

Minutes of the Planning and Related Matters Meeting

Held at the Council Chamber, Moreland Civic Centre,
90 Bell Street, Coburg
on Wednesday 28 April 2021

The Deputy Mayor opened the meeting at 6.34 pm and stated the Council meeting is being held on the traditional country of the Wurundjeri Woi Wurrung people and acknowledged them as Traditional Owners. The Deputy Mayor paid his respects to their Elders, past, present and emerging, and the Elders from other communities who may be here today.

Present	Time In	Time Out
Cr Annalivia Carli Hannan, Mayor	Apology	
Cr Mark Riley, Deputy Mayor	6.34 pm	8.58 pm
Cr Adam Pulford	6.34 pm	8.58 pm
Cr Angelica Panopoulos	6.34 pm	8.58 pm
Cr Helen Davidson	6.34 pm	8.58 pm
Cr Helen Pavlidis	Apology	
Cr James Conlan	6.34 pm	8.58 pm
Cr Lambros Tapinos	6.34 pm	7.22 pm
Cr Milad El-Halabi	6.34 pm	8.58 pm
Cr Oscar Yildiz JP	6.34 pm	8.58 pm
Cr Sue Bolton	6.34 pm	8.58 pm

APOLOGIES/LEAVE OF ABSENCE

Apologies were received from the Mayor, Cr Annalivia Carli Hannan and Cr Helen Pavlidis.

OFFICERS

Group Manager City Development – Narelle Jennings
Unit Manager Urban Planning – Mark Hughes
Planning Coordinator – Darren Camilleri
Acting Unit Manager Governance and Civic Protocols – Naomi Ellis
Governance and Council Business Officer – Tracey Classon

DISCLOSURES OF CONFLICTS OF INTEREST

Cr Tapinos disclosed a general conflict of interest in item 5.1 - 495-511 Lygon Street, Brunswick East - Planning Application MPS/2020/57, as an objector to the planning application donated to Cr Tapinos' election campaign.

The Chair, Cr Mark Riley, advised the meeting that item 5.2 - 20 Staley Street, Brunswick - Planning Application MPS/2017/419/A, will be considered first due to the large number of speakers for item 5.1.

MINUTE CONFIRMATION

Resolution

Cr Davidson moved, Cr Panopoulos seconded -

The minutes of the Planning and Related Matters Meeting held on 24 March 2021 be confirmed.

Carried

COUNCIL REPORTS

5.2 20 STALEY STREET, BRUNSWICK - PLANNING APPLICATION MPS/2017/419/A



Property:	20 Staley Street, Brunswick			
Proposed Amendments	- Remove car stackers from Dwellings 2, 3 and 4 - Reduce car parking provision by three spaces on-site to provide only one space to Dwellings 2, 3 and 4 - Delete condition 1d (relating to car stackers heights)			
Zoning and Overlay/s:	- General Residential Zone (GRZ1) - Development Contributions Plan Overlay (DCPO1)			
Strategic setting:	Minimal housing growth	Incremental housing growth	Increased house densities encouraged	Significant housing growth
Objections:	15 Objections - Key issues: - Car Parking Reduction - Traffic Impacts - Removal of Car Stackers			

Planning Information and Discussion (PID) Meeting:	• Date: 19 April 2021 • Attendees: 3 objectors, the applicant, 2 Council officers, and Cr Helen Pavlidis-Mihalakos, Cr Mark Riley 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.
Key reasons for support:	The further reduction in car parking is acceptable as the site has excellent access to multiple modes of public transport and is adjacent to the Brunswick Activity Centre.
Recommendation:	An amended Planning Permit be issued for the proposal.

Officer Recommendation

That a Notice of Decision to Grant an Amended Planning No. MPS/2010/419/A be issued for the construction of four dwellings (three triple storey and one double storey) with roof top decks and a reduction in the car parking requirement at 20 Staley Street, Brunswick, subject to the following conditions (**new condition bolded**):

- 1A. **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 8 January 2021) but modified to show:**
 - a) **An additional bicycle parking space for each of dwellings 2, 3 and 4. This must be provided internal to the dwelling by removing the door to the ground level courtyard. A sliding door to the bedroom can be provided to allow access to the courtyard.**
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 Neil Architecture dated 19/09/2017, TP1 – TP19 Rev A but modified to show:
 - a) Dimensions of the title boundaries on all plans to match the plan of subdivision.
 - b) A survey plan confirming the ground-level AHD to demonstrate/confirm that there is a 2.5-degree slope along an 8-metre section of the site in accordance with the provisions of Clause 32.08-10 of the Moreland Planning Scheme.

In the event that this cannot be demonstrated, the building is to have a maximum overall height no greater than 11 metres.
 - c) Initiatives contained within the Sustainable Design Assessment (SDA), including:
 - i. Confirmation that the rainwater harvesting tanks (within the STORM and BESS reports) are completely independent of any detention requirements (through the Legal Point of Discharge process), and, an annotation that the tanks will capture the roof areas specified in the SDA. The location of the tanks must also be clearly specified on the plans.
 - ii. Double glazing (or better) provided for all living room windows (including sliding door glazing), kitchens and bedrooms, indicated on each

individual window on the floor plans and elevations.

d) (deleted)

- e) The colour and material schedule amended so that the glazing is specified as being double glazing (or better) for all living room windows (including sliding door glazing), kitchens and bedrooms.
- f) The garage doors to be automatic and remote controlled.
- g) An internal door or large operable window to the ground-floor light-court of Dwellings 2, 3 and 4, allowing maintenance access.
- h) Letter box and street number to each dwelling.
- i) The location of all water, gas, and electricity metres for each dwelling. These cannot be freestanding structures within the front setback and must be integrated into the design of the building and screened from view from the public realm.
- j) Alternative screening to the northern window of the kitchen of Dwelling 1 at first-floor demonstrating compliance with Standard B22 (overlooking) of Clause 55 of the Moreland Planning Scheme, whilst allowing a northern outlook.
- k) Relocation of the air-conditioning condensers from the northern side to the southern side of the dwellings, suitably integrated into the design of the dwellings and screened from the public realm.
- l) A warning light system fitted on the outside (south-facing) wall of each garage, to provide extra notice to passing pedestrians when a vehicle is in the process of exiting or entering any of the three garages.
- m) The first-floor south-facing bathroom windows of Dwellings 2, 3 and 4 to have an upstand of a minimum of 1 metre.
- n) The pedestrian walkway along the southern boundary to be in a material and colour to differentiate it from the right-of-way.
- o) Metal cladding to have horizontal not vertical banding.
- p) 1:50 detail of the art work for the garage doors in full colour.
- q) An 0.8-metre-wide and 1.2-metre-high planter box to replace the northern balustrade of the roof terrace of Dwellings 2, 3 and 4, to be planted with "Murraya Paniculata".
- r) A cross-section of Dwellings 2, 3 and 4, demonstrating compliance of the amended roof terraces with Standard B22 (Overlooking) of Clause 55 of the Moreland Planning Scheme, regarding the private open space and habitable room windows of the northern dwelling at 22 Staley Street.
- s) A balustrade to the western end of the planter box on the first-floor south-facing balconies of Dwellings 2, 3 and 4.
- t) A cross-section of the screening louvres on the northern windows, demonstrating compliance with Standard B22 of Clause 55 of the Moreland Planning Scheme.
- u) Taps to be shown on the south-facing balconies and roof terraces of Dwellings 2, 3 and 4.
- v) Removal of the metal dividing fences at ground-floor as shown on Diagrams 3 Sections C on TP07 Rev A.
- w) Sensor lighting to the under-croft at the entry of each of Dwellings 2, 3 and 4, baffled to ensure no light spill onto any other land.
- x) Provision of a minimum of 6 cubic metres of storage for each dwelling.

