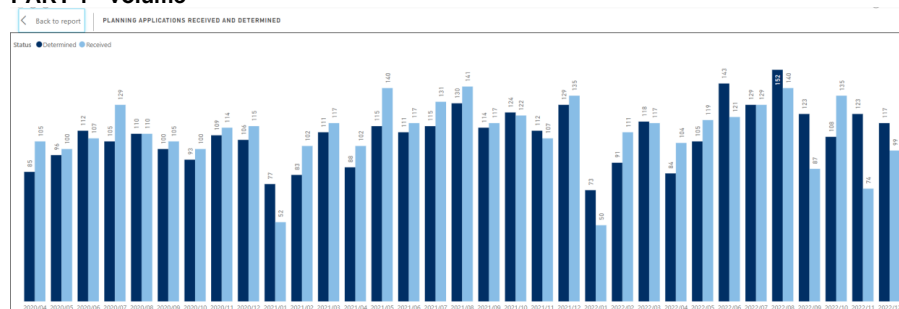
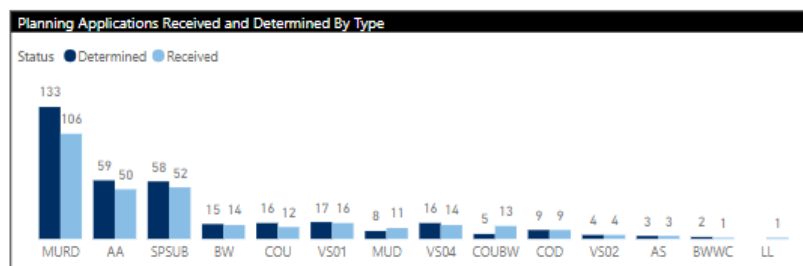


Figure 1: Urban planning number applications received and determined since April 2020



Figure 2: Urban planning overall caseload since April 2020



Legend			
MURD = multi unit residential development	AA = alterations and additions (or house extension)	SPSUB = subdivision	BW = buildings and works
COU = change of use	VS01, VS02 and VS04 = VicSmart	MUD = mixed use development	COUBW = use and development
COD = construction of dwelling	AS = advertising sign	BWWC = building and works, waiver car parking	LL = liquor licence

Figure 3: Urban planning applications received and determined December quarter

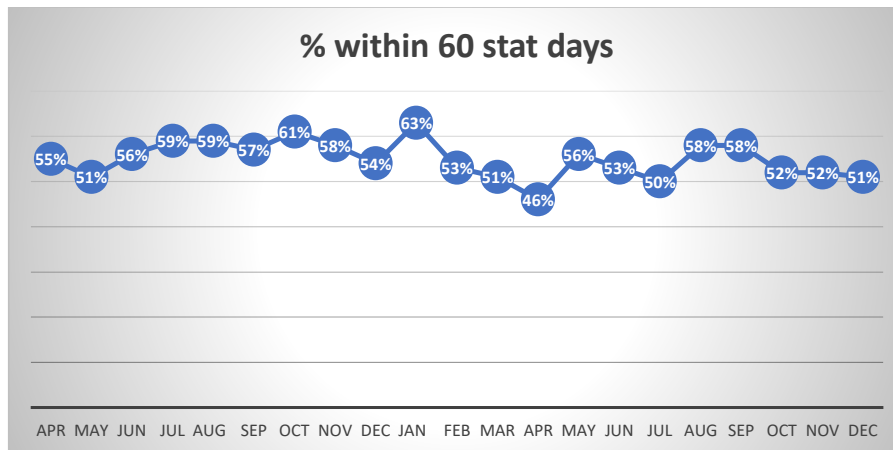
PART 2 – Timeliness

Figure 4: Urban planning applications determined within 60 days for 18 months

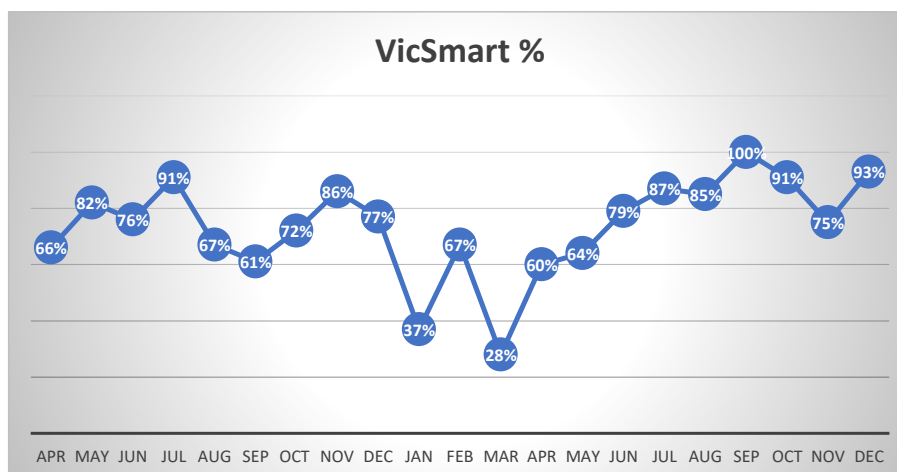


Figure 5: Urban planning VicSmart applications determined within 10 days for 18 months

