



Moreland City Council

COUNCIL AGENDA

PLANNING AND RELATED MATTERS

WEDNESDAY 27 NOVEMBER 2019

COMMENCING 6.30 PM

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

Language Link

This is the Agenda for the Council meeting.
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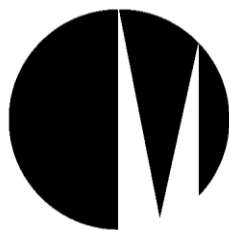
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1. **WELCOME**
2. **APOLOGIES**
3. **DECLARATION OF INTERESTS AND/OR CONFLICTS OF INTERESTS**
4. **MINUTE CONFIRMATION**

The minutes of the Planning and Related Matters Meeting held on 25 September 2019 be confirmed.

5. **COUNCIL REPORTS**

CITY FUTURES

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6. **URGENT BUSINESS**

**DCF86/19 9S WARDENS WALK, COBURG AND PART CP1 ON
PS543333S - MPS/2018/972 (D19/378890)**

Director City Futures

City Development

Executive Summary



Property:	9S Wardens Walk, Coburg & Part CP1 on PS543333S			
Proposal:	Construction of a mixed used development comprising a supermarket, retail tenancy and 339 dwellings within two 16-storey buildings.			
Zoning and Overlay/s:	<ul style="list-style-type: none"> • Activity Centre Zone (Schedule 1) • Parking Overlay (Schedule 1) • Environmental Audit Overlay • Development Contributions Plan Overlay 			
Strategic setting:	Minimal housing growth	Incremental housing growth	Increased housing densities encouraged	Significant housing growth
Objections:	<ul style="list-style-type: none"> • 41 • Key issues: <ul style="list-style-type: none"> • Height • Traffic • Overshadowing 			
Planning Information and Discussion Meeting:	<ul style="list-style-type: none"> • None held 			
Environmentally Sustainable Design:	<ul style="list-style-type: none"> • Minimum average Nationwide House Energy Rating Scheme (NatHERS) rating of 6.5 stars. • 4 star Green Star rating 			
Accessibility:	<ul style="list-style-type: none"> • 96 per cent of apartments are adaptable • 100 per cent of apartments are visitable 			
Key reasons for refusal	<ul style="list-style-type: none"> • Height 			
Recommendation:	That Council advises Victorian Civil and Administrative Tribunal (VCAT) and all parties that the proposed development is not supported.			

Officer Recommendation

That Council writes to the Victorian Civil and Administrative Tribunal (VCAT), objectors and all parties to the VCAT review advising that Council does not support planning permit application MPS/2018/972 for the construction of a mixed used development comprising a supermarket, retail tenancy and 339 dwellings within two 16-storey buildings on the following grounds:

1. The proposal is contrary to the objectives at Clause 2.0, the design and development requirements at Clause 4.4 and the preferred height at Clause 5.10 of the Activity Centre Zone (Schedule 1), and the Pentridge Village Design Guidelines and Masterplan 2009 for the following reasons:
 - a) The podium/tower building forms and overall building heights are contrary to the future built form character of mid-rise development with higher buildings only on strategically identified sites as envisaged by the Pentridge Village Design Guidelines and Masterplan 2009 and Pentridge Coburg Design Guidelines and Masterplan February 2014.
 - b) The proposed height does not follow the natural topography or provide an acceptable transition in scale to lower surrounding existing and proposed built form in accordance with the development principles of the Pentridge Village Design Guidelines and Masterplan 2009.
 - c) The overall wind impact on the amenity of the public realm, including at the north-west corner of Tower B are unresolved and contrary to the development principles of the Pentridge Village Design Guidelines and Masterplan 2009 and objectives of Schedule 1 of the Activity Centre Zone which seek to create a pedestrian oriented environment.
 - d) The additional height above the preferred height will have an adverse impact on the streetscape, heritage values, the public realm and the amenity of adjoining properties contrary to Clause 4.4 of Schedule 1 of the Activity Centre Zone.
 - e) The Environmentally Sustainable Design performance of the development does not support the additional height above the preferred height in accordance with Clause 4.4 of Schedule 1 of the Activity Centre Zone.
 - f) The relative lack of deep soil planting areas does not represent an exemplary quality design to support the additional height above the preferred height in accordance with Clause 4.4 of Schedule 1 of the Activity Centre Zone.
 - g) The additional height above the preferred height does not result in any specific design benefit as considered by Clause 4.4 of Schedule 1 of the Activity Centre Zone.
2. The proposal does not provide 30 visitor car parking spaces for the existing development at 41-43 Stockade Avenue in accordance with the Section 173 Agreement AG402247A and associated Car Parking Management Plan.

1. Background

Subject site

The site is located in the former Pentridge Prison complex in Coburg.

The site has no direct abuttal with any other properties. Pentridge Boulevard, Coburg curves around the northern boundary of the site, Stockade Avenue, Coburg around the southern boundary and Wardens Walk, Coburg along the east side.

The site has a total area of 5,591 square metres, with a frontage to Pentridge Boulevard, Coburg of approximately 150 metres. There is a significant fall of approximately 8-9 metres from west to east.

The site also comprises a small square of common property near the corner of Wardens Walk, Coburg and Stockade Avenue, Coburg, known as CP1 on PS54333S.

There are two restrictive covenants indicated on the Certificate of Title, described as follows:

- Heritage Covenant AF860980W - This covenant requires care of the Heritage Place in accordance with the *Heritage Act 2017* and the implementation and management of heritage infrastructure. The site does not contain any heritage infrastructure.
- Covenant PS430271T - The restrictions imposed by this covenant relate to protection of the bluestone walls of the former prison, which are of heritage significance. There are no bluestone walls on the site.

Surrounds

The surrounding area comprises a mix of heritage buildings and structures associated with the former prison, detached dwellings, townhouses, apartment buildings, vacant sites and construction sites.