- y) Suitable B22 compliance with the screening of the staircase of Dwelling 4 with cross-section to demonstrate.
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.
 3. Prior to the commencement of any development works, an amended landscape plan must be submitted to and approved by the Responsible Authority. The landscape plan must provide the following:
 - a) The details of irrigation and drainage of all landscaping areas including ground-floor courtyards, ground-floor front garden beds, second-floor planter boxes and roof terrace planter boxes, by way of:
 - i. a dedicated Irrigation Plan, and
 - ii. an Irrigation Management Plan.
 - b) Maintenance responsibilities (and the access arrangements) regarding clipping of the ground-floor olive trees.
 - c) All permeable and impermeable areas within the STORM Report.
 - d) Any storm water management details on the STORM report, including raingardens, rainwater harvesting tank locations,
 - e) Any requirement of Condition 1.
 4. Prior to the issuing of a Statement of Compliance or occupation of the development, whichever occurs first, all landscaping works must be completed and maintained in accordance with the approved and endorsed landscape drawing to the satisfaction of the Responsible Authority.
 5. Prior to the endorsement of plans, a Sustainable Design Assessment (SDA) must be submitted to and be to the satisfaction of the Responsible Authority. All works must be undertaken in accordance with the endorsed Sustainable Design Assessment report to the satisfaction of the Responsible Authority. No alterations to the Sustainable Design Assessment report may occur without the written consent of the Responsible Authority.
 6. 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.

7. Prior to the issuing of Statement of Compliance or occupation of the development, whichever occurs first, all visual screening measures shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. All visual screening and measures to prevent overlooking must be maintained to the satisfaction of the

Responsible Authority. Any screening measure that is removed or unsatisfactorily maintained must be replaced to the satisfaction of the Responsible Authority.

8. Prior to the occupation of the development, a vehicle crossing must be constructed in every location shown on the endorsed plans to a standard satisfactory to the Responsible Authority (Moreland City Council, City Infrastructure Department).
9. 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).
10. Prior to the commencement of the development, a legal point of discharge is to be obtained, and, where required, a stormwater drainage plan showing how the site will be drained from the property boundary to the stated point of discharge must be submitted to and approved by the Responsible Authority.
11. Prior to the occupation of the development, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.
12. Prior to the occupation of the development all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land (including all existing and new buildings) must be underground to the satisfaction of the Responsible Authority.
13. Prior to the occupation of the development, any Council or service authority pole or pit within 1 metre of a proposed vehicle crossing, including the 1 metre splays on the crossing, must be relocated or modified at the expense of the permit holder to the satisfaction of the Responsible Authority and the relevant service authority.
14. 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: 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: 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/>.

6.58 pm Cr Yildiz left the meeting during the submissions.

7.00 pm Cr Yildiz returned to the meeting.

Amendment

Cr Tapinos moved, Cr Bolton seconded -

That a Refusal to Amend Planning Permit No. MPS/2017/419/A be issued for the

construction of four dwellings (three triple storey and one double storey) with roof top decks and a reduction in the car parking requirement at 20 Staley Street, Brunswick on the following ground:

1. The proposal has an insufficient number of car parking spaces for the locality which is contrary to Clause 52.06 (car parking) of the Moreland Planning Scheme.

Lost

Resolution

Cr Pulford moved, Cr El-Halabi seconded -

That a Notice of Decision to Grant an Amended Planning No. MPS/2010/419/A be issued for the construction of four dwellings (three triple storey and one double storey) with roof top decks and a reduction in the car parking requirement at 20 Staley Street, Brunswick, subject to the following conditions (new condition bolded):

- 1A. 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 8 January 2021) but modified to show:**
 - a) An additional bicycle parking space for each of dwellings 2, 3 and 4. This must be provided internal to the dwelling by removing the door to the ground level courtyard. A sliding door to the bedroom can be provided to allow access to the courtyard.**
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 - a) Dimensions of the title boundaries on all plans to match the plan of subdivision.**
 - b) A survey plan confirming the ground-level AHD to demonstrate/confirm that there is a 2.5-degree slope along an 8-metre section of the site in accordance with the provisions of Clause 32.08-10 of the Moreland Planning Scheme.**

In the event that this cannot be demonstrated, the building is to have a maximum overall height no greater than 11 metres.
 - c) Initiatives contained within the Sustainable Design Assessment (SDA), including:**
 - i. Confirmation that the rainwater harvesting tanks (within the STORM and BESS reports) are completely independent of any detention requirements (through the Legal Point of Discharge process), and, an annotation that the tanks will capture the roof areas specified in the SDA. The location of the tanks must also be clearly specified on the plans.**
 - ii. Double glazing (or better) provided for all living room windows (including sliding door glazing), kitchens and bedrooms, indicated on each individual window on the floor plans and elevations.**
 - d) The colour and material schedule amended so that the glazing is specified as being double glazing (or better) for all living room windows**

(including sliding door glazing), kitchens and bedrooms.

- e) The garage doors to be automatic and remote controlled.
 - f) An internal door or large operable window to the ground-floor light-court of Dwellings 2, 3 and 4, allowing maintenance access.
 - g) Letter box and street number to each dwelling.
 - h) The location of all water, gas, and electricity metres for each dwelling. These cannot be freestanding structures within the front setback and must be integrated into the design of the building and screened from view from the public realm.
 - i) Alternative screening to the northern window of the kitchen of Dwelling 1 at first-floor demonstrating compliance with Standard B22 (overlooking) of Clause 55 of the Moreland Planning Scheme, whilst allowing a northern outlook.
 - j) Relocation of the air-conditioning condensers from the northern side to the southern side of the dwellings, suitably integrated into the design of the dwellings and screened from the public realm.
 - k) A warning light system fitted on the outside (south-facing) wall of each garage, to provide extra notice to passing pedestrians when a vehicle is in the process of exiting or entering any of the three garages.
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 - m) The pedestrian walkway along the southern boundary to be in a material and colour to differentiate it from the right-of-way.
 - n) Metal cladding to have horizontal not vertical banding.
 - o) 1:50 detail of the art work for the garage doors in full colour.
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 - t) Taps to be shown on the south-facing balconies and roof terraces of Dwellings 2, 3 and 4.
 - u) Removal of the metal dividing fences at ground-floor as shown on Diagrams 3 Sections C on TP07 Rev A.
 - v) Sensor lighting to the under-croft at the entry of each of Dwellings 2, 3 and 4, baffled to ensure no light spill onto any other land.
 - w) Provision of a minimum of 6 cubic metres of storage for each dwelling.
 - x) Suitable B22 compliance with the screening of the staircase of Dwelling 4 with cross-section to demonstrate.
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.