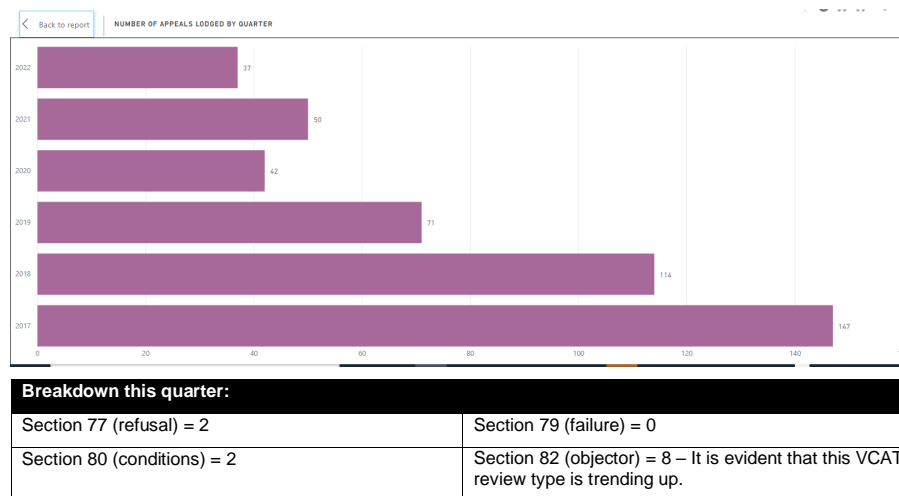
PART 3 – VCAT

Figure 6: VCAT reviews lodged by calendar year

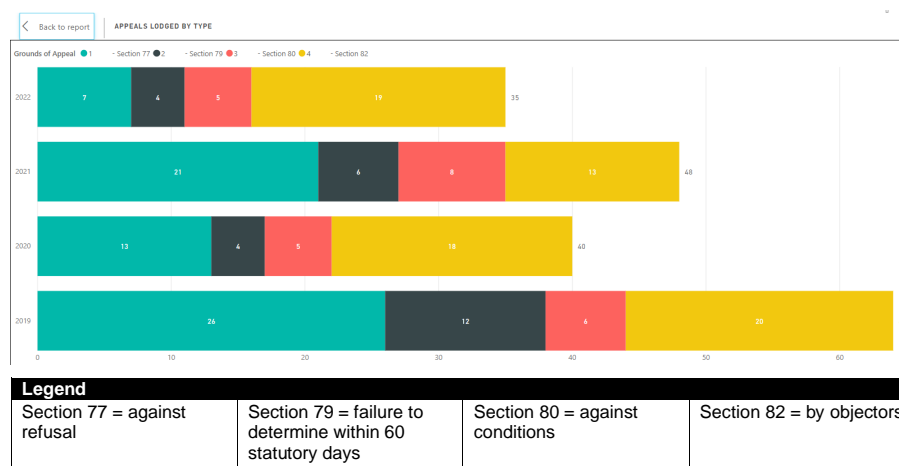


Figure 7: VCAT reviews lodged by type since 2019

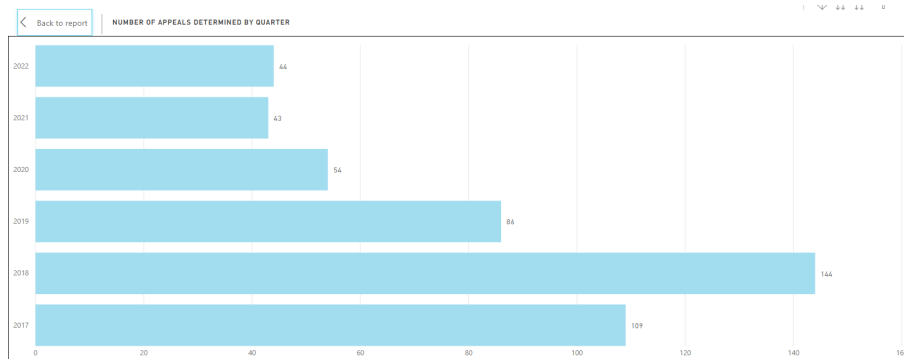


Figure 8: VCAT reviews determined by calendar year

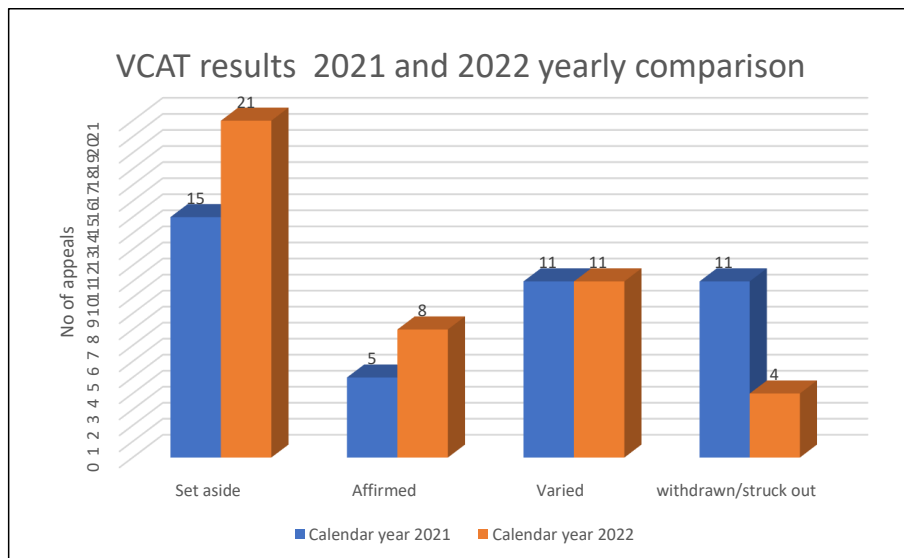


Figure 9: VCAT results comparing years (includes consents)

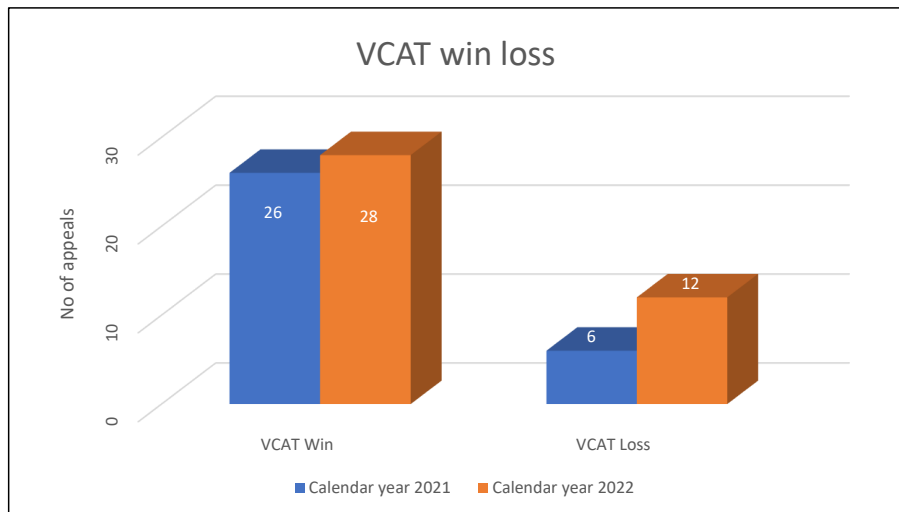


Figure 10: VCAT results comparing years with consent counted as a win

VCAT report appeals lodged				
Application number	Appeal grounds	Property	Original decision	Description
Council decision				
MPS/2021/996	S.82 Decision to Grant a Permit	12 Valdoone Court OAK PARK	Notice of decision	Construction of five dwellings (four double storey and one single storey) on a lot
MPS/2021/1017	S.82 Decision to Grant a Permit	9-13 and 15 Barrow Street COBURG	Notice of decision	Use and development of a childcare centre and display of business identification signage
Delegated decisions				
MPS/2003/710/D	S.80 Conditions of a Planning Permit	280 Sydney Road BRUNSWICK	Notice of decision	Use of the land for the sale and consumption of liquor in association with an existing hotel
MPS/2003/710/D	S.82 Decision to Grant a Permit	280 Sydney Road BRUNSWICK	Notice of decision	Use of the land for the sale and consumption of liquor in association with an existing hotel
MPS/2020/376	S.82 Decision to Grant a Permit	58 Smith Street BRUNSWICK WEST	Notice of decision	Construction of two double storey dwellings
MPS/2021/1019	S.77 Decision to Refuse to Grant a Permit	87 Park Street PASCOE VALE	Refusal	Construction of six three storey dwellings, a front fence in excess of 1.5 metres and a waiver of visitor car parking
MPS/2021/685	S.77 Decision to Refuse to Grant a Permit	81A Bell Street COBURG	Refusal	Buildings and works to construct multi storey buildings containing dwellings, use of the land for a food and drink premises, reduction to the statutory car parking rates, alterations and creation of access in a Transport Zone 2
MPS/2021/800	S.82 Decision to Grant a Permit	16 Barrow Street BRUNSWICK	Notice of decision	Construction of a double storey dwelling to the rear of an existing dwelling and a reduction of two resident car parking spaces

Delegated decisions				
MPS/2021/856	S.80 Conditions of a Planning Permit	24 Lanark Street BRUNSWICK	Planning Permit	Development of two double storey dwellings and a reduction in the standard car parking requirements.
MPS/2021/907	S.82 Decision to Grant a Permit	1 Flannery Court OAK PARK	Notice of decision	Construction of two double storey dwellings to the rear of the existing dwelling house
MPS/2022/126	S.82 Decision to Grant a Permit	104 Albert Street BRUNSWICK EAST	Notice of decision	Use of land as a warehouse for the sale and distribution of packaged liquor, a place of assembly (for on-site sale and consumption of liquor) and as a bottle-shop (wine store), the display of business identification signage and a reduction to the statutory car parking requirements
MPS/2022/357	S.82 Decision to Grant a Permit	40 Richards Street COBURG	Notice of decision	Construction of three double storey dwellings

Table 1 – List of VCAT reviews lodged December quarter

VCAT report appeals determined						
Application number	Appeal grounds	Property	Original decision	Description	Consent Order	VCAT decision
Council decision						
MPS/2022/4	S.79 Failure to Grant a Permit Within Time	251-265 Lygon Street, BRUNSWICK EAST and 1A Pitt Street, BRUNSWICK	Failure appeal no decision made – Council position refusal	Construction of a seven storey building and four storey building above two levels of basement for dwellings and retail and a reduction in the car parking requirements	No	Permit Granted - some positive improvements made to the proposal such as a height reduction from 8 storeys to 7 storeys (secured by amended VCAT plans) and conditions seeking greater upper level setbacks.