The most notable are as follows:

- The western side of Wardens Walk, Coburg contains 4 storey townhouses that face the site.
- The southern side of Stockade Avenue, Coburg contains 3 storey townhouses, a 5-storey apartment building and a single storey heritage building known as 'The Laundry'. The Laundry is currently unoccupied but has a planning permit to be used as a hotel and brewery.
- On the northern side of Pentridge Boulevard, Coburg directly opposite the site, there is a heritage chimney, a single storey heritage building used as a café (The Boot Factory), the 6-storey mixed use 'QM building', and the presently under construction 19 storey building at 21 Pentridge Boulevard, Coburg (Air Apartments).
- Also, on the northern side of Pentridge Boulevard, Coburg but to the north-west of the site, is the property at 1 Champ Street, Coburg which has planning approval for the construction of an 18-storey building comprising a residential hotel and apartments as part of the restoration of the 'B' Division heritage building.
- Also, on the northern side of Pentridge Boulevard, Coburg but to the north-east of the site, there is an area of 2 storey dwellings that were constructed as part of the first stage of Pentridge redevelopment.
- To the south-east of the site, there are vacant sites at 22, 24-26, 28 Pentridge Boulevard, Coburg that have an existing planning permit for the construction of 4 buildings of 10, 10, 8 and 6 storeys. The site closest to the subject site would contain a 10-storey building.

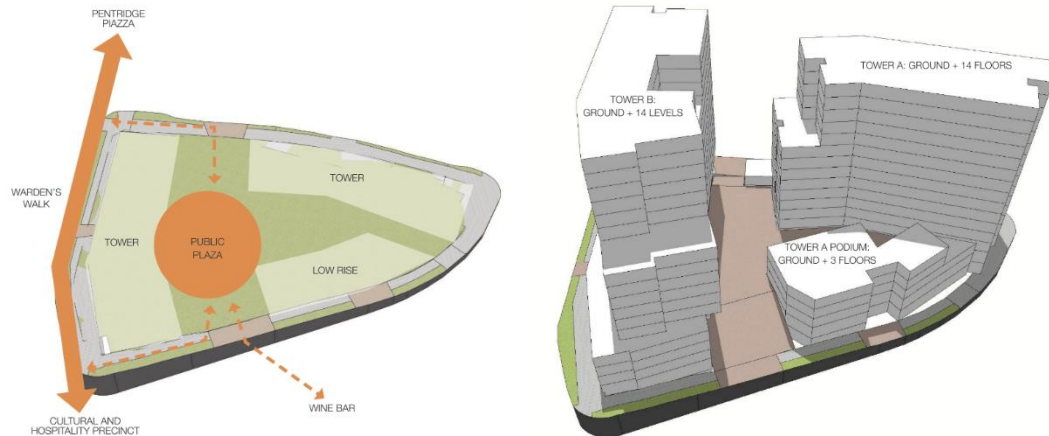
A location plan forms **Attachment 1**.

The proposal

The proposal is summarised as follows:

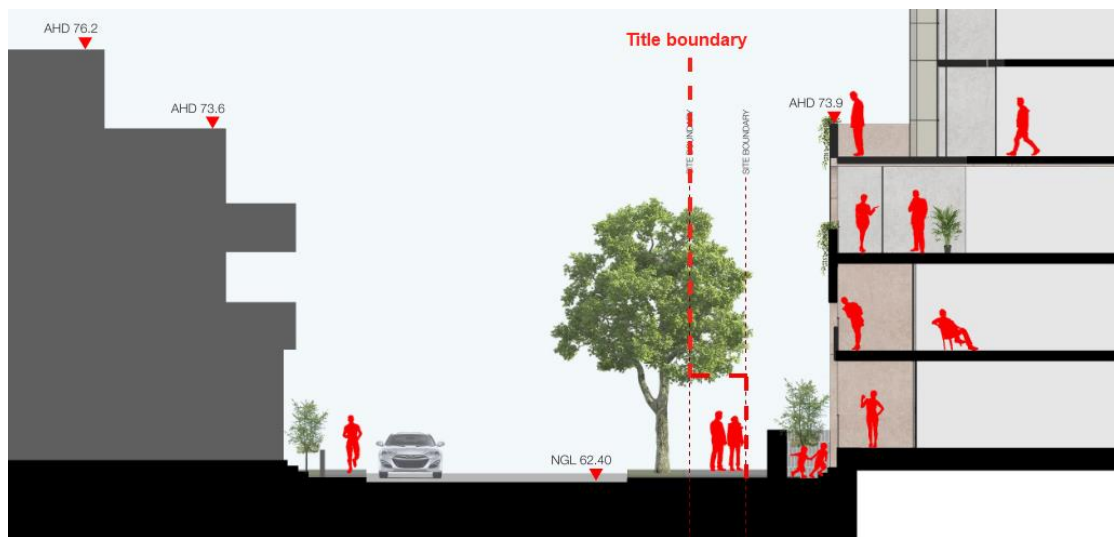
Site layout

- The proposed development is designed around a central public plaza, with Tower A to the east and Tower B to the west, and a multi-level basement below. Vehicle access to the basement is via a crossover from Stockade Avenue, Coburg towards the eastern end of the site.