3. Prior to the commencement of any development works, an amended landscape plan must be submitted to and approved by the Responsible Authority. The landscape plan must provide the following:
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 - d) Any storm water management details on the STORM report, including raingardens, rainwater harvesting tank locations,
 - e) Any requirement of Condition 1.
4. Prior to the issuing of a Statement of Compliance or occupation of the development, whichever occurs first, all landscaping works must be completed and maintained in accordance with the approved and endorsed landscape drawing to the satisfaction of the Responsible Authority.
5. Prior to the endorsement of plans, a Sustainable Design Assessment (SDA) must be submitted to and be to the satisfaction of the Responsible Authority. All works must be undertaken in accordance with the endorsed Sustainable Design Assessment report to the satisfaction of the Responsible Authority. No alterations to the Sustainable Design Assessment report may occur without the written consent of the Responsible Authority.
6. 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:

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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.

7. Prior to the issuing of Statement of Compliance or occupation of the development, whichever occurs first, all visual screening measures shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. All visual screening and measures to prevent overlooking must be maintained to the satisfaction of the Responsible Authority. Any screening measure that is removed or unsatisfactorily maintained must be replaced to the satisfaction of the Responsible Authority.
8. Prior to the occupation of the development, a vehicle crossing must be

constructed in every location shown on the endorsed plans to a standard satisfactory to the Responsible Authority (Moreland City Council, City Infrastructure Department).

9. 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).
10. Prior to the commencement of the development, a legal point of discharge is to be obtained, and, where required, a stormwater drainage plan showing how the site will be drained from the property boundary to the stated point of discharge must be submitted to and approved by the Responsible Authority.
11. Prior to the occupation of the development, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.
12. Prior to the occupation of the development all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land (including all existing and new buildings) must be underground to the satisfaction of the Responsible Authority.
13. Prior to the occupation of the development, any Council or service authority pole or pit within 1 metre of a proposed vehicle crossing, including the 1 metre splay on the crossing, must be relocated or modified at the expense of the permit holder to the satisfaction of the Responsible Authority and the relevant service authority.
14. 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: 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: 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/>.

Carried

7.20 pm Cr Yildiz left the meeting after the vote.

7.22 pm Cr Tapinos left the meeting due to his conflict of interest and did not return.

7.22 pm Cr Yildiz returned to the meeting.

5.1 495-511 LYGON STREET, BRUNSWICK EAST - PLANNING APPLICATION MPS/2020/57



Property:	495-511 Lygon Street, Brunswick East
Proposal:	Part demolition of existing buildings, and the construction of a seven storey building above basement levels, use of the land for a place of assembly (function centre), and dwellings.
Zoning and Overlay/s:	- Commercial 1 Zone - Development Contributions Plan Overlay - Heritage Overlay Schedule 435 - Design and Development Overlay Schedule 19 - Parking Overlay Schedule 1
Strategic setting:	Minimal housing growth Incremental housing growth Increased house densities encouraged Significant housing growth
Objections:	219 objections; one letter of support - Key issues: - Building height - Parking and traffic - Amenity impacts including overlooking and overshadowing
Planning Information and Discussion (PID) Meeting:	First meeting: 1 December 2020 - Attendees: approximately 25 objectors, the applicant, two Council officers, and Cr Conlan, Cr Bolton and Cr Riley. - Amended concept drawings were presented showing a reduction in building height to seven storeys. Following the consultation meeting, these plans formed the basis of an amendment to the application. Second meeting: 11 March 2021 - Attendees: 26 objectors, the applicant, Council officer, and Cr Riley, Cr Yildiz, Cr Pavlidis and Cr Bolton. - No further changes have been made following the second meeting and no consensus was reached.
ESD:	Average NatHERS rating of 7.2 stars.
Accessibility:	Adaptable apartments comprise 71% of all dwellings.
Key reasons for approval	- Acceptable level of amenity for future residents. - Retains function centre use. - Acceptable retention of heritage building. - Appropriate built form subject to a height reduction to six storeys.
Recommendation:	A Notice of Decision to Grant a Planning Permit be issued.

Officer Recommendation

That a Notice of Decision to Grant a Planning Permit No. MPS/2020/57 be issued for the part demolition of existing buildings, and the construction of a multi-storey building above basement levels, use of the land for a place of assembly (function centre), and dwellings, 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 three copies must be provided. The plans must generally accord with the plans advertised on 19 February 2021 prepared by Cera Stribley Architects but be modified to show:
 - a) The overall height of the building reduced by approximately 3.1 metres (or one storey), by the removal of either levels 4 or 5.
 - b) Deletion of the canopies above the apartments on the top level (except for the requirements for external shading devices as required by Condition 8 of this permit) and deletion of the columns from the floor to ceiling of the top level.
 - c) Relocation of the balcony for Apartment 4.10 to the southern elevation in the same configuration as Apartment 3.10.
 - d) Retention of the original roof of the former Liberty Theatre building for a minimum of 11 metres from the Lygon Street frontage.
 - e) The three southernmost piers/columns above the former Liberty Theatre building deleted to preserve the original roof form.
 - f) A maximum wall height on the western site boundary (rear laneway) of 8 metres to adhere to the rear setback requirements of the Design and Development Overlay (Schedule 19).
 - g) All west facing windows (not including the skylights) for the function hall to be fixed and obscured to a height of at least 1.7 metres above the finished floor level.
 - h) The corridor on the uppermost level of the building provided with at least one source of natural daylight and ventilation. This could be achieved through an alteration to the layout of Apartment 6.01.
 - i) Deletion of the statement 'Extent of heritage façade to be retained (refer to heritage report)' from the East Elevation plan.
 - j) Details of the retention, conservation and restoration of the former Liberty Theatre heritage building in accordance with the Heritage Report required by Condition 4.
 - k) The proposed verandahs (to Lygon 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.
 - l) The entry to the basement from the rear laneway designed with an apex height along the basement access ramp equivalent to 47.21AHD +150mm to prevent stormwater inundation of the basement from the road reserve.
 - m) The provision of stairs with an adjacent ramp for cyclists to roll their bicycle wheels on when accessing lifts to and from the residential bike storage area on Basement Level 3(A). The stairs must be constructed with 355mm treads and have a non-slip surface.
 - n) Dimensions, line-markings and bollard in accordance with Australian Standard 2890.6 shown to the accessible parking bay on Basement Level 1(A) and adjacent shared space.