Council decision						
MPS/2020/852	S.80 Conditions of a Planning Permit	35-39 Sydney Road COBURG	Planning Permit – condition to lower height of the building to the 18m discretionary height nominated in the Activity Centre Zone.	Construction of a multi storey building, reduction of car parking requirements and alteration of access to a road in a Transport Zone 2	No	In deleting the condition VCAT noted (amongst other things) that the height is purposely not mandatory and able to be exceeded.
Delegated decision						
MPS/2021/292	S.82 Decision to Grant a Permit	25 Ormond Street PASCOE VALE	Notice of decision	Construction of three double storey dwellings	No	Permit Refused (withdrawn) – noting the permit applicant does not wish to pursue the permit application.
MPS/2021/357	S.82 Decision to Grant a Permit	10 Loch Street COBURG	Notice of decision	Construction of five double storey dwellings and reduction in the car parking requirement	No	Permit Granted – VCAT commented that that the proposal is an acceptable response to both the physical and policy context, responds to the criticisms of the VCAT previous decision.
MPS/2021/612	S.82 Decision to Grant a Permit	7 Danin Street PASCOE VALE	Notice of decision	Construction of four double storey dwellings	No	Struck out as objector failed attend hearing
MPS/2021/850	S.77 Decision to Refuse to Grant a Permit	74 South Street HADFIELD	Refusal	Construction of two double storey dwellings in the Special Building Overlay	Yes	Permit Granted
MPS/2021/856	S.80 Conditions of a Planning Permit	24 Lanark Street BRUNSWICK	Planning Permit	Development of two double storey dwellings and a reduction in the standard car parking requirements	Yes	Permit Granted

Table 2 – List of VCAT reviews determined December quarter

Attachment 3 – Planning Enforcement December Quarter Data

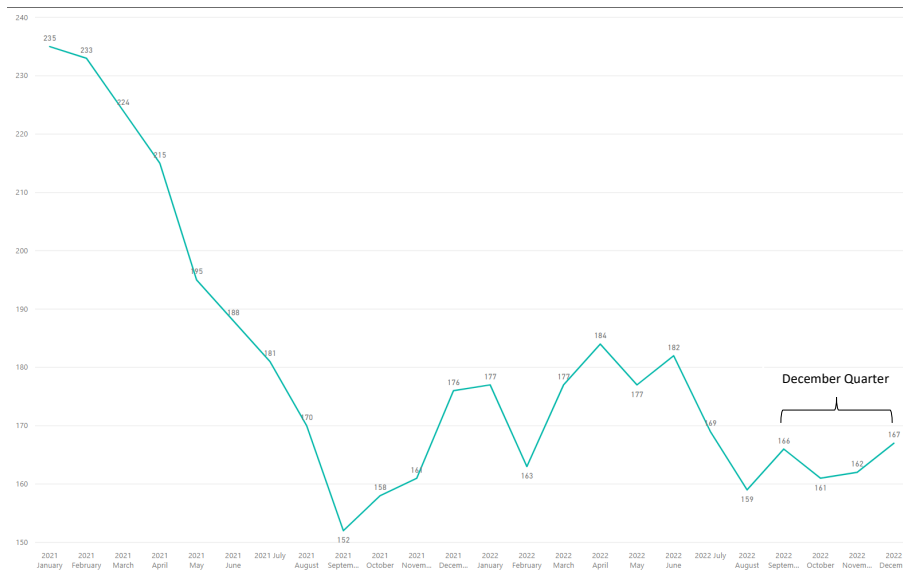


Figure 1: Reactive planning enforcement caseload since January 2021

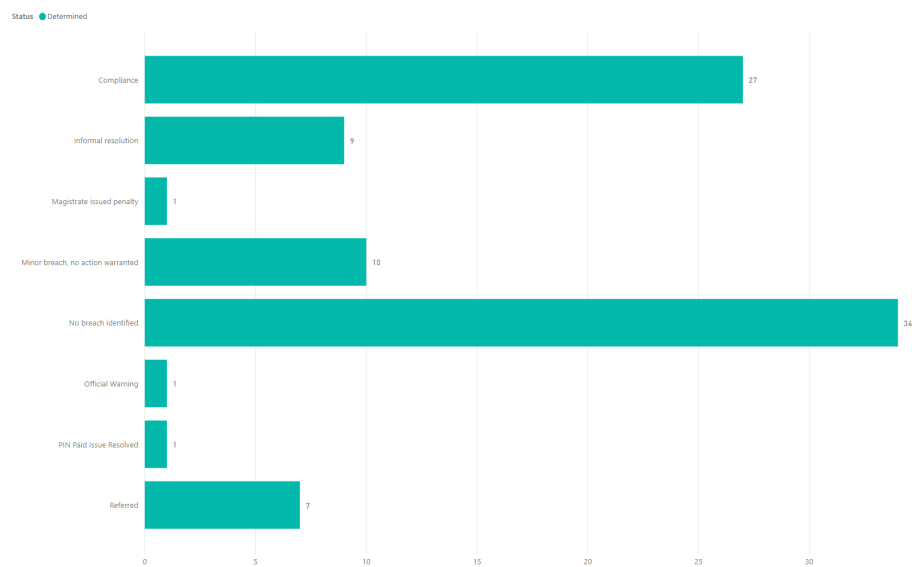


Figure 2: Outcome of reactive planning enforcement cases closed in the December quarter of 2022/23

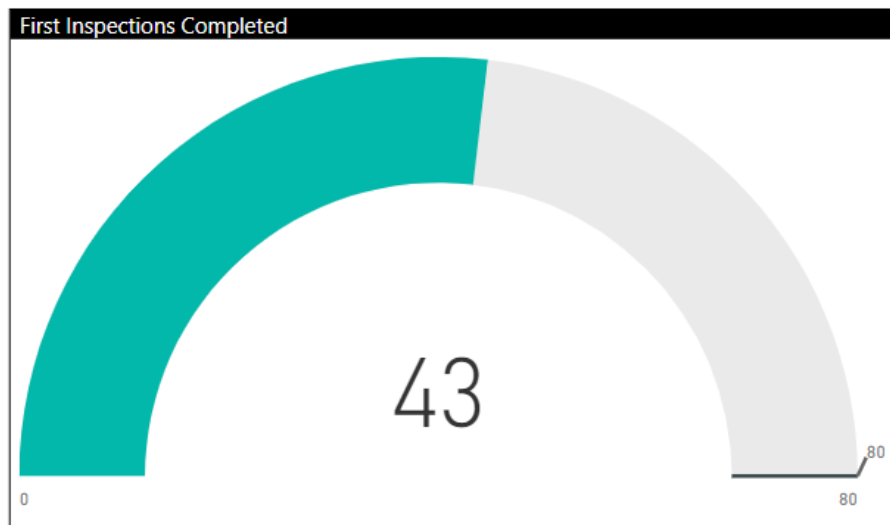


Figure 3: Total number of new proactive enforcement audits of developments in the first half of 2022/23

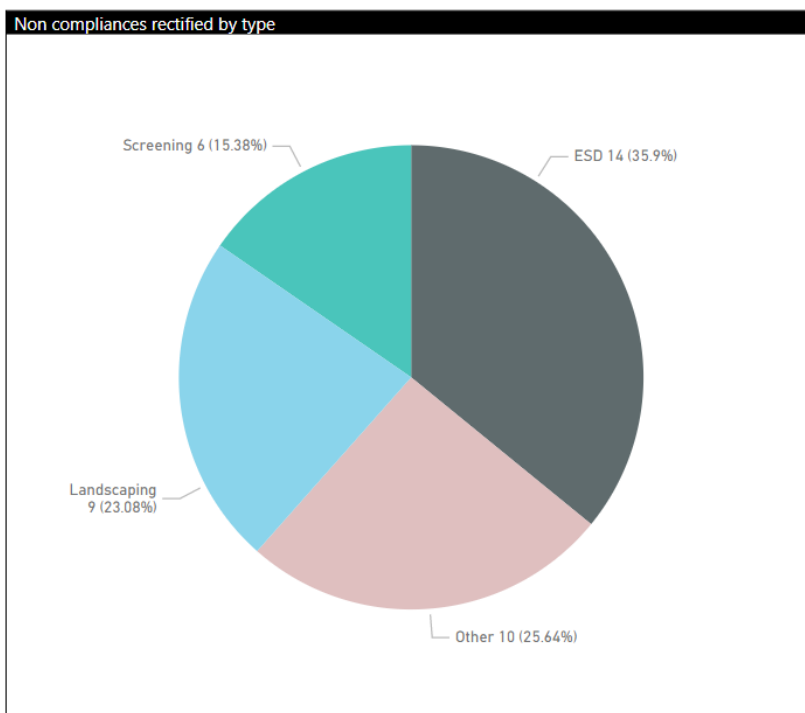


Figure 4: Non-compliances rectified through the proactive enforcement program in the first quarter of 2022/23