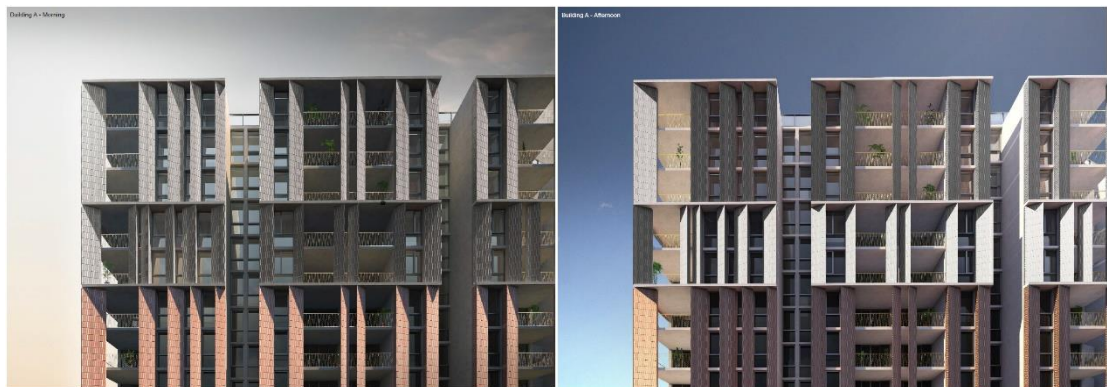
Built form

- Tower A has a 4-storey podium height to Wardens Walk, Coburg and a maximum height of 16 storeys, which is approximately 54.5 metres above street level. The Tower element is setback on average around 3 metres from the podium level, but this varies, with the tower setback as little as 1.8 metres at the Pentridge Boulevard frontage and up to 5 metres along part of the Wardens Walk frontage. The top 6 levels have an additional setback from the southern boundary of around 15 metres.
- Tower B also has a maximum height of 16 storeys, which is approximately 51.5 metres above street level, with a lower 4-5 storey element along the southern boundary. Along Pentridge Boulevard, there is a 3-storey podium for part of the length of the frontage, but at the corner Pentridge Boulevard and Stockade Avenue, Coburg there is no podium. The setback of the Tower from the podium, where there is one, is around 2.5 metres.
- It is noted that the plans identify Tower A and B as 15 storey buildings. This does not account for part of the basement projecting slightly more than 1.2 metres above natural ground level beneath Tower B and a room associated with the rooftop terrace of Tower A. In planning terms, these elements make each building 16 storeys.
- The relative height of the towers, accounting for the slope of the land, can be determined through the Australian Height Datum (AHD) level. Tower A has a height of AHD 108.00. Tower B will sit 3.75 metres higher, at AHD 111.75. The approved 19 storey building at 21 Pentridge Boulevard, Coburg will have a height of AHD 114.90.
- The podium levels of Tower B are setback from Wardens Walk, Coburg to accommodate a new footpath and street tree planting. The setback distance varies due to the unusual title boundaries of the site, which expand from first floor level and above, potentially allowing a building that cantilevers over the ground floor level. As such, at ground level the proposed setback is only 800 millimetres (measured to the fence/wall of the ground level dwellings), but at the levels above, the podium of Tower A is setback 4.8 metres from the title boundary.



Design detail

- The podium levels of each building feature masonry arches intended to reference those found throughout the former Pentridge Prison complex.
- The tower element of Tower A includes vertical recesses to break up the length of the building, and irregularly spaced horizontal elements so that the levels are read in groups. Angled brick panels alternate direction with each grouping of levels, creating differing shadow effects across the day, as depicted below:



- The tower element of Tower B features bronze powder coated metal screens to the edges of balconies and employs a slightly different technique to break up the mass of the building. There are vertical recesses again, but the horizontal grouping of levels is achieved through individual levels without bronze screens, creating a recessed appearance for that level. The screens on the western elevation are adjustable and are shown in their open and closed positions below:



Uses

The proposed development includes:

- 339 apartments, comprising 107 x 1-bedroom apartments, 198 x 2-bedroom apartments and 34 x 3-bedroom apartments.
- Of these apartments, there is a proposed Affordable Housing contribution of 5 per cent (17 dwellings) to be sold at a 30 per cent discount on market price.
- Communal resident amenities including a pool, gym, library, cinema and communal rooftop terraces.
- Ground floor level commercial space, comprising a 377 m² supermarket and 134 square metres retail tenancy.

A permit is not required for any of the proposed uses.

The development plans form **Attachment 2**.

Planning Permit and site history

An existing Planning Permit (MPS/2008/589) for the site allows:

Use and development of a 7-storey building (for dwellings and home offices) and an 8-storey building (for office), development of a food and drink premises (café) above basement car parking and a reduction in the standard car parking and loading bay requirement, in accordance with the endorsed plans.

This permit and two subsequent amendments were issued by the Minister for Planning when the Responsible Authority for the site.

The permit has previously been extended and expired on 11 September 2019 as construction has not commenced. A further extension may be sought up to 6 months after the expiry date.

No plans have been endorsed for this permit. The plans that formed the basis of the most recent amendment to the permit are included at **Attachment 3**.

It is noted that the approved 8 storey building includes a double height ground level, giving it an overall height more typical of a 9-storey building.

Statutory Controls – why is a planning permit required?

Control	Permit Requirement
Activity Centre Zone Schedule 1 (Precinct 10)	Clause 37.08-5: A permit is required to construct a building or construct or carry out works.

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

- Clause 45.03 - Environment Audit Overlay
- Clause 45.06 - Development Contributions Plan Overlay (Schedule 1)
- Clause 45.09 - Parking Overlay (Schedule 1)
- Clause 52.06 - Car Parking
- Clause 53.18 - Stormwater Management in Urban Development
- Clause 58 - Apartment Developments.

The site is not in a Heritage Overlay or on the Victorian Heritage Register.

2. Internal/External Consultation

Public notification

Clause 7.0 of Schedule 1 of the Activity Centre Zone (ACZ1) provides an exemption from public notice and third-party review if an application is generally in accordance with the objectives in Clause 2.0 or requirements at Clause 5.0 of the Schedule and the Pentridge Village Design Guidelines and Masterplan (August 2009).

The applicant has provided a legal opinion that the proposal meets the 'generally in accordance' test of Clause 7.0 and therefore the application is exempt from notice and third-party review. In summary, they submit that the ACZ1 and Masterplan do not set out a preferred building height.

Officers believe that the ACZ1 indicates a preferred building height of 7/8 storeys at Clause 5.0 and that the proposal is not generally in accordance with this requirement. On this basis, officers required notice to be given pursuant to Section 52 of the *Planning and Environment Act 1987*. This was given by:

- Sending notices to the owners and occupiers of adjoining and nearby land
- By placing signs on each street frontage of the site

Council received 41 objections. 5 objectors have joined as parties to the Victorian Civil and Administrative Tribunal (VCAT) proceedings. A map identifying the location of objectors and VCAT parties forms **Attachment 4**.

The key issues raised in objections are:

- Building height;
- Traffic;
- Car parking, including the lack of visitor parking;
- Impact on existing infrastructure, particularly public transport;
- Overshadowing impact on surrounding dwellings and public space;
- Daylight to existing dwellings;
- Overlooking;
- Heritage concerns;
- Overdevelopment;
- Lack of open space;
- Impact on solar photovoltaic (PV) and solar hot water of surrounding buildings;
- No demand for a supermarket;
- Impact during construction;
- Loss of views.