- o) An offset of at least 1 metre for all car parking spaces adjacent to walls on Basement Level 3(B).
- p) The location of any substation required by the power company for this development. Any substation must be incorporated within the building (i.e. not free standing or pole mounted in the street) to ensure minimal impact on the visual amenity of the public realm.
- q) All residential and employee bicycle spaces secured with walls, with self-closing and self-locking doors that are only accessible using keys, codes or swipe cards in accordance with the Australian Standard for Bicycle Parking (AS2890.3).
- r) The Environmentally Sustainable Design initiatives that are required to be shown on plans, as detailed in Condition 8 of this permit.
- s) Any changes required by the amended Sustainability Management Plan in accordance with Condition 8 of this permit.
- t) Any changes required by the amended Landscape Plan in accordance with Condition 11 of this permit.
- u) Any changes required by the amended Waste Management Plan in accordance with Condition 15 of this permit.
- v) Any changes required by the Accessibility Report in accordance with Condition 17 of this permit.
- w) Any changes required by the amended Acoustic Report in accordance with Condition 19 of this permit.
- x) Any changes required by the Loading Management Plan in accordance with Condition 22 of this permit.
- y) Any changes required by the Wind Assessment Report in accordance with Condition 33 of this permit.

Development not to be altered

- 2. The development and use 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.

Easement to be removed

- 3. This permit shall have no force or effect until such time as the issue of a separate planning permit in accordance with Clause 52.02 of the Moreland Planning Scheme for removal of the passageway easement reserved by Transfer A773707 shown on Lot 1 on Title Plan 959398C and the easement is removed in accordance with section 23 of the Subdivision Act 1988.

Heritage

- 4. Prior to the endorsement of plans, a Heritage Report must be submitted to and then endorsed to the satisfaction of the Responsible Authority. Once endorsed, the Heritage Report will form part of this permit. The Heritage Report must:
 - a) outline the precise retention of the former Liberty Theatre building generally in accordance with the plans advertised on 19 February 2021 prepared by Cera Stribley Architects, other than any updates resulting from the changes required by Condition 1 of this permit including the retention of at least 11 metres of the original roof of the former Liberty Theatre as required by Condition 1d.
 - b) outline the restoration and conservation of the former Liberty Theatre building based on available historic material and inspections of the building fabric.
- 5. The original roof must not be altered without the further written permission of the

Responsible Authority

Function Centre use

6. The function centre use allowed by this permit (except cleaning) must operate only between 8:00am and 11:00pm. Cleaning may take place until 11:30pm.
7. The maximum number of patrons permitted on the function centre premises must not exceed 100 at any one time.

Sustainability Management Plan

8. Prior to the endorsement of plans, a Sustainability Management Plan (SMP) and associated plans must be submitted to and approved 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 Sustainable Development Consultants dated 22 December 2020 version v5D but modified to include the following changes:
 - a) An amended Green Star 'Design & As Built' assessment which:
 - i. Confirms with evidence how all of the claimed credits will be achieved and maintained;
 - ii. Includes accompanying supporting documentation as per the claimed credits;
 - iii. Deletes claimed Innovation credit 30D Financial Transparency and other Innovation credits that are not suitably claimed or explained how they will be ensured as being met; and
 - iv. Includes a minimum of 10% buffer points to achieve the minimum points required in a 4 star Green Star building.
 - b) The NCC 2019 JV3 modelling for the commercial area's improvement increased from 4% to a minimum of 10%.
 - c) Confirmation of the overall NatHERS ratings as an average of 7.2 stars and deletion of other contradictory wording.
 - d) Show the following ESD initiatives on the development plans:
 - i. External operable shading devices to exposed north, east and west facing glazing of all bedrooms and living rooms, to block peak summer afternoon sun. An indicative product diagram of the proposed device must be provided;
 - ii. The capacity of the total 23kW solar PV system on the rooftop and size of the panels as 385 watts;
 - iii. Solar panels on top of the solar canopy and the communal lobby/lift cores (as per the SMP);
 - iv. The electric vehicle car charging spaces available for use by all residents and tenants as per the SMP and a power capacity of 32A (unless otherwise justified by supporting electrical infrastructure information);
 - v. Apartment waste chutes within the corridors nominated as one for garbage (landfill waste) and one for recycling ; and
 - vi. The colour and material schedule to contain reference to materials in the SMP and the Green Star credits (including steel, timber, PVC, extra low VOC, low formaldehyde, etc).
 - e) A MUSIC model and stormwater management response that achieves the best practice stormwater targets but is modified so that:
 - i. Proprietary devices are not used;

- ii. Rainwater tank harvesting and reuse is justified, including reuse rates and irrigation rates that accord with the plans and planning report; and
 - iii. An electronic copy of the MUSIC model is included.
- f) An amended stormwater catchment plan that is consistent with the MUSIC model, clearly showing:
 - i. The entire site area;
 - ii. The rainwater harvesting tanks noted on the basement plan as being used for toilet flushing and landscape irrigation; and
 - iii. The catchment plans for the rainwater harvesting tanks and any other treatments.
- 9. Prior to the issue of a Statement of Compliance or Certificate(s) of Occupancy, whichever occurs first, all works must be undertaken in accordance with the endorsed Sustainability Management Plan report to the satisfaction of the Responsible Authority. No alterations to these plans may occur without the written consent of the Responsible Authority.
- 10. Prior to the issue of a Statement of Compliance or Certificate(s) of Occupancy, whichever occurs first, of any dwelling approved under this permit, 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 (and include evidence) that all measures specified in the SMP have been implemented in accordance with the approved plan.

Landscape Plan

- 11. Prior to the commencement of any development works, an amended landscape plan must be submitted to and approved by the Responsible Authority. When to the satisfaction of the Responsible Authority, the report will be endorsed and will form part of this permit. The landscape plan must be generally in accordance with the landscape plan prepared by Rupert Baynes Landscape Design and dated December 2020 (Revision C) but amended to show:
 - a) Any updates resulting from the changes required by Condition 1 of this permit;
 - b) Landscaping in the form of planting within planter boxes on or adjacent to all west-facing balconies;
 - c) 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.
- 12. All vegetation in planter boxes, green walls and rooftop gardens or similar must be maintained and any dead, diseased or damaged plants replaced with a suitable species to the satisfaction of the Responsible Authority.
- 13. Prior to the issuing of a Statement of Compliance or occupancy permit for any part of the development, whichever occurs first, all landscaping works must be completed and maintained in accordance with the approved and endorsed landscape drawing to the satisfaction of the Responsible Authority.

14. Prior to the commencement of works a tree protection zone must be established around the existing street trees with barriers/fencing placed at a distance of at least 12 times the trunk diameter (measured 1.4m above the ground) or 2 metres (whichever is greater) in accordance with the Australian Standard for Protection of trees on development sites (AS4970-2009) or in accordance with the direction of Council's Arborist to the satisfaction of the Responsible Authority. Alternatively, if construction scaffolding and movement of construction materials are determined to have an impact on the health of the street trees, they may be removed and replaced prior to the issuing of a Statement of Compliance or occupancy permit for any part of the development, whichever occurs first, with replacement species selection and planting method to the satisfaction of the Responsible Authority.

Waste Management Plan

15. Prior to the endorsement of plans an amended waste management plan must be submitted to and approved by the Responsible Authority. The plan must be generally in accordance with the Waste Management Plan prepared by One Mile Grid and dated 2 February 2021 but must be amended to include the following:
 - a) Any updates resulting from the changes required by Condition 1 of this permit;
 - b) Provision for food waste collection in accordance with Clause 58.06-3 of the Moreland Planning Scheme; and
 - c) Provision for separate glass collection when that becomes available.