5.2 255-259 ALBERT STREET, BRUNSWICK - PLANNING APPLICATION MPS/2020/528/A

Group Manager City Development, Phillip Priest

City Development

Executive Summary



Property:	255-259 Albert Street, BRUNSWICK		
Proposal:	Amend planning permit MPS/2020/528, to include the adjoining land parcel and increase dwelling yield from 16 to 35 dwellings, increase commercial space and part retention of existing heritage dwelling.		
Zoning and Overlay/s:	<ul style="list-style-type: none"> • Mixed Use Zone • Development Contributions Plan Overlay (DCPO1) • Parking Overlay (PO1) • Heritage Overlay (HO149) • Design and Development Overlay (DDO18) 		
Strategic setting:	Minimal change	Incremental change	Significant change
Objections:	<ul style="list-style-type: none"> • 10 objections received • Key issues: <ul style="list-style-type: none"> – Car parking waiver – Traffic impacts on Albert Street – Building height – Noise impacts on residents 		
Planning Information and Discussion (PID) Meeting:	<ul style="list-style-type: none"> • Date: 17 January 2023 • Attendees: Three objectors, three supporters, the applicant and two Council Officers. • No changes were agreed to, however the meeting provided an opportunity for the objectors concerns to be discussed and better understood which has also helped to inform this report. 		
ESD:	<ul style="list-style-type: none"> • Minimum average NatHERS rating of 7 stars (subject to condition) • Gas-free development • 12KW Solar PV System • Targeted 80 per cent construction and demolition materials diverted from landfill (with stretch target of 90 per cent) • External shading, rainwater harvesting and low VOC 		
Accessibility:	<ul style="list-style-type: none"> • Adaptable apartments comprise 85 per cent of the proposal. 		

Key reasons for support	<ul style="list-style-type: none"> • High quality architectural response • Positive ESD response, subject to conditions • High proportion of accessible and affordable dwellings • Strikes an acceptable balance between providing increased housing density and responding to heritage buildings • The car parking reduction is supported subject to conditions that require two on site car share spaces. It is noted that the site is well serviced by alternative transport and the proposal has a high provision of bicycle facilities.
Recommendation:	It is recommended that a Notice of Decision to Grant an Amendment to a Planning Permit be issued for the proposal subject to conditions.

Officer Recommendation

That a Notice of Decision to Grant an Amendment to Planning Permit No. MPS/2020/528/A be issued for the construction of a multi storey building, including the partial demolition of the existing buildings with a reduction in car parking at **255-259 Albert Street, BRUNSWICK**, subject to the following conditions:

(Permit condition amendments are indicated in bold)

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 prepared by Studio Markli **advertised 27 October 2022 (Revision B)** and must show:
 - a) **Deletion of Unit's 006 and 007 and replacement with two on-site car share parking spaces. These spaces must be designed to comply with the requirements of Clause 52.06-9 of the Moreland Planning Scheme.**
 - b) **The demolition plan and development plans to match, whilst ensuring the extent of external walls/roof demolition is unaltered.**
 - c) **Public access and directional signage from Albert Street to the car share area.**
 - d) The tiled section of the shop facade retained, with openable glazed doors which complement the heritage place above providing access to the fire booster.
 - e) The cabinetry enclosing the fire booster to consist of a clear material including fire rated glazing **or** similar and to be identified in the materials legend.
 - f) **External lighting provided at ground floor lighting the public footpath, the thoroughfare through the site to the car share area, and rear laneway. Lighting can be integrated into the façade, awning, or front landscaping design.**
 - g) Any changes to the **plans** arising from the:
 - i. Landscape Plan in accordance with Condition 3 of the permit.
 - ii. ESD initiatives included in Condition 6.b) of the permit.
 - iii. Accessibility Report in accordance with Condition 9 of this permit.
 - iv. Acoustic Assessment in accordance with Condition 11 of the permit.
 - v. Waste Management Plan in accordance with Condition 14 of this permit.

- vi. Conservation and facade works in accordance with Conditions 16 and 17.

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 Amanda Oliver Gardens ('AOG') **advertised 27 October 2022** but amended to show:
- a) Any changes required by Condition 1.
 - b) **Deletion of one *Corymbia citriodora* 'Scentuous' from the ground floor front setback**
 - c) **Specify media and drainage system for all garden beds and planter boxes.**
 - d) **Include automatic irrigation system including controller and taps for connection of irrigation systems for all garden bed/planter box and near areas with pots.**
 - e) **Specify automatic irrigation details (volumes, frequency, application process and maintenance).**
 - f) **Mature canopy spreads of trees to be shown.**
 - g) **Modify maintenance program:**
 - i. **Pruning frequency of trees (e.g. to maintain building clearance from trees and creepers), and specify that all pruning of trees be done by a qualified arborist (AQF Level 3+) in accordance with AS4373-2007 Pruning of Amenity Trees).**
 - ii. **How media moisture will be monitored (e.g. moisture probes).**
 - iii. **If/when media is to be replaced for pots and planter boxes.**
 - iv. **Maintenance staff to be suitably qualified (AQF Level 3+), and have demonstrated experience managing container systems (e.g. planter boxes and pot plants) and indoor gardens (e.g. lighting, pest/disease control).**
 - h) **Specify media for all garden areas.**
 - i) Attachment of the AOG Maintenance Manual detailing the maintenance of all proposed trees, shrubs and ground covers.
 - j) Any water sensitive urban design initiatives, in accordance with the Sustainable Management Plan required by Condition 6 of this permit.
- 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, an amended Sustainable Management Plan (SMP) and plans must be submitted to the satisfaction by 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 **Norman Disney & Young (dated 2 August 2022) advertised 27 October 2022** but modified to include the following changes:
- a) **Relating to the Green Star self-assessment:**
 - i. **Provide evidence that the project will be registered and approved by the Green Building Council of Australia, including contracts with ESD Consultants engaged to perform these tasks.**
 - ii. **Provide an updated Green Star assessment which confirms all targeted credits and confirms the methodology for achieving a minimum 5 star building.**

Should the Green Star confirmation be unable to be provided, an alternative tool such as the Built Environment Sustainability Scorecard (BESS) is required.
 - b) **Show the following ESD initiatives on the development plans:**
 - i. **The 12kW solar pV system**
 - ii. **The colour and material schedule altered to include the low VOC materials and other materials within the SMP.**
 - iii. **The 10,000L rainwater harvesting tank and its reuse within the proposal**
 - iv. **A stormwater catchment plan as per the SMP**
 - v. **Confirmation that the stairwells and naturally ventilated / operable.**
 - c) **Preliminary NatHERS ratings for all dwellings demonstrating a 7 star average, which is performed by an accredited NatHERS assessor and contains complete cooling load, heating loads, star ratings and proposed building fabric.**

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.

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, 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.

Accessibility

9. Prior to the endorsement of plans, an amended Accessibility Report prepared by a suitably qualified person must be submitted to the satisfaction of the Responsible Authority. The report must be generally in accordance with the Accessibility Report prepared by Before Compliance Pty Ltd dated **28 July 2022** but modified to:
 - a) Align with the plans for endorsement;
 - b) Confirm that **85 per cent of apartments within the** development 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.

10. 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

11. Prior to the endorsement of plans, an amended Acoustic Report prepared by a qualified Acoustic Engineer must be submitted to the satisfaction of the Responsible Authority. The report must be generally in accordance with the Acoustic Report prepared by Stantec Australia Pty Ltd dated **28 July 2022 (Revision 3)** but modified to:
 - a) Align with the plans for endorsement.

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.

12. 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.
13. 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

14. Prior to the endorsement of plans, an amended Waste Management Plan (WMP) must be submitted to the satisfaction of the Responsible Authority. The WMP must be generally in accordance with the WMP prepared by One Mile Grid dated **28 September 2022** 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.

15. 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.

Heritage Conservation

16. Prior to the endorsement of plans, an amended Heritage Impact Assessment must be submitted to the satisfaction of the Responsible Authority. The Heritage Impact Assessment must be generally in accordance with the Heritage Impact Assessment prepared by Bryce Raworth dated **August 2022** but modified to:

- a) Align with the plans for endorsement.

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

17. Prior to the endorsement of plans, a full schedule of conservation works for the retained portions of the buildings, including the façade, must be submitted to the Responsible Authority. The schedule must be prepared by a suitably qualified and experienced heritage consultant, to the satisfaction of the Responsible Authority and when approved will be endorsed to form part of the permit.
18. The conservation works detailed in the endorsed schedule of works for 255-259 Albert Street must be carried out concurrently or in advance of the redevelopment of the remainder of the site.

3D Model

19. 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

20. 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.