A Planning Information and Discussion meeting has not been held. A Compulsory Conference is scheduled for 14 January 2020.

It is noted that the exemption from notice and third-party review at Clause 7.0 of the ACZ1 is now disputed at VCAT by the applicant. Officers are arranging legal representation to defend Council's position. Should VCAT determine that the application is exempt from notice and third-party review, the objector parties would be struck out and removed as parties to the VCAT proceedings.

Internal/external referrals

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

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

Internal Branch/Business Unit	Comments
Urban Design Unit	Not supported due to the height of the proposal, including the transition in height to the 4 storey townhouses on Wardens Walk, Coburg the visual bulk of Tower A when approached from the west, and inconsistency with the vision of the Pentridge Village Design Guidelines and Masterplan 2009.
Development Advice Engineer	No objections were offered to the proposal subject to modifications, which could be addressed by permit conditions.
ESD Unit	The proposal achieves 'best practice' but not 'excellence'. A Nationwide House Energy Rating Scheme (NatHERS) rating of 7.5 star and a Green Star rating of 5 star would be 'excellence'.
Heritage Advisor	Not supported on heritage grounds due to the lack of transition in scale between the proposal and surrounding buildings. It is noted that this advice is based on 'good conservation practice' only, rather than Council's Heritage Policy at Clause 22.06 or the Heritage Overlay at Clause 43.01 of the Moreland Planning Scheme, which do not apply.
Open Space Design and Development Unit	No objections were offered to the proposal.
Affordable Housing Advisor	No objections were offered to the Affordable Housing proposal subject to implementation via a Section 173 Agreement, which could be addressed by a permit condition.

3. Policy Implications

Planning Policy Framework (PPF)

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

- Clause 11 - Settlement
- Clause 13.04 - 1S Contaminated and potentially contaminated land
- Clause 13.05 - Noise
- Clause 15.01 - Built Environment
- Clause 15.02 - Sustainable Development
- Clause 16.01 - Residential development
- Clause 17.02 - Commercial
- Clause 18.02 - Movement Networks.

Local Planning Policy Framework (LPPF)

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

MSS:

- Clause 21.01 - Municipal Profile
- Clause 21.02 - Vision
- Clause 21.03-1 - Activity Centres
- Clause 21.03-3 - Housing
- Clause 21.03-4 - Urban Design, Built Form and Landscape Design
- Clause 21.03-5 - Environmentally Sustainable Design (Water, Waste and Energy)
- Clause 21.03-6 Open Space Network.

Local Planning Policies:

- Clause 22.01 - Neighbourhood Character
- Clause 22.03 - Car and Bike Parking and Vehicle Access
- Clause 22.07 - Development of Five or More Storeys
- Clause 22.08 - Environmentally Sustainable Design.

Incorporated Documents:

- Pentridge Village Design Guidelines and Masterplan 2009.

Planning Scheme Amendment C183

Amendment C183 supports the Moreland Integrated Transport Strategy (MITS) that was adopted by Council in March 2018 and seeks to improve sustainable transport and better manage car parking and traffic congestion in Moreland over the next decade and beyond.

The amendment seeks to introduce changes to car parking requirements for new developments in designated Activity Centres and Neighbourhood Centres by applying three new Parking Overlays. In the Coburg Activity Centre, a minimum car parking requirement would no longer be specified for new development, and instead a maximum rate of allowed car parking would be specified, above which a permit would be required.

The period for public feedback and submissions has closed. Feedback and submissions will be considered by Council at a meeting in December 2019 before proceeding to a Panel hearing in February 2020.

Human Rights Consideration

This application has been assessed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Moreland Planning Scheme) reviewed by the State Government and which complies with the Victorian *Charter of Human Rights and Responsibilities Act 2006*.

4. Issues

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

Is there strategic justification for the proposal?

Council through its MSS, seeks increased residential densities in the Coburg Activity Centre to take advantage of the excellent access to public transport and other services within this location. While increased residential density is encouraged, this does not translate to buildings of any height being acceptable. The level of change and increased height and density expected for the former Pentridge Prison complex is expressed through the Pentridge Village Design Guidelines and Masterplan 2009 (the Pentridge Village Masterplan), which covers the subject site, and the Pentridge Coburg Design Guidelines and Masterplan, February 2014 (the Pentridge Coburg Masterplan), which covers the land to the north of Pentridge Boulevard, Coburg. These masterplans are both incorporated documents and form part of the Moreland Planning Scheme.

Strategic background

The strategic planning background of the two masterplans is relevant to their interpretation. The Pentridge Village Masterplan and an earlier revision of the Pentridge Coburg Masterplan were incorporated into the Moreland Planning Scheme through Amendment C125 on 24 December 2009. This occurred while the Minister for Planning was the Responsible Authority for the former Pentridge Prison complex.

Prior to the approval of Amendment C125, the Minister for Planning requested and received advice from a Priority Development Panel (an advisory committee under section 151 of the *Planning and Environment Act 1987*). Amongst other things, the Priority Development Panel was asked to undertake a peer review of the two masterplans for the former Coburg Prison complex and align them with the broader objectives of Melbourne 2030 (replaced now by Plan Melbourne 2017-2050: Metropolitan Planning Strategy) and the objectives of the Coburg Activity Centre, as expressed in the Coburg 2020 structure plan.

Following receipt of this report, the Minister for Planning approved the introduction of the masterplans into the Moreland Planning Scheme.

Pentridge Village Masterplan

Vision

The vision for the Pentridge Village Masterplan includes the provision of residential development at a suitably intensive scale that can populate and support active use of safe community spaces throughout the site. With respect to the question of what a suitably intensive scale is, the Pentridge Village Masterplan nominates building heights for each site typically up to a maximum of 8 storeys, with two marker buildings of 10 and 16-storeys located at the north-east and north-west corners of Pentridge Boulevard, Coburg and Urquhart Street, Coburg.

The report from the Priority Development Panel (PDP) gave significant weight to the concept of marker buildings, noting:

With regard to the placement of taller buildings more generally throughout the site, the PDP reviewed their positioning with the aid of 3D imaging. The imaging revealed the importance and benefit of height along Pentridge Boulevard, Coburg and at Sydney Road, Urquhart and Bell Streets, Coburg intersections. Higher buildings can mark the arrival point to the precinct with active frontages along the boulevard creating a sense of place, as opposed to a through route.