When the waste management plan is to the satisfaction of the Responsible Authority it will be endorsed and will form part of this permit.

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.

Accessibility Report

17. Prior to the endorsement of plans an accessibility report prepared by a suitability qualified professional must be submitted to and approved by the Responsible Authority. The report must:
 - a) Detail how the residential portion of 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 bathrooms; and
 - b) Detail how the retail, function centre and café uses will be accessible by people with limited mobility.

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.

18. Prior to the issue of a Statement of Compliance or an occupancy permit for any part of the building approved under this permit, whichever occurs 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 Report

19. Prior to the endorsement of plans an amended acoustic report must be submitted to and approved by the Responsible Authority. The plan must be generally in accordance with the Acoustic Assessment prepared by Watson Moss Growcott and dated 17 February 2021 but must be amended to:
- a) include the any updates resulting from the changes required by Condition 1 of this permit;
 - b) include an assessment of the noise impact of the function centre use on the proposed apartments within the development and the surrounding area, taking into account the approved patron numbers and hours of operation (as detailed by Conditions 5 and 6 of this permit); and
 - c) state whether any measures are necessary to reduce noise impacts of the function centre to both the dwellings within the development and dwellings in the nearby area and detail those measures.
 - d) include recommendations to ensure the apartments are designed and constructed to include acoustic attenuation measures that will reduce noise levels from the music entertainment venue at 524 Lygon Street to below the noise limits specified in State Environment Protection Policy (Control of Music from Public Premises) No. N-2 (SEPP N2). For the purpose of assessing whether the above noise standards are met, the noise measurement point may be located inside a habitable room of the apartments with windows and doors closed (Schedule B1 of SEPP N2 does not apply). The attenuation measures must not substantially alter the external appearance of the building and must not substantially reduce the amenity for future occupants of the apartments to the satisfaction of the Responsible Authority.
20. The Acoustic Report endorsed under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.
21. Prior to the issue of a Statement of Compliance or occupancy permit for any part of the building approved under this permit, whichever occurs 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.

Loading management plan

22. Prior to the endorsement of plans a loading management plan prepared by a suitability qualified professional must be submitted to and approved by the Responsible Authority. The report must include all recommendations for loading bay operation outlined on page 33 (Loading Dock Use) of the Acoustic Assessment prepared by Watson Moss Growcott dated 17 February 2021. When submitted and approved to the satisfaction of the Responsible Authority, the Loading Management 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. The recommendations of the plan must be implemented to the satisfaction of the Responsible Authority.

Development Contributions

23. 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 is charged per 100 square metres of leasable floor space and the Development 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:

- 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.

Environmental Audit

24. Prior to the commencement of construction or carrying out works pursuant to this permit, or any works associated with a sensitive use, or where no works are proposed, prior to the commencement of the permitted use, either:
25. A Certificate of Environmental Audit for the land must be issued in accordance with Section 53Y of the Environment Protection Act 1970 and provided to the Responsible Authority; or,
26. An Environmental Auditor appointed under Section 53S of the Environment Protection Act 1970 must make a Statement in accordance with Section 53Z of that Act that the environmental conditions of the land are suitable for the use and development that are the subject of this permit and that statement must be provided to the Responsible Authority.
27. Where a Statement of Environmental Audit is issued for the land, and any condition of that Statement requires any maintenance or monitoring of an ongoing nature, the Owner(s) must enter into an Agreement with Council pursuant to Section 173 of the Planning and Environment Act 1987. Where a Section 173 Agreement is required, the Agreement must be executed prior to the commencement of the permitted use, and prior to the certification of the plan of subdivision under the Subdivision Act 1988. All expenses involved in the drafting, negotiating, lodging, registering and execution of the Agreement, including those incurred by the Responsible Authority, must be met by the Owner(s).
28. 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 a Certificate or Statement of Environmental Audit.
29. 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 23, 24 and 25 are satisfied.
30. Where a Statement of Environmental Audit is issued for the land, the buildings and works and the use(s) of the land that are the subject of this permit must comply with all directions and conditions contained within the Statement.

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

Public Works Plan

32. Prior to the commencement of development, a Public Works Plan and associated construction drawing specifications detailing the works to the public realm adjacent to the site must be submitted and approved to the satisfaction of the Responsible Authority. The Plan must be in accordance the Moreland City Council Technical Notes July 2019 or any updated version and detail works in front of the approved building along Lygon Street and including:
- a) The upgrade of the public realm adjacent to the site including new or reconstructed footpaths, water sensitive urban design treatments, seating, bicycle hoops, nature strips and other associated street furniture/infrastructure.
 - b) The footpaths are to be reinstated with the standard crossfall slope of 1 in 40 from the top of roadside kerb to the property boundary, with any level difference made up within the site.
 - c) A detailed level and feature survey of the footpaths and roads.
 - d) Any crossovers not required removed and the kerb and channel, footpath and nature strip reinstated to Council's standards using construction plans approved by Moreland City Council, City Infrastructure Department.
 - e) The location, method and number of bicycle parking to be accommodated within the road reserve.
 - f) Tree(s) and other landscaping in the street frontages adjacent to or near the development.

The approved Public Works Plan will form part of the endorsed plans under the permit and must be implemented to the satisfaction of the Responsible Authority at the expense of the owner of the land, prior to the issue of a Statement of Compliance or occupancy permit for any part of the development, whichever occurs first, unless otherwise agreed with prior written consent of the Responsible Authority.

Wind Impact

33. Prior to the endorsement of plans a Wind Impact Assessment Report must be prepared by a suitability qualified person. The report must assess the possible wind impacts of the building to Lygon Street and the adjacent laneways and make recommendations for design changes, if required, to mitigate these impacts. When submitted and approved to the satisfaction of the Responsible Authority, the Wind Impact Assessment Report will be endorsed to form part of this permit.
34. The building must be constructed and maintained in accordance with the recommendations contained within the approved Wind Impact Assessment Report to the satisfaction of the Responsible Authority. The report endorsed under this permit must be implemented and complied with at all times 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 a Statement of Compliance or an occupancy permit for any part of the development, whichever occurs first, all telecommunications and power connections (whereby means of a cable) and associated infrastructure to the land must be underground to the satisfaction of the Responsible Authority.
- 37. Prior to the commencement of the development, a legal point of discharge is to be obtained, and where required, a stormwater drainage plan showing how the site will be drained from the property boundary to the stated point of discharge, must be submitted to and approved by the Responsible Authority.
- 38. 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).
- 39. Stormwater from the land must not be directed to the surface of the laneway to the satisfaction of the Responsible Authority.
- 40. The ramp to the basement must be designed to avoid stormwater run-off flowing along the laneway from entering the basements to the satisfaction of the Responsible Authority.
- 41. The pump we-well for the basement must be designed so that it can cater for a 1% AEP instead of 10% in accordance with Section (8) of A/NZS3500.3:2018 to the satisfaction of the Responsible Authority.
- 42. Prior to the issue of a Statement of Compliance or an occupancy permit for any part of the development, whichever occurs 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).
- 43. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance of each stage of the development, whichever comes first, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.
- 44. 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 must 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.
- 45. Prior to the issuing of Statement of Compliance or occupation of each stage of the development, whichever occurs first, all visual screening measures shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. All

visual screening and measures to prevent overlooking must be maintained to the satisfaction of the Responsible Authority. Any screening measure that is removed or unsatisfactorily maintained must be replaced to the satisfaction of the Responsible Authority.