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

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

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

Engineering Matters

21. Any ramp providing access from the public footpath to the retail floor must be contained within the site.
22. 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.

Stormwater

23. 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).
24. 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.

General

25. 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.
26. 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.
27. The shopfront window must not be painted or blocked out in any way to the satisfaction of the Responsible Authority.
28. All external lighting, other than balcony lighting, must be no higher than 1.2 metres above ground level with automatic or sensor-controlled lighting installed and maintained on the land to illuminate pedestrian access between dusk and dawn with no direct light emitted onto adjoining property to the satisfaction of the Responsible Authority.
29. Lighting on each balcony must be designed to not emit light direct onto any adjoining property to the satisfaction of the Responsible Authority.

Car Share

30. **The two car spaces accessed via the laneway are to be reserved for carshare operation at no charge to the carshare operator to use them and:**
 - a) **These spaces must be available to all members of the carshare scheme 24 hours, 7 days per week, with safe, well-lit pedestrian access;**
 - b) **Prior to occupancy of the development, these spaces must be contracted to an operator (a car-share provider that has been approved by the Responsible Authority) with evidence of agreement submitted to Council; and**
 - c) **The agreement must ensure appropriate insurance and vehicle maintenance is in place including public liability;**
 - d) **The carshare must be in place and operating within 4 weeks of issue of the Occupation Certificate.**

Public works

31. Prior to the commencement of the development, a Public Works Plan and associated construction drawing specifications detailing the works to the land 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 1 metre splays on the crossings, relocated or modified.
 - e) For any vehicle crossing not being used, the kerb, channel and footpath reinstated.
 - f) Any necessary drainage works.
 - g) The relocation or replacement of existing and installation of new street furniture and infrastructure, such as parking and traffic signs, public seating, bicycle parking and similar.
 - h) The provision of new street tree planting or landscaping along Albert 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.

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.

Permit Expiry

32. 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.

1. Background

Subject site

The site is occupied by buildings that have heritage significance:

- a single storey weatherboard Victorian cottage with multiple outbuildings and a white picket front fence at 255 Albert Street.
- a two-storey brick building with dual shopfronts at ground floor and dwelling at first floor with an outbuilding at the rear at 257-259 Albert Street.

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

Surrounds

Albert Street has a mix of commercial buildings with either a zero lot line frontage or minor setback. The residential character is evident in that section of the street between Sydney Road and Frith Street with a more predominant residential character being located further east on the northern side of Albert Street between Frith Street and Beith Street and the southern side from David Street and beyond. The existing built form within the immediate area to the east of Sydney Road is predominantly one and two storeys with new three storey developments being located at No. 272-276 Albert Street and 252 Albert Street.

The site to the west has approval for a five storey commercial building with a three storey street wall. Works have not commenced.

A location plan forms **Attachment 1** and a zoning map forms **Attachment 2**.

The proposal

The proposed amendment is summarised as follows:

- Incorporate 255 Albert Street, Brunswick into the subject site
- Partial demolition, alterations and additions to the existing dwelling, including the conversion of the existing dwelling into a live/work dwelling.
- Construction of a six-storey building to the rear of the existing dwelling
- Alterations to the layout of the approved building on the existing portion of the site (257-259 Albert Street, Brunswick)
- Extension of the basement levels

The above-described amendments facilitate the following:

- Dwelling numbers increased from 16 to 35 dwellings.
- Dwelling sizes range between 22.5sqm and 79sqm
- The commercial floor space increased from 174sqm to 286.5sqm.
- The communal areas totalling increased from 85sqm to 97sqm. This includes kitchen, laundry and outdoor spaces.

The development plans form **Attachment 3** and 3D Drawings form **Attachment 4**.

Planning Permit and site history

- Planning Permit MPS/2004/687 was issued on 11 February 2005 for a convenience restaurant and dwelling (amongst other things).

- Planning Permit MPS/2020/528 was issued on 13 September 2021 for the construction of a six storey building, including the partial demolition of the existing building with a reduction (to zero) in car parking. This permit was issued following a VCAT compulsory conference where all parties reach consent.

Statutory Controls – why is a planning permit required?

Control	Permit Requirement
Mixed Use Zone	Clause 32.04-6: Construct two or more dwellings No permit required to use the land for a Dwelling, Art Gallery, Shop or Food and Drink Premises given that the Shop and Food and Drink Premises do not have a leasable floor area exceeding 150sqm.
Heritage Overlay	Clause 43.01-1: Demolish a building and construct a building
Design and Development Overlay	Clause 43.02-2: Construct a building
Particular Provisions	Clause 52.06: A permit is required for a reduction in the standard car parking requirement from 51 to 0 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 45.09: Parking Overlay
- Clause 53.18: Stormwater Management in Urban Development
- Clause 58: Apartment Development

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 signs on the Albert Street and laneway frontages of the site

Council has received 10 objections and 10 supporters to date. A map identifying the location of objectors forms **Attachment 5**.

The key issues raised in objections are:

- Car parking waiver
- Traffic impacts on Albert Street
- Building height
- Noise impacts on residents

The key reasons for support are:

- Positive heritage response and design excellence
- Dwelling diversity and housing innovation
- Prototype for addressing housing and climate crisis
- High quality internal amenity
- Social design – encourages interaction and communal living

- Public space/thoroughfare at ground floor

A Planning Information and Discussion (PID) meeting was held on 17 January 2023 and attended by two Council Planning Officer's, the applicant, three supporters and three objectors. The meeting provided an opportunity to explain the application, for the objectors to elaborate on their concerns, for supporters to express their view and for the applicant to respond. No changes have been made to the proposal following the PID.

It is noted that whilst commentary from the supporters has been considered as part of the assessment. The supporters do not have rights, should a VCAT review be lodged by either the permit applicant or objectors.

Internal/external referrals

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

Internal Branch/Business Unit	Comments
Urban Design Unit	Supports the proposal. Recommendations are made with respect to landscaping and public realm upgrades.
Transport Branch - Development Engineering Unit	Considers the provision of a bicycle parking facilities to be appropriate for the scale of car parking reduction sought and supports no car parking.
Sustainable Built Environment Branch - ESD Team	Supports the proposal subject to the following: <ul style="list-style-type: none"> – The project to be registered and approved by the Green Building Council of Australia. – ESD initiatives to be shown on plans. – Increase average NatHERS rating to 7 stars.
City Development Branch - Heritage Advisor	Partial demolition supported, subject to: <ul style="list-style-type: none"> – Conservation and restoration works to dwelling at 255 Albert Street being provided. Could support the addition if the proposal considered: <ul style="list-style-type: none"> – increasing the separation between the new building and existing dwelling. – Reducing the scale of the new portion of the building at 255 Albert Street to four storeys.
Open Space Design and Development Unit	Supports the landscape design subject to conditions.
Recommended changes by each internal referral unit are addressed by conditions of the recommendation and/or 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)
- 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)
 - Apartment developments in Moreland (Clause 15.01-2L)
 - Healthy Neighbourhoods (Clause 15.01-4S and 15.01-4R)
 - Neighbourhood Character (Clause 15.01-5S)
 - Environmentally Sustainable Development (Clause 15.01-2L-05-1L)
 - Energy efficiency in Moreland (Clause 15.01-2L-04)
- Heritage (Clause 15.03), including:
 - Heritage conservation (Clause 15.03-1S)
 - Heritage in Moreland (Clause 15.03-1L)
 - Aboriginal cultural heritage (Clause 15.03-2S)
- 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)
- Transport (Clause 18), including:
 - 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), including:
 - Energy supply (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

An assessment of whether there is any potential for unreasonable overlooking has been undertaken in section 4 of this report. 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.

4. Issues

In considering this application, regard has been given to the Planning Policy Framework (PPF), the provisions of the Moreland Planning Scheme, objections received and the merits of the application. The assessment is limited to the amendments and does not consider the components of the proposal that already have planning approval.

Does the proposal have strategic policy support?

The subject site is located within the Brunswick Activity Centre, where the strategic direction at Clause 2.03-1 seeks to accommodate substantial residential/mixed-use growth and change to create a new character of increased density and scale of built form, a strategy that is supported by State Planning Policy.

Both State and local planning policies support increased residential densities in Activity Centres, to take advantage of the excellent access to public transport and other services within these locations.

The proposed amendment would create an additional 19 new dwellings (35 total) contributing to housing supply and diversity in an appropriate location satisfying the objectives and strategies at Clause 16 – *Housing*.