The report also notes that:

Being relatively flat, the south east quadrant can provide for more intensive development with limited impact.

The proposal is of a similar height to the higher of these two marker buildings. This conflict with the marker buildings is contrary to the vision of the Pentridge Village Masterplan, which encourages a mid-rise scale of up to 8 storeys, with higher built form only in locations where there has been an identified benefit and where there is limited impact.

Development principles

The Pentridge Village Masterplan also sets out general development principles for all sites, and design and development guidelines with specific directions for most sites. Limited guidance and direction is provided for this site, with it instead noted as 'approval pending'. The approval referred to is the existing planning permit (MPS/2008/589) for a 7 and 8 storey building, consistent with the future built form character scale and vision of the masterplan.

An earlier version of the Pentridge Village Masterplan, revised in December 2008, provided design and development guidelines and specific direction for this site. This appears to have been removed from the final version (revised August 2009) given the planning application being considered at the time. This document provided the following design guidance:

This area provides an interface between the high bluestone walls to the north, proposed 15-18 storey "Sentinel" development within former hospital site to the north and bluestone walls surrounding the former Metropolitan Reception Centre to the south. Building height and form will need to respond to the surrounding existing and approved development.

Relevant to the issue of height, the following specific direction was also provided:

Building height should complement the location of the site south of existing approved and developing built form. Specific height should be dependant upon detailed site analysis undertaken at the time of planning application and consideration of views of and compatibility with, nearby heritage elements.

Focus development around a core of higher development at the intersection of Pentridge Boulevard, Coburg and the Stockade Avenue, Coburg extension as a landmark position

Stagger building height across the contours of the land to promote solar access to dwellings and adjoining public spaces.

While this document has limited statutory weight, it is instructive in understanding the overall vision of the Pentridge Village Masterplan and the development principles applying to all sites.

One of the key development principles in the final version of the Pentridge Village Masterplan applicable to all sites is that development should complement the height of surrounding built and approved developments. The proposed height does not complement the height of surrounding development, particularly the 4 storey townhouses to the west and 3 to 5 storey buildings to the south. This issue is identified by both Council's Urban Design Unit and Heritage Advisor, who seek a more complementary building height to existing buildings to the south and west. There would also be a significant difference in height between the proposal and the approved 10-storey building at 22 Pentridge Boulevard, Coburg which is contrary to this development principle.

The Pentridge Village Masterplan also encourages development to follow the natural contours of the land. This should occur at a consistent mid-rise scale, except for the sites identified for higher built form. The significant change in height between the proposal and surrounding existing and approved buildings to the south and west would be disproportionate to the natural contours of the site and inconsistent with this future built for character guiding principle.

Pentridge Coburg Masterplan

The existing planning permits for the 18 and 19 storey developments at 1 Champ Street, Coburg and 21 Pentridge Boulevard, Coburg while of similar height to the proposal, have some important strategic differences that justify these heights. Direction for these sites is provide via the Pentridge Coburg Masterplan. The heights of these two buildings are generally in accordance with this masterplan, which directs higher built form to the edges of the precinct to protect the main Piazza Precinct, which is the most important part of the site from a heritage perspective. This is demonstrated visually by below diagram from the Pentridge Coburg Masterplan:

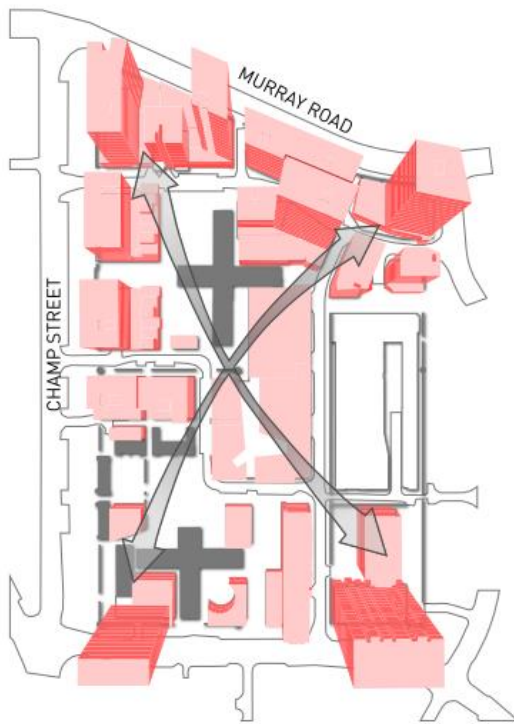


Figure 4.1.2d Arrangement of Buildings to complement Heritage Buildings

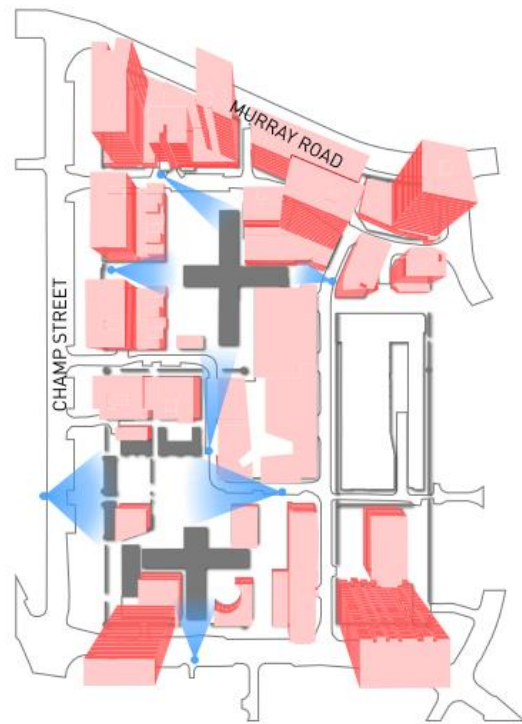


Figure 4.1.2e Arrangement of Buildings having regard to Key Views, External Amenity and the Public Realm

The Pentridge Coburg Masterplan recognises that the edges of the site are the least sensitive areas of the site where increased building height can be accommodated with the least impact upon sensitive view lines and heritage fabric, with this increased yield contributing to the overall successful redevelopment of the more sensitive heritage areas. The approval of the 1 Champ Street, Coburg building also balanced competing planning objectives, with increased height and yield facilitating heritage benefits in the form of the adaptive re-use of the 'B' Division cells as hotel rooms. The same balancing of competing planning objectives is not applicable to the subject site.