46. All lighting of external areas must be designed not to emit direct light onto adjoining and nearby dwellings to the satisfaction of the Responsible Authority.

Time

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

- a) The development is not commenced within 3 (three) years from the date of issue of this permit;
- b) The development is not completed within 5 (five) years from the date of issue of this permit; or
- c) The use is not commenced within 5 (five) 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 6 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 permit or conditions of this permit.

Note 1:

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. See Council's website for more information: <https://www.moreland.vic.gov.au/parking-roads/parking-permits/residential-parking-permits/>.

Note 2:

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

Note 3:

NOTES ABOUT ENVIRONMENTAL AUDITS

A copy of the Certificate or Statement of Environmental Audit, including the complete Environmental Audit Report must be submitted to the Responsible Authority within 7 days of issue, in accordance with Section 53ZB of the Environment Protection Act 1970.

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.

- 7.49 pm *Cr Panopoulos left the meeting during the submissions.*
- 7.51 pm *Cr Panopoulos returned to the meeting.*
- 8.08 pm *Cr Conlan left the meeting during the submissions.*
- 8.16 pm *Cr Conlan returned to the meeting.*
- 8.18 pm *Cr Yildiz left the meeting during the submissions.*
- 8.20 pm *Cr Yildiz returned to the meeting.*

Resolution

Cr Bolton moved, Cr Conlan seconded -

That a Notice of Decision to Grant a Planning Permit No. MPS/2020/57 be issued for the part demolition of existing buildings, and the construction of a multi-storey building above basement levels, use of the land for a place of assembly (function centre), and dwellings, 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 three copies must be provided. The plans must generally accord with the plans advertised on 19 February 2021 prepared by Cera Stribley Architects but be modified to show:**
 - a) The overall height of the building reduced by approximately 6.2 metres (or two storeys), by the removal of levels 4 and 5.**
 - b) Deletion of the canopies above the apartments on the top level (except for the requirements for external shading devices as required by Condition 8 of this permit) and deletion of the columns from the floor to ceiling of the top level.**
 - c) Relocation of the balcony for Apartment 4.10 to the southern elevation in the same configuration as Apartment 3.10.**
 - d) Retention of the original roof of the former Liberty Theatre building for a minimum of 11 metres from the Lygon Street frontage.**
 - e) The three southernmost piers/columns above the former Liberty Theatre building deleted to preserve the original roof form.**
 - f) A maximum wall height on the western site boundary (rear laneway) of 8 metres to adhere to the rear setback requirements of the Design and Development Overlay (Schedule 19).**
 - g) All west facing windows (not including the skylights) for the function hall to be fixed and obscured to a height of at least 1.7 metres above the finished floor level.**
 - h) The corridor on the uppermost level of the building provided with at least one source of natural daylight and ventilation. This could be achieved through an alteration to the layout of Apartment 6.01.**
 - i) Deletion of the statement 'Extent of heritage façade to be retained (refer to heritage report)' from the East Elevation plan.**
 - j) Details of the retention, conservation and restoration of the former Liberty Theatre heritage building in accordance with the Heritage Report required by Condition 4.**
 - k) The proposed verandahs (to Lygon 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.**
 - l) The entry to the basement from the rear laneway designed with an apex height along the basement access ramp equivalent to 47.21AHD +150mm to prevent stormwater inundation of the basement from the road reserve.**

- m) The provision of stairs with an adjacent ramp for cyclists to roll their bicycle wheels on when accessing lifts to and from the residential bike storage area on Basement Level 3(A). The stairs must be constructed with 355mm treads and have a non-slip surface.
- n) Dimensions, line-markings and bollard in accordance with Australian Standard 2890.6 shown to the accessible parking bay on Basement Level 1(A) and adjacent shared space.
- o) An offset of at least 1 metre for all car parking spaces adjacent to walls on Basement Level 3(B).
- p) The location of any substation required by the power company for this development. Any substation must be incorporated within the building (i.e. not free standing or pole mounted in the street) to ensure minimal impact on the visual amenity of the public realm.
- q) All residential and employee bicycle spaces secured with walls, with self-closing and self-locking doors that are only accessible using keys, codes or swipe cards in accordance with the Australian Standard for Bicycle Parking (AS2890.3).
- r) The Environmentally Sustainable Design initiatives that are required to be shown on plans, as detailed in Condition 8 of this permit.
- s) Any changes required by the amended Sustainability Management Plan in accordance with Condition 8 of this permit.
- t) Any changes required by the amended Landscape Plan in accordance with Condition 11 of this permit.
- u) Any changes required by the amended Waste Management Plan in accordance with Condition 15 of this permit.
- v) Any changes required by the Accessibility Report in accordance with Condition 17 of this permit.
- w) Any changes required by the amended Acoustic Report in accordance with Condition 19 of this permit.
- x) Any changes required by the Loading Management Plan in accordance with Condition 22 of this permit.
- y) Any changes required by the Wind Assessment Report in accordance with Condition 33 of this permit.
- z) Introduction of visual aids / signs, as appropriate for vehicles and pedestrians in the laneway

Development not to be altered

2. The development and use 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.

Easement to be removed

3. This permit shall have no force or effect until such time as the issue of a separate planning permit in accordance with Clause 52.02 of the Moreland Planning Scheme for removal of the passageway easement reserved by Transfer A773707 shown on Lot 1 on Title Plan 959398C and the easement is removed in accordance with section 23 of the Subdivision Act 1988.

Heritage

4. Prior to the endorsement of plans, a Heritage Report must be submitted to and then endorsed to the satisfaction of the Responsible Authority. Once

endorsed, the Heritage Report will form part of this permit. The Heritage Report must:

- a) outline the precise retention of the former Liberty Theatre building generally in accordance with the plans advertised on 19 February 2021 prepared by Cera Stribley Architects, other than any updates resulting from the changes required by Condition 1 of this permit including the retention of at least 11 metres of the original roof of the former Liberty Theatre as required by Condition 1d.
 - b) outline the restoration and conservation of the former Liberty Theatre building based on available historic material and inspections of the building fabric.
5. The original roof must not be altered without the further written permission of the Responsible Authority

Function Centre use

- 6. The function centre use allowed by this permit (except cleaning) must operate only between 8:00am and 11:00pm. Cleaning may take place until 11:30pm.
- 7. The maximum number of patrons permitted on the function centre premises must not exceed 100 at any one time.