Does the amended proposal adversely affect the building's heritage significance?

The additional part of the site which is the subject of this amendment is occupied by a c.1910 timber Victorian style cottage of heritage significance. There are variety of strategies at Clause 15.03-1L – *Heritage in Moreland* to inform the development of land affected by a Heritage Overlay.

The extent of demolition proposed involves the removal of the rear additions to the original house, demolition of sections of western and northern walls, removal of the outbuilding to the laneway and all landscaping elements on the property. The key consideration for this aspect of the works is whether the demolition will adversely affect the significance of the building or the precinct as a whole. It is policy *to encourage retention of contributory or significant heritage fabric required to maintain the original streetscape appearance*.

Given that the full hipped roof form of the original dwelling is retained and all fabric to be removed is to the rear concealed from street view, the proposed extent of demolition is supported.

The extent of new development, alterations and additions proposed by this amendment includes:

- Minor alterations to the rear of the existing dwelling for cargo bike storage and services room
- Construction of a six-storey residential building to the rear (detached from the existing dwelling)

The key consideration for the additions and alterations is whether the proposed works would adversely affect the significance, character or appearance of the building or the precinct as a whole.

The buildings and works to the original dwelling are minor in nature and wholly concealed from street view. They are acceptable on this basis. However, Council's Heritage Advisor identified that no particular conservation works are described for the existing dwelling. A condition of the recommendation will require a schedule of proposed conservation and restoration works to be submitted to Council to ensure the heritage significance and appearance of the dwelling is retained and restored.

The six-storey building is proposed to be constructed to the rear of the existing dwelling. This is an extension of the approved six-storey building at 257- 259 Albert Street attached to the two storey heritage building, however, in this instance the addition is not attached to the existing dwelling. It is policy that new additions *respect the existing siting (amongst other things) of contributory or significant elements and do not dominate the heritage place or precinct*. The key issue is whether the proposed building provides adequate separation from the existing dwelling.

Council's Heritage Advisor is concerned that insufficient separation is provided between the proposed building and the retained dwelling suggesting that the ground floor bike area and open-sided first floor clothesline area would result in the building 'reading' as 2 metres of separation instead of the 5.7 metres provided, rendering the gap as visibly imperceivable. The Heritage Advisor also noted that a building addition of four storeys would be a more appropriate height in this context as it would provide a transition in scale between Sydney Road and the eastern portion of Albert Street.

Council's heritage policy must also be balanced with the strategic policy objectives of providing increased housing density. The approved six storey development at 257-259 Albert Street does not provide any separation from the existing heritage building, whereas the proposed building provides 2.2 metres of separation (excluding architectural detailing) from the existing dwelling. Furthermore, the proposed building's 14 metre street setback is significant, ensuring a respectful response to the heritage fabric. Therefore, the building separation is considered sufficient to enable the buildings to be read as separate structures. This is a respectful design response to the retained heritage building while also allowing urban consolidation and substantial growth on the site which is envisioned by planning policy.

Does the built form meet the design objectives of the DDO?

Building height

By virtue of the siting of the proposed building and existing heritage dwelling retained, there is no street wall for the proposed building.

The proposed development has a maximum building height of 20.8 metres to top of the parapet. Map 1B of the DDO18 outlines a preferred maximum building height of 17 metres for this site. The proposal exceeds the preferred maximum height by 3.8 metres, or approximately one storey. The DDO also specifies that a lift overrun, plant and structures associated with green roofs and other such equipment including architectural features for screening are an allowable encroachment into the height control. Solar panels, hot water plant and an electric heat pump are shown on the proposed roof plan.

The preferred maximum building height is not a mandatory requirement within the DDO allowing a building height beyond the preferred maximum height provided that the design objectives and decision guidelines are met.

A relevant design objective is 'to establish a new cohesive built form character...to achieve an appropriate balance between a sense of enclosure and openness'. This is to be achieved through a 1:1 ratio of height to setback from the opposite side of the street. The plans demonstrate that the building achieves a 1:1 ratio to Albert Street, achieving compliance with the DDO upper-level setback requirement.

Another design objective is to protect the amenity of key pedestrian streets with Albert Street nominated as a key pedestrian street. The DDO18 states that development should not overshadow the opposite footpath of Key Pedestrian Streets between 10.00am and 2.00pm at the equinox. The submitted shadow diagrams demonstrate that no overshadowing would occur between those hours.

As demonstrated in the original application, the urban context allows for an increase in building height above the preferred height due to the proximity of developments ranging from three storeys to 12 storeys within 200 metres of the site. The proposed amendment demonstrates compliance with the design objectives of the DDO18 resulting in an acceptable variation to building height.

Does the proposal provide sufficient setbacks to boundaries?

- Building layouts for apartment developments of five or more storeys are informed by Clause 15.01-2L – *Apartment Developments in Moreland*. This policy includes building setback and separation strategies to deliver high quality apartment developments.

Clause 15.01-2L specifies building setbacks to a lane and minimum light well dimensions. The following table considers the variations sought by the proposal:

Building height	Living room or Main balcony outlook Requirement	Bedroom outlook Requirement	Setback proposed to new building	Variation sought
Up to 4 storeys or 12 metres (side setback)	6 metres	3 metres	0.61m from boundary for one Dwelling 007 (live/work apt) only.	5.39m
3-8 storeys or up to 25 metres (rear setback)	6 metres (from centre of lane)	3 metres (from centre of lane)	4.5m from centre of lane for studio apartments level 2-5, 255 Albert Street	1.5m

Table 1 – Assessment of proposal against setback requirements of Clause 15.01-2L

Given that the development is comprised of studio apartments, there is no true bedroom and living room (as these are shared spaces). Accordingly, the setbacks above have been assessed based on the living room requirement – the more conservative approach.

In relation to the variation to the rear, the daylight modelling (based on worst case future scenario of development of the site to the north) demonstrates that most of the laneway facing dwellings would exceed the minimum BESS requirements for daylight. The exception is Unit's 101, 106 and 107 which demonstrate that most of floor area achieves a daylight factor less than 1. In isolation, this would not be acceptable however impacts must be considered with the balance of the development which demonstrates acceptable daylight performance.

However, the key issue remains whether Unit's 006 and 007 are acceptable. Due to their location at ground floor, the single aspect laneway interface, and future development potential of the northern property, the daylight modelling demonstrates that these units would receive poor daylight access, have a poor outlook, and compromised accessibility and safety. The submitted daylight study illustrates that limited daylight will reach these rooms and their only outlook will be towards the boundary fence and wall of 1 Frith Street. The bluestone laneway also poses accessibility challenges for occupants/visitors. These two units are therefore not supported. A better use of this space to be for two car share spaces – this will be discussed later in this report.

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

In considering the Clause 58.04 standards which govern off-site amenity impacts, the proposal is deemed to comply with each objective.

Does the proposal provide appropriate onsite amenity and facilities?

Private open space / Communal open space

Communal open space is the sole open space for residents with no private balconies provided for any dwelling. A development of 35 dwellings is required to provide 87.5sqm of communal open space by Standard D7. An area of 97sqm is proposed which is comprised of the 9sqm communal kitchen, 21sqm clothesline area, 25.5sqm winter garden and 41.5sqm podium terrace. This complies with the standard. There is also a 39sqm garden at ground floor however this has not been included in the calculation. This is because it is mostly a private yard for the live/work dwelling and not communal open space

Solar access to communal open space

At least 50 per cent of the primary communal outdoor open space should receive a minimum of two hours of sunlight between 9am and 3pm on 21 June.

Shadow diagrams indicate that the podium communal open space would receive over 50 per cent sunlight for at least two hours which complies with the standard.

Shadow diagrams were also provided to model the impacts of the approved development to the west at 392 Sydney Road (which has not commenced construction). These demonstrated that the podium communal open space would be in complete shadow between 9am-5pm, should that development proceed.

However, the winter garden would provide an alternative communal area for residents which has northern solar access. This space also receives over 50 per cent sunlight for at least two hours which complies with the standard. Importantly, the winter garden would not be adversely impacted by overshadowing should 392 Sydney Road be developed.

Each space offers benefits with the winter garden providing direct sunlight in the colder months and the pergola space providing shade in the warmer months. The communal open space would satisfy the objectives of Clause 58 in providing both amenities and recreational space for future residents.

Does the proposal provide good internal amenity?

Functional layout

The objective of the functional layout standard (D24) seeks to ensure dwellings provide functional areas that meet the needs of residents.