Does the proposal comply with the built form guidance in the ACZ1?

The site is located in the Activity Centre Zone Schedule 1 (ACZ1), which identifies different precincts and nominates preferred building heights for each. The site is located in Precinct 10, for which Clause 5.0 of the ACZ1 indicates a preferred building height of 7/8 storeys above natural ground level. The preferred height is not a mandatory requirement, and Clause 4.4 of the ACZ1 sets out the policy that must be considered when a proposal exceeds the preferred height. The policy requires consideration of whether:

- *The proposed development supports the vision for the Activity Centre and achieves objectives of this schedule; and*
- *The development is of an exemplary quality design that makes a positive contribution to the character of the neighbourhood;*
- *The additional height or reduced setback:*
 - *results in specific design benefits;*
 - *facilitates benefits to the community, such as excellent ESD performance, positive contributions to public open space or the public realm, or the provision of affordable housing;*
 - *does not have an adverse impact on the streetscape, heritage values, the public realm or the amenity of adjoining properties;*
 - *meets the overshadowing standards for key public spaces as set out in Table 1 where applicable;*

- *does not increase overshadowing of primary pedestrian routes on 21 March/September (equinox) between 10.30 am and 2 pm, particularly the southern footpath of Bell Street, Harding Street and Munro Street; and*
- *does not cause an unacceptable visual impact on surrounding streets, public spaces or private open space.*

The additional height sought is not justified when considering the above policy, as discussed under the following subheadings:

Vision for the Activity Centre

The proposal does not support the vision for this part of the Activity Centre as set by the two masterplans, which is for a mid-rise area with higher built form only in specific locations where there is a balancing of competing planning objectives, a benefit to the development of the wider area and a lesser impact on surrounding properties and heritage fabric.

Quality of design

Exterior appearance of the buildings

The exterior appearance of the buildings, leaving aside the issue of height, is of a high quality and is supported by Council's Urban Design Unit. If approved, the retention of the architect to oversee the detailed design and construction should be required as a condition.

Landscaping

Standard D10 of Clause 58 (the Standard) of the *Victoria Planning Provisions* seeks to maximise deep soil planting for canopy trees and requires a percentage of the site to be deep soil areas with a minimum dimension. For this site, that equates to an area of 839 square metres with 6 metres minimum dimension to accommodate 9 large trees (at least 12 metres in height) or 18 medium trees (8-12 metres in height).

The proposal does not meet this requirement of the Standard. Deep soil planting within the site is limited to small strips along the Wardens Walk, Coburg and Pentridge Boulevard, Coburg frontages that total 114 square metres in area. Non-compliance with the area requirement of this Standard is not uncommon on smaller sites within established commercial areas of activity centres. However, the subject site is larger and less constrained and should be capable of providing an area of deep soil planting closer to area required by the Standard if it is to be considered an exemplary design in accordance with Clause 4.4 of the ACZ1.

Where the deep soil planting area requirement is not achieved, the Standard requires that the proposal achieve an equivalent canopy cover through other means, such as planting in planters and green walls. The application includes a detailed landscape plan showing planting within the central plaza area and on the rooftop terraces within planters. Around 20 small trees are shown within the central plaza and a further 9 are located on the rooftop terraces. Approximately 10 trees are located along the Wardens Walk, Coburg frontage within the site and within the limited deep soil area. Again, while this may provide for an acceptable outcome for an otherwise compliant development proposal, it is considered to fall short of demonstrating an exemplary design benchmark required to justify any proposed height increase and satisfy Clause 4.4 of the ACZ1.

Internal amenity

A detailed assessment of the proposal against the objectives and standards at Clause 58 has been undertaken. The proposed development complies with all standards relating to the internal amenity of the dwellings, including those addressing functional layout, accessibility, cross ventilation, room depth, storage and private open space.

The application has been assessed against requirements of Clause 22.07 for the separation of buildings within a site. The proposal generally complies, except for a minor non-compliance at the lower levels of Tower A where the main tower interfaces with the 4-storey south wing.

Separation between the main balconies of Apartments 3.01-3.14 and 4.01-4.14 should be 12 metres but is a minimum of only 10.3 metres. Daylight access to these apartments is acceptable given the limited height of the south wing. Outlook from these apartments is also acceptable, with the design providing for balconies that are offset from each other and set at slightly different angles, so the view out is not directly towards another balcony.

Apartments A2.12 and A2.13 also do not achieve the required 12 metres separation, but these are at the podium level and build in their own amenity with large courtyards of 24 square metres and 25 square metres. While arguably acceptable when assessed against the standards these built form responses again fall short of demonstrating an exemplary design benchmark required to justify any proposed height increase and satisfy Clause 4.4 of the ACZ1.

Specific design benefits of the additional height

The additional height does not result in any specific design benefit, such as the restoration of a heritage building elsewhere within the former Pentridge Prison complex.

Community benefit facilitated by the additional height

ESD performance

ESD features of the development meet the best practice requirement of Clause 22.08 and include:

- A 6.5 star minimum NatHERS average energy rating;
- A 4 star Green Star rating;
- All-electric development (no gas);
- Minimum 50 kW solar photovoltaic system within a fully utilised roof area, excluding terraces and other plant;
- Double-glazed and low-e windows;
- Operable and fixed external screens to provide shading and reduce cooling loads
- 54 per cent of apartments to be naturally cross ventilated;
- Bicycle facilities above the statutory requirement, including visitor, staff and resident spaces, end of trip facilities and bicycle repair and maintenance workshop;
- 20 electric vehicle charging spaces.

The proposal will achieve best practice ESD but not excellence, as required by the policy at Clause 4.4 to justify additional height. The 6.5 Star minimum NatHERS average energy rating and 4 Star Green Star rating are the minimum required to achieve ESD best practice. The Moreland average NatHERS star rating for class 2 dwellings (mainly apartments) from October 2018 to September 2019 is 7.3 Star according to CSIRO data. As such, the proposal does not meet the average rating across the municipality. To achieve excellence in this area, the development would need to achieve at least a 7.5 Star NatHERS average energy rating. Green Star awards 'excellence' status for 5 Star projects.