Sustainability Management Plan

- 8. Prior to the endorsement of plans, a Sustainability Management Plan (SMP) and associated plans must be submitted to and approved 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 Sustainable Development Consultants dated 22 December 2020 version v5D but modified to include the following changes:
 - a) An amended Green Star 'Design & As Built' assessment which:
 - i. Confirms with evidence how all of the claimed credits will be achieved and maintained;
 - ii. Includes accompanying supporting documentation as per the claimed credits;
 - iii. Deletes claimed Innovation credit 30D Financial Transparency and other Innovation credits that are not suitably claimed or explained how they will be ensured as being met; and
 - iv. Includes a minimum of 10% buffer points to achieve the minimum points required in a 4 star Green Star building.
 - b) The NCC 2019 JV3 modelling for the commercial area's improvement increased from 4% to a minimum of 10%.
 - c) Confirmation of the overall NatHERS ratings as an average of 7.2 stars and deletion of other contradictory wording.
 - d) Show the following ESD initiatives on the development plans:
 - i. External operable shading devices to exposed north, east and west facing glazing of all bedrooms and living rooms, to block peak summer afternoon sun. An indicative product diagram of the proposed device must be provided;
 - ii. The capacity of the total 23kW solar PV system on the rooftop and size of the panels as 385 watts;

- iii. Solar panels on top of the solar canopy and the communal lobby/lift cores (as per the SMP);
 - iv. The electric vehicle car charging spaces available for use by all residents and tenants as per the SMP and a power capacity of 32A (unless otherwise justified by supporting electrical infrastructure information);
 - v. Apartment waste chutes within the corridors nominated as one for garbage (landfill waste) and one for recycling ; and
 - vi. The colour and material schedule to contain reference to materials in the SMP and the Green Star credits (including steel, timber, PVC, extra low VOC, low formaldehyde, etc).
 - e) A MUSIC model and stormwater management response that achieves the best practice stormwater targets but is modified so that:
 - i. Proprietary devices are not used;
 - ii. Rainwater tank harvesting and reuse is justified, including reuse rates and irrigation rates that accord with the plans and planning report; and
 - iii. An electronic copy of the MUSIC model is included.
 - f) An amended stormwater catchment plan that is consistent with the MUSIC model, clearly showing:
 - i. The entire site area;
 - ii. The rainwater harvesting tanks noted on the basement plan as being used for toilet flushing and landscape irrigation; and
 - iii. The catchment plans for the rainwater harvesting tanks and any other treatments.
9. Prior to the issue of a Statement of Compliance or Certificate(s) of Occupancy, whichever occurs first, all works must be undertaken in accordance with the endorsed Sustainability Management Plan report to the satisfaction of the Responsible Authority. No alterations to these plans may occur without the written consent of the Responsible Authority.
10. Prior to the issue of a Statement of Compliance or Certificate(s) of Occupancy, whichever occurs first, of any dwelling approved under this permit, 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 (and include evidence) that all measures specified in the SMP have been implemented in accordance with the approved plan.

Landscape Plan

11. Prior to the commencement of any development works, an amended landscape plan must be submitted to and approved by the Responsible Authority. When to the satisfaction of the Responsible Authority, the report will be endorsed and will form part of this permit. The landscape plan must be generally in accordance with the landscape plan prepared by Rupert Baynes Landscape Design and dated December 2020 (Revision C) but amended to show:
- a) Any updates resulting from the changes required by Condition 1 of this permit;

- b) Landscaping in the form of planting within planter boxes on or adjacent to all west-facing balconies;
- c) 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.
- 12. All vegetation in planter boxes, green walls and rooftop gardens or similar must be maintained and any dead, diseased or damaged plants replaced with a suitable species to the satisfaction of the Responsible Authority.
- 13. Prior to the issuing of a Statement of Compliance or occupancy permit for any part of the development, whichever occurs first, all landscaping works must be completed and maintained in accordance with the approved and endorsed landscape drawing to the satisfaction of the Responsible Authority.
- 14. Prior to the commencement of works a tree protection zone must be established around the existing street trees with barriers/fencing placed at a distance of at least 12 times the trunk diameter (measured 1.4m above the ground) or 2 metres (whichever is greater) in accordance with the Australian Standard for Protection of trees on development sites (AS4970-2009) or in accordance with the direction of Council's Arborist to the satisfaction of the Responsible Authority. Alternatively, if construction scaffolding and movement of construction materials are determined to have an impact on the health of the street trees, they may be removed and replaced prior to the issuing of a Statement of Compliance or occupancy permit for any part of the development, whichever occurs first, with replacement species selection and planting method to the satisfaction of the Responsible Authority.

Waste Management Plan

- 15. Prior to the endorsement of plans an amended waste management plan must be submitted to and approved by the Responsible Authority. The plan must be generally in accordance with the Waste Management Plan prepared by One Mile Grid and dated 2 February 2021 but must be amended to include the following:
 - a) Any updates resulting from the changes required by Condition 1 of this permit;
 - b) Provision for separate food waste collection and in accordance with Clause 58.06-3 of the Moreland Planning Scheme and details of how residents will be encouraged to separate food waste from general waste; and
 - c) Provision for separate glass collection when that becomes available.

When the waste management plan is to the satisfaction of the Responsible Authority it will be endorsed and will form part of this permit.
- 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.

Accessibility Report

17. Prior to the endorsement of plans an accessibility report prepared by a suitability qualified professional must be submitted to and approved by the Responsible Authority. The report must:
- a) Detail how the residential portion of 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 bathrooms; and
 - b) Detail how the retail, function centre and café uses will be accessible by people with limited mobility.

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.

18. Prior to the issue of a Statement of Compliance or an occupancy permit for any part of the building approved under this permit, whichever occurs 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 Report

19. Prior to the endorsement of plans an amended acoustic report must be submitted to and approved by the Responsible Authority. The plan must be generally in accordance with the Acoustic Assessment prepared by Watson Moss Growcott and dated 17 February 2021 but must be amended to:
- a) include the any updates resulting from the changes required by Condition 1 of this permit;
 - b) include an assessment of the noise impact of the function centre use on the proposed apartments within the development and the surrounding area, taking into account the approved patron numbers and hours of operation (as detailed by Conditions 5 and 6 of this permit); and
 - c) Demonstrate that the development will bear full responsibility for attenuating the building to prevent noise intrusion from the existing acoustic environment, including from the entertainment venue at 524 Lygon Street, by amending the design of the development. Compliance with the intention of this condition must be assessed via a peer-reviewed acoustic report, to be funded at the cost of the developer, to the satisfaction of the Responsible Authority. For the purpose of assessing whether the above noise standards are met, the noise measurement point must be located inside a habitable room of the apartments with windows and doors closed (Schedule B1 of SEPP N2 does not apply), and must consider the cumulative effect of external noise and the proposed function centre. The attenuation measures must not substantially alter the external appearance of the building and must not substantially reduce the amenity for future occupants of the apartments to the satisfaction of the Responsible Authority.
 - d) Prior to the issue of a Certificate of Occupancy/Statement of Compliance, a peer-reviewed Acoustic Report must be submitted, to the satisfaction of the Responsible Authority, at the developer's cost, certifying that the

acoustic attenuation measures have been constructed in accordance with the noise attenuation intentions of this condition.