Studio apartments favour bedroom space over living space. Minimum living room dimensions fall below the standard in the amended development. This is because the development seeks to contribute to dwelling diversity and is targeted at a specific demographic who are shifting ways of living. Studio apartments have internal furniture layouts that are flexible/fluid with additional facilities being provided communally/externally. The common areas cater for a variety of resident needs and provide acceptable amenity having integrated landscaping and furniture. The shared facilities encourage interaction between residents which is a key initiative of the development that adopts a new type of co-living housing model.

Notably, the key feature of the approved development is continued into the proposal with 3 metre high ceilings provided for each apartment, which offset the compact nature of these dwellings making them feel bigger.

While the development is non-conforming to conventional living standards, the dwelling layouts have a key directive which provides an acceptable response to the objective of Clause 58.

Natural ventilation, windows and room depths in the amended development continue to comply with the objectives resulting in quality internal spaces.

It must be noted that similar sized apartments (Teilhaus layouts) 26 square metres in size have previously been considered by the Priority Projects Standing Advisory Committee for the development at 215-219 Albion Street, Brunswick. In supporting that proposal, the Committee noted:

- *Teilhaus apartments are considered acceptable in the overall apartment mix for the proposal.*
- *Housing Choices Australia state that Teilhaus dwellings are suitable for a single person who had been through difficult circumstances.*
- *Teilhaus dwellings offer further affordable housing irrespective of whether they fall under the affordable housing definition in the Planning and Environment Act.*

This proposal includes a mix of apartment sizes between 22.5sqm and 79sqm not dissimilar to the development at 215-219 Albion Street, demonstrating the ongoing demand for dwelling diversity and housing affordability.

Noise impacts

An Acoustic Assessment was commissioned that considers the noise impacts emitting from the nearby licensed premises including live music. Through testing and modelling, the report includes recommendations for the design of the building to ensure residents are protected from external noise impacts, thereby satisfying the objectives of Clause 53.06 (live music) and 58. This outcome is secured through an existing condition of permit, with the recommendations in the updated Acoustic Report to be implemented as part of this condition.

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 52.06-5 of the Moreland Planning Scheme. The column B rates apply as the site is located in a Principal Public Transport Network.

Use	Total spaces required	Total spaces provided	Reduction sought
Dwellings (35 including 34 x one bedroom and 1 x two bedroom)	36	0	36
Shop 67.5sqm	2	0	2
Food and Drink 46.5sqm	1	0	1
Place of Assembly (Gallery) 40sqm	12	0	12
Total	51	0	51

In considering the matters at Clause 52.06-7, a reduction in car parking is considered acceptable for the following reasons:

- The site is located in the Brunswick Activity Centre with excellent access to public transport options including train (350m), tram (80m) and bus (290m) and it is policy to support reduced car parking rates in developments within activity centres pursuant to Clause 18.02-4L as it encourages people to walk, cycle and use public transport;
- There are four car share vehicles proximate to the site.
- The Traffic Impact Assessment Report states that the ABS data from 2016 indicates that average car ownership across Merri-bek is 0.26 cars per studio dwelling, 0.72 cars for one bedroom dwellings and 1.01 cars for two bedroom dwellings. However, reduced car parking provisions assist with the desired reduction in private vehicle usage, therefore minimising traffic impacts in the vicinity.

- The parking survey contained within the Traffic Impact Assessment Report indicates that absence of car parking for the development and restricted on-street car parking discourages residents and staff to own a car, therefore encouraging more sustainable transport options.
- The development provides 59 bicycle spaces which includes lockable secure spaces, electric spaces and cargo bike spaces. This exceeds the requirements of Clause 52.34-5 and meeting the bicycle provisions outlined in Moreland's Sustainable Design Assessment in the Planning Process (SDAPP) Transport initiative.
- The proposal would increase the diversity and density of development along the Principal Public Transport Network for a site within an activity centre where a principal public transport route intersects, in accordance with the strategies of Clause 18.02-2R.

Whilst Council's Development Engineer is supportive of the car parking reduction for the reasons above, this assessment must have regard to the purpose of the car parking provision. Whilst a reduction of a portion of the car spaces may be acceptable, the proposal is not considered to provide an appropriate number of car spaces when having regard to ABS data on car ownership rates which suggest a car parking demand is likely to be generated by the activities on the land. This view differs from the applicant's Traffic Assessment which is advocating a departure from the 'business-as-usual' approach and suggesting this proposal will not generate any parking demands for residents or employees.

The poor internal amenity of the ground floor live/work units (006 and 007) create an opportunity for an alternative layout that would provide a car share arrangement on the site.

This space has direct laneway access and could facilitate two car parking spaces. This reduces the effective resident parking demand when employing the industry standard of one car-share space equating to 10 private spaces (Phillip Boyle & Associates, June 2015, for the City of Melbourne). That is, two car-share spaces will effectively account for 20 privately owned car spaces on-site. By having a car share arrangement on-site, this transport alternative would contribute to the site's excellent access to a range of public transport options and communal facilities of this development which can justify the remaining car parking shortfall. Notably, the development ethos is based on communal living and shared resources. This would add an additional shared facility for residents and the community through car share membership.

A condition of the recommendation requires deletion of Units 006 and 007 and provision of two car share spaces.

Objectors have raised concerns regarding the impact of the parking reduction on the demand for on-street car parking. It is important to recognise that people can only park on street in accordance with parking regulations, and this area is heavily restricted. Furthermore, the owners and/or occupiers of the land would not be eligible for any Council parking permits to allow on street car parking.

The applicant is concerned that the location of any car share would not be suitable raising safety issues (surveillance of the thoroughfare/laneway). This can be resolved with appropriate lighting at ground floor and wayfinding signage from Albert Street. Recommended conditions require that these are implemented into the development.

Are adequate loading/unloading facilities provided?

On site loading facilities have not been provided. It is accepted that on street parking can absorb the demand of a development of this scale.

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

Traffic was raised as an issue in objections. Council's Development Engineer considers the additional traffic generated from this development would be minimal, and the vehicles would either drop-off/pick-up, or use the public car parks in the area. Subject to a condition of the recommendation, the development would only include two car share spaces on site which would result in a marginal increase of resident movements to and from the site. For this reason the proposal would not result in any unreasonable traffic impacts.

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

General excellence in ESD is achieved through:

- All electric - commitment to a gas-free development
- 12KW Solar PV System Facilitation of sustainable transport modes through provision of bike parking facilities (including electric and cargo bike) and close proximity of services and public transport
- Targeted 80 per cent construction and demolition materials diverted from landfill (with stretch target of 90 per cent)
- External shading, rainwater harvesting and low VOC and formaldehyde materials

Subject to a condition of the recommendation, the average NatHERS rating must be increased from 6.7 to 7 stars in order to achieve best practice ESD and satisfy the objective of Clause 15.01-2L-05.

Is the proposal accessible to people with limited mobility?

Clause 16.01-1L (Housing for people with limited mobility) encourages the provision of housing that can be lived in by people with limited mobility This is supported by Clause 58.05-1 which seeks that at least 50 per cent of dwellings are accessible. There are 30 out of 35 apartments (85 per cent) nominated as accessible which exceeds the standard by 35 per cent, ensuring the policy is achieved.

5. Response to Objector Concerns

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

- Car parking waiver
- Traffic impacts on Albert Street
- Building height
- Noise impacts on residents

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

It is considered that the proposed amendment to incorporate 255 Albert Street, Brunswick into the subject site for the partial demolition of the existing dwelling, alterations and additions to the six-storey building and reduction of the car parking requirement is acceptable. On the balance of policies and controls within the Moreland Planning Scheme and objections received, it is recommended that a Notice of Decision to Grant an Amended Planning Permit be issued subject to the conditions included in the recommendation of this report.