Public open space/public realm

The proposal provides some community benefit, but it is insufficient to justify the additional height.

The proposal contributes to the public realm in the form of a setback from Wardens Walk, Coburg and the creation of a new footpath and street tree planting along this frontage. Street tree planting along the Stockade Avenue, Coburg and Pentridge Boulevard, Coburg frontages is also indicated on the landscape plans. The landscape plans indicatively show the provision of approximately 40-50 trees within the public realm, where there is currently no tree planting. Whether this forms part of the proposal is questionable given the plans include a note stating that all landscape treatment outside the project site for illustrative purposes only. A clear commitment to the public realm upgrades should be provided as part of this proposal to remove any mis-representation to VCAT.

While the plaza and north-south connection through the middle of the site will be publicly accessible, there is no particular desire line supporting the creation of this link and it is not sought by the Pentridge Village Masterplan or ACZ1. As such, while a positive feature for the occupants of the development, the public benefit is limited.

Affordable housing contribution

The application proposes an Affordable Housing contribution of 5 per cent (17 dwellings) to be sold at a 30 per cent discount on market price. This would be a voluntary contribution and would need to be secured via a section 173 Agreement of the *Planning and Environment Act 1987* if a permit was issued. While this is a positive feature of the proposal, it is not sufficient to justify the significant departure from the preferred height and vision for this part of the Activity Centre.

Off-site impact of additional height

Contrary to the policy of the ACZ1, the additional height will have an adverse impact on the streetscape, heritage values, the public realm and the amenity of adjoining properties. This policy anticipates a development where the additional height is inconsequential or has minimal impact. For example, a large site where the additional height is centrally located and has no or negligible visibility from the surrounding area. This is not the case here, where the additional height is applied to tower forms located at the perimeter of the site. This additional height adds significant additional visual bulk, creates additional overshadowing to neighbouring properties and of the public realm, and significantly increased wind impacts beyond those expected from the predominantly mid-rise built form character sought by the masterplans. Specific overshadowing and wind impacts are discussed below:

Overshadowing

The overshadowing standard of Clause 55 is not applicable for apartment development within the ACZ1. If applied, the proposal would comply, noting that neighbouring balconies, some of which are overshadowed, are not considered to be 'secluded' private open space and therefore do not require protection from overshadowing under the standard.

The ACZ1 identifies public spaces that are to be protected from overshadowing. The proposal does not overshadow any of these spaces. Further, the design minimises the overshadowing impact on The Laundry heritage building, which is a positive outcome for the future use of this building.

Considered against the measures in the Moreland Planning Scheme, the impact on the amenity of the area from overshadowing is not unreasonable. However, this test differs from the policy at Clause 4.4 which considers whether the additional height will result in no adverse impact. While the impact is not unreasonable, there is an adverse impact contrary to policy and resulting from the additional building height that is contrary to the predominantly mid-rise height sought by the masterplans.

Wind

A Wind Effect Assessment report has been provided. The report states that wind levels will generally be within the walking comfort criterion for all surrounding footpaths, although wind control measures may be required around the north-west corner of Tower B, with the report recommending either a large canopy or some set back from the north for Level 3 and upwards. This would require significant design and built form changes which at this point are not resolved. The potential impact on pedestrian amenity is contrary to the development principles of the Pentridge Village Masterplan, which identifies Wardens Walk, Coburg as a key north-south pedestrian link, and the objectives of the ACZ1 which seek to create a pedestrian oriented environment. This unresolved potential wind impact on the public realm forms a ground of refusal in the recommendation. Additional wind control measures should also be provided to ensure the standing comfort criterion is met for all areas of the plaza and rooftop terraces. All wind mitigation measures should be confirmed through wind tunnel testing as recommended by the report.

Summary of assessment against Clause 4.4 of the ACZ1

Overall, while the proposal has some commendable features that respond to the policy at Clause 4.4 of the ACZ1, such as the affordable housing contribution and widened Wardens Walk, the significant extent of the non-compliance with the preferred building height and departure from the predominantly mid-rise vision for the area is not justified.

Noting that the preferred height is a discretionary control, some height may be able to be justified however the assessment above has identified a range of deficiencies or otherwise acceptable outcomes as opposed to the exemplary quality design benchmark required to justify such a significant height departure. A significant reduction of height is therefore required. In seeking to provide guidance to the permit applicant, Council's Urban Design Unit broadly suggested that 10 storeys may be an appropriate Urban Design outcome. A reduction in height of this order would significantly change the appearance of the buildings and requires further consideration by the architects. Council officers would need to assess such a revised proposal, before forming a position on any revised height.

Has adequate car and bicycle parking been provided?

A total of 373 car parking spaces are required for the dwellings plus 22 spaces for the commercial uses, which is a total of 395 spaces. No visitor parking is required by the Moreland Planning Scheme as the site is in the Parking Overlay (Schedule 1). The development provides 395 on-site spaces, which satisfies the Moreland Planning Scheme with respect to the provision of car parking.

The site is affected by the Section 173 Agreement AG402247A (the Agreement) that requires the production and implementation of a Car Parking Management Plan (CPMP). The CPMP specifies that the site must provide 30 visitor spaces for use by residential and retail visitors to 41-43 Stockade Avenue (formerly known as Lot S8). The proposal does not provide these car parking spaces and, if constructed, would breach the Agreement. This issue forms a ground of refusal as it is a matter needs to be resolved. However, it is noted that it is unlikely to be fatal to the proposal. If the 30 spaces are allocated to 41-43 Stockade Avenue in accordance with the CPMP, based on the existing car parking provision, planning approval would need to be sought to reduce the car parking requirement.

Based on Council's Local Planning Policy at Clause 22.03-3 (Car and Bike Parking and Vehicle Access) it is considered reasonable to reduce the car parking requirements. Clause 22.03-3 states that it is policy to:

Support reduced car parking rates in developments within and in close proximity to activity centres, with excellent access to a range of public transport options and with increased provision of bicycle parking above the rates specified in clause 52.34.