20. Within 3 months of occupation of the dwellings permitted by this permit, a peer-reviewed Acoustic Report must be submitted to the satisfaction of the Responsible Authority, at the developer's cost, demonstrating that the noise attenuation design changes incorporated into the development are successfully preventing noise intrusion into the development from the external, acoustic environment, including from the entertainment venue at 524 Lygon Street, as well as from the internal function centre.
21. The Acoustic Report endorsed under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.

Loading management plan

22. Prior to the endorsement of plans a loading management plan prepared by a suitability qualified professional must be submitted to and approved by the Responsible Authority. The report must include all recommendations for loading bay operation outlined on page 33 (Loading Dock Use) of the Acoustic Assessment prepared by Watson Moss Growcott dated 17 February 2021. When submitted and approved to the satisfaction of the Responsible Authority, the Loading Management 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. The recommendations of the plan must be implemented to the satisfaction of the Responsible Authority.

Development Contributions

23. 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 is charged per 100 square metres of leasable floor space and the Development 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:

- 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.

Environmental Audit

24. Prior to the commencement of construction or carrying out works pursuant to this permit, or any works associated with a sensitive use, or where no works are proposed, prior to the commencement of the permitted use, either:
25. A Certificate of Environmental Audit for the land must be issued in accordance with Section 53Y of the Environment Protection Act 1970 and provided to the Responsible Authority; or,

26. An Environmental Auditor appointed under Section 53S of the Environment Protection Act 1970 must make a Statement in accordance with Section 53Z of that Act that the environmental conditions of the land are suitable for the use and development that are the subject of this permit and that statement must be provided to the Responsible Authority.
27. Where a Statement of Environmental Audit is issued for the land, and any condition of that Statement requires any maintenance or monitoring of an ongoing nature, the Owner(s) must enter into an Agreement with Council pursuant to Section 173 of the Planning and Environment Act 1987. Where a Section 173 Agreement is required, the Agreement must be executed prior to the commencement of the permitted use, and prior to the certification of the plan of subdivision under the Subdivision Act 1988. All expenses involved in the drafting, negotiating, lodging, registering and execution of the Agreement, including those incurred by the Responsible Authority, must be met by the Owner(s).
28. 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 a Certificate or Statement of Environmental Audit.
29. 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 23, 24 and 25 are satisfied.
30. Where a Statement of Environmental Audit is issued for the land, the buildings and works and the use(s) of the land that are the subject of this permit must comply with all directions and conditions contained within the Statement.
31. Where a Statement of Environmental Audit is issued for the land, prior to the commencement of the use, and prior to the issue of a Statement of Compliance under the Subdivision Act 1988, and prior to the issue of an Occupancy Permit under the *Building Act 1993*, a letter prepared by an Environmental Auditor appointed under Section 53S of the *Environment Protection Act 1970* must be submitted to the Responsible Authority to verify that the directions and conditions contained within the Statement have been satisfied.

Public Works Plan

32. Prior to the commencement of development, a Public Works Plan and associated construction drawing specifications detailing the works to the public realm adjacent to the site must be submitted and approved to the satisfaction of the Responsible Authority. The Plan must be in accordance the Moreland City Council Technical Notes July 2019 or any updated version and detail works in front of the approved building along Lygon Street and including:
 - a) The upgrade of the public realm adjacent to the site including new or reconstructed footpaths, water sensitive urban design treatments, seating, bicycle hoops, nature strips and other associated street furniture/infrastructure.
 - b) The footpaths are to be reinstated with the standard crossfall slope of 1 in 40 from the top of roadside kerb to the property boundary, with any

level difference made up within the site.

- c) A detailed level and feature survey of the footpaths and roads.
- d) Any crossovers not required removed and the kerb and channel, footpath and nature strip reinstated to Council's standards using construction plans approved by Moreland City Council, City Infrastructure Department.
- e) The location, method and number of bicycle parking to be accommodated within the road reserve.
- f) Tree(s) and other landscaping in the street frontages adjacent to or near the development.

The approved Public Works Plan will form part of the endorsed plans under the permit and must be implemented to the satisfaction of the Responsible Authority at the expense of the owner of the land, prior to the issue of a Statement of Compliance or occupancy permit for any part of the development, whichever occurs first, unless otherwise agreed with prior written consent of the Responsible Authority.

Wind Impact

- 33. Prior to the endorsement of plans a Wind Impact Assessment Report must be prepared by a suitability qualified person. The report must assess the possible wind impacts of the building to Lygon Street and the adjacent laneways and make recommendations for design changes, if required, to mitigate these impacts. When submitted and approved to the satisfaction of the Responsible Authority, the Wind Impact Assessment Report will be endorsed to form part of this permit.
- 34. The building must be constructed and maintained in accordance with the recommendations contained within the approved Wind Impact Assessment Report to the satisfaction of the Responsible Authority. The report endorsed under this permit must be implemented and complied with at all times 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 a Statement of Compliance or an occupancy permit for any part of the development, whichever occurs first, all telecommunications and power connections (whereby means of a cable) and associated infrastructure to the land must be underground to the satisfaction of the Responsible Authority.
- 37. Prior to the commencement of the development, a legal point of discharge is

to be obtained, and where required, a stormwater drainage plan showing how the site will be drained from the property boundary to the stated point of discharge, must be submitted to and approved by the Responsible Authority.

38. 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).
39. Stormwater from the land must not be directed to the surface of the laneway to the satisfaction of the Responsible Authority.
40. The ramp to the basement must be designed to avoid stormwater run-off flowing along the laneway from entering the basements to the satisfaction of the Responsible Authority.
41. The pump we-well for the basement must be designed so that it can cater for a 1% AEP instead of 10% in accordance with Section (8) of A/NZS3500.3:2018 to the satisfaction of the Responsible Authority.
42. Prior to the issue of a Statement of Compliance or an occupancy permit for any part of the development, whichever occurs 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).
43. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance of each stage of the development, whichever comes first, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.
44. 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 must 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.
45. Prior to the issuing of Statement of Compliance or occupation of each stage of the development, whichever occurs first, all visual screening measures shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. All visual screening and measures to prevent overlooking must be maintained to the satisfaction of the Responsible Authority. Any screening measure that is removed or unsatisfactorily maintained must be replaced to the satisfaction of the Responsible Authority.
46. All lighting of external areas must be designed not to emit direct light onto adjoining and nearby dwellings to the satisfaction of the Responsible Authority.

Time

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

issue of this permit; or

- c) The use is not commenced within 5 (five) 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 6 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 permit or conditions of this permit.

Note 1:

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. See Council's website for more information:

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

Note 2:

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

Note 3:

NOTES ABOUT ENVIRONMENTAL AUDITS

A copy of the Certificate or Statement of Environmental Audit, including the complete Environmental Audit Report must be submitted to the Responsible Authority within 7 days of issue, in accordance with Section 53ZB of the *Environment Protection Act 1970*.

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.

Carried

The Council meeting for Planning and Related Matters closed at 8.58 pm.

Confirmed



Cr Annalivia Carli Hannan
MAYOR