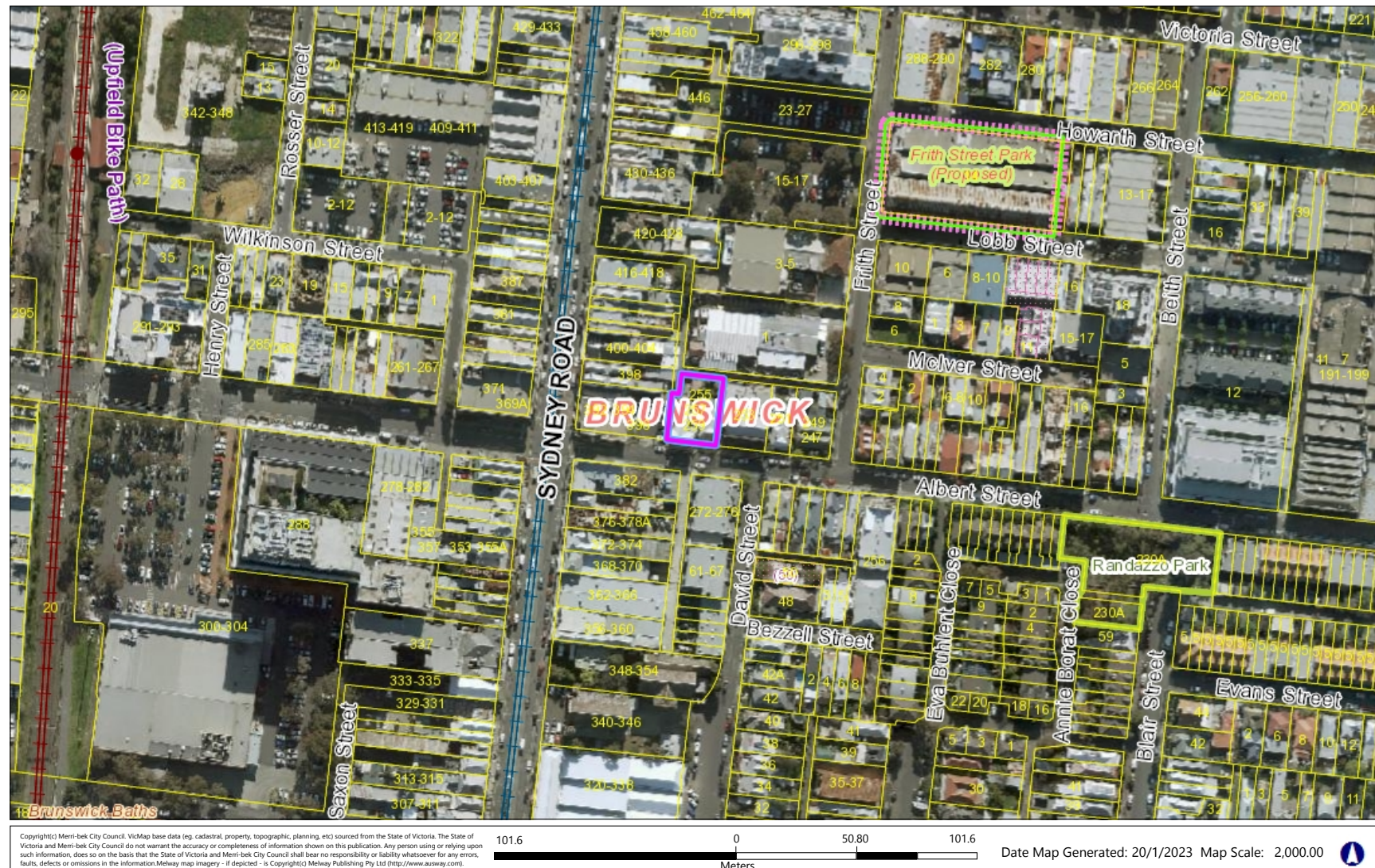
Attachment/s

1	255-259 Albert Street, BRUNSWICK VIC 3056 - Location Map	D23/30855
2	255-259 Albert Street, BRUNSWICK VIC 3056 - Zoning Map	D23/30795
3	255-259 Albert Street, BRUNSWICK VIC 3056 - Advertised Plans	D23/30873
4	255-259 Albert Street, BRUNSWICK VIC 3056 - 3D Drawings	D23/30891
5	255-259 Albert Street, BRUNSWICK VIC 3056 - Objector Map	D23/30740

255-259 Albert Street, BRUNSWICK VIC 3056

Location Map

 Subject Site



255-259 Albert Street, BRUNSWICK VIC 3056

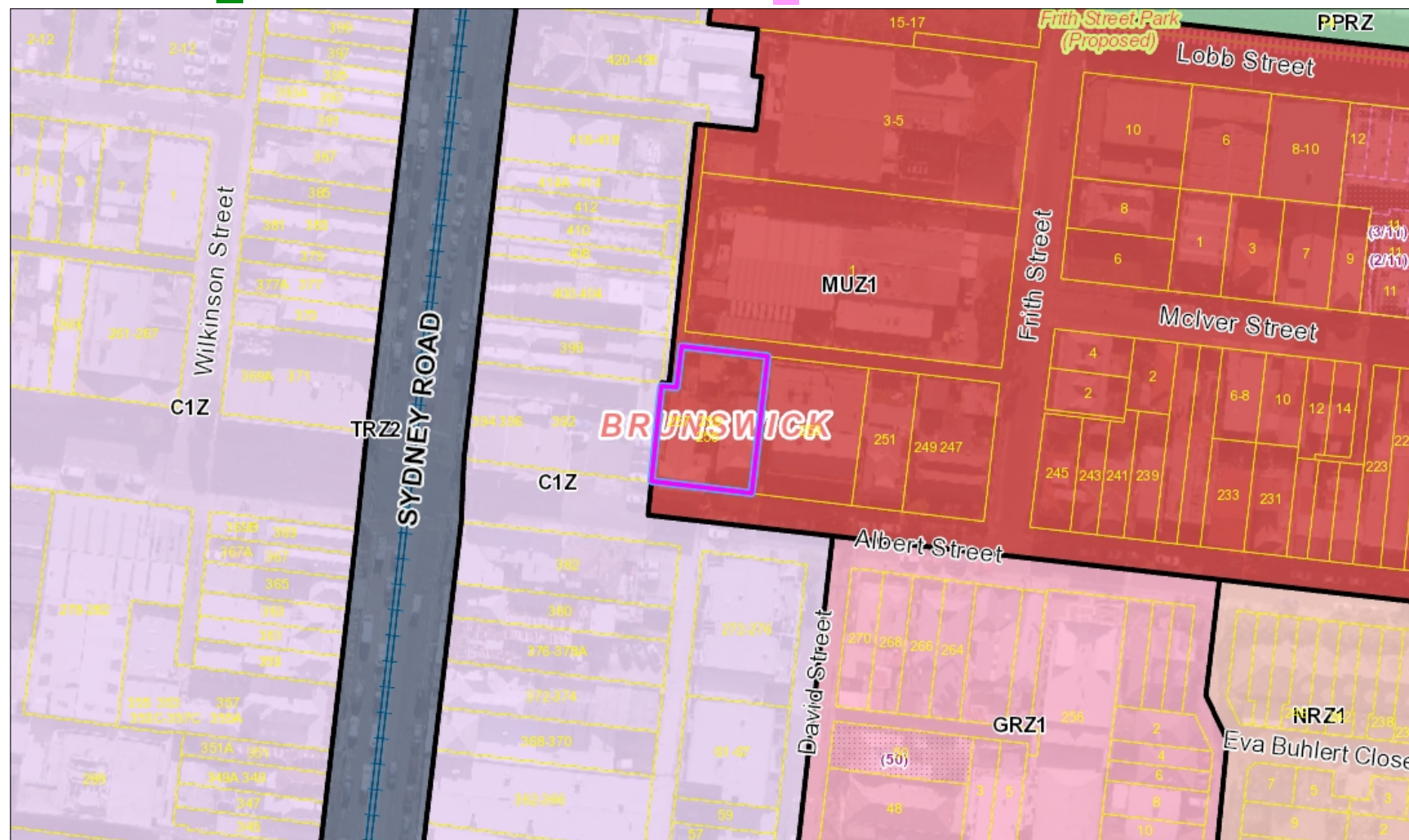
Zoning Map

Transport Zone 2 (TRZ2)
Public Park and Recreation Zone

Commercial 1 Zone (C1Z)
Mixed Use Zone (MUZ1)
General Residential Zone (GRZ1)
Neighbourhood Residential Zone (NRZ1)



Merri-bek
City Council



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Date Map Generated: 20/1/2023 Map Scale: 1,000.00



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PLANNING ENVIRONMENT ACT 1987
MORELAND PLANNING SCHEME

Advertised Document
Advertised Plan Sheet 1 of 70
Application No: MPS/2020/528/A
Date : 27/10/2022

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Mst.: 1:1, 1:2
Date: 27/10/2022