Furthermore, under Amendment C183, which has been exhibited by Council, the proposal would have no minimum parking requirement.

The proposal is located within the Coburg Activity Centre and has excellent access to public transport including:

- No.19 Tram Route on Sydney Road – 210 metres walking distance;
- Bus stops for 7 different routes – various distances, all within 400 metres;
- Coburg Railway Station – 900 metres walking distance.

The proposal also provides 624 bicycle parking spaces, which is above the 573 spaces required by the ACZ1.

The dwellings, including any without car parking, would not be eligible for parking permits if parking restrictions are imposed by Council on the street. This could be included as a note on the planning permit if one was issued.

The application would need to be amended through the VCAT process to seek a reduction of car parking or provide an additional 30 spaces. Alternatively, the applicant could apply to end or amend the Section 173 Agreement and this would be considered on its merits following the formal process set out in the *Planning and Environment Act 1987*. The applicant could also seek to amend the CPMP as provided for in Clause 3.4 of the Agreement.

Are adequate loading/unloading facilities provided?

Clause 65.01 requires consideration of the adequacy of loading and unloading facilities. There is a loading bay within the basement that is accessible by 6.4 metres long trucks suitable for the supermarket and retail space.

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

In relation to traffic impacts, Council's Development Advice Engineer has assessed the proposal and consider that the residential component of the development will result in 1424 additional vehicle movements per day on Pentridge Boulevard and surrounding streets. The commercial spaces will generate low traffic volumes, spread across the day, and are not expected to have a significant impact on any of the surrounding streets.

Pentridge Boulevard, Coburg is classified as a collector road which links the arterial roads of Sydney Road, Bell Street and Murray Road to the surrounding local precincts. Pentridge Boulevard, Coburg also acts as a key link for local bus route, pedestrians and cyclist movements. Existing traffic volumes, based on survey data from 2015 and 2017, fall within the expected range for a collector road in an inner-city location. While the expected traffic volumes generated from the development will significantly add to the traffic volume throughout the day, Council's Development Advice Engineer is satisfied that the estimated 142 vehicle movements during peak morning and evening hours can be accommodated, while the remaining traffic generated will be distributed throughout the day with minimal effect.

What impact does the proposal have on cycling, bike paths and pedestrian safety, amenity and access in the surrounding area?

The proposal provides an acceptable response to Council's Local Planning Policy Clause 22.03 (Car and Bike Parking and Vehicle Access) as it:

- Utilises Stockade Avenue, Coburg for vehicle access to allow Pentridge Boulevard, Coburg to prioritise pedestrian and bicycle movements;
- Provides active frontages to all sides of the development;

- Limits the number of vehicle crossings to one;
- Provides additional street tree planting;
- Provides 624 bicycle spaces and a range of bicycle facilities.

Is the proposal accessible to people with limited mobility?

Objective 9 of Clause 23.03-3 (Housing) is to increase the supply of housing that is visitable and adaptable to meet the needs of different sectors of the community.

Clause 58 requires at least 50 per cent of apartments to be accessible and meet certain design criteria, including clear paths of travel and adaptable bathrooms. The proposal significantly exceeds the minimum requirements of this Standard, with 96 per cent of apartments being accessible. Furthermore, all apartments will be visitable, in accordance with Council's MSS.

Is the site potentially contaminated?

The site is affected by an Environmental Audit Overlay. The applicant has submitted an environmental site assessment report detailing the extent of site contamination and confirming that the site would be appropriate for the intended uses subject to the completion of an Environmental Audit. If a Planning Permit were to be issued, a condition should be included requiring an Environmental Audit to be undertaken before the development commences. This would ensure that the site is remediated to an appropriate standard to ensure the land is safe for future residents.

5. Response to Objector Concerns

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

- Building height;
- Traffic;
- Car parking, including the lack of visitor parking;
- Overshadowing impact on surrounding dwellings and public space;
- Heritage concerns.

Other issues raised by objectors are addressed below.

Impact on existing infrastructure, particularly public transport.

The Moreland Planning Scheme encourages increased residential density in areas that can make use of existing public transport infrastructure. It is the responsibility of the State Government to ensure that the expansion of public transport services and infrastructure keeps pace with a growing population. The impact of the additional dwellings on public transport should service levels and infrastructure not be improved by the State Government over time is not a ground on which Council can refuse a planning permit application.

The application was referred to Transport for Victoria, who have no objection subject to a condition to ensure that disruption to bus services along Pentridge Boulevard, Coburg during construction is minimised.

For other infrastructure (for example, drainage, sewerage, electricity), the site owner will be required to address the servicing demands of the additional dwellings as required by the various service agencies at the time of subdivision.

Overdevelopment

Despite strong strategic support in planning policy for increased residential density on this site, the overall height is considered excessive. On this basis, the proposal is an overdevelopment of the site.

Lack of open space

There is no requirement in the Moreland Planning Scheme for the proposal to provide an area of publicly accessible open space. Nevertheless, the plaza in the centre of the site would be publicly accessible. An open space contribution has been paid to Council when the site was previously subdivided, as required by Clause 53.01. This payment recognises that future residents will utilise existing public open space and create demand for new public open spaces.

Impact on solar PV and solar hot water of surrounding buildings

Aerial photos show that solar hot water systems are present on the rooftops of the 4 storey townhouses to the west (7 Wardens Walk, Coburg) and the 3 storey townhouses to the south (51 Stockade Avenue, Coburg). The townhouses to the south also appear to have a small solar PV system. The state-wide planning provisions for the protection solar energy facilities apply only to land in the General Residential Zone and Neighbourhood Residential Zone. There is therefore no requirement for the proposed development to limit overshadowing of these solar energy facilities. While it is not clearly shown on the plans, it appears that at the equinox, the solar PV system of the townhouses to the south will be unaffected. It appears that the solar hot water systems of a proportion of the townhouses to the west would be overshadowed for around 2 hours in the morning and some of the systems of the townhouses to the south for approximately 2-3 hours in the afternoon.

No demand for a supermarket

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

Impact during construction

Noise and amenity impacts during the construction process are not generally a planning matter. The *Environmental Protection Act 1970* (s.48A(3)), provides noise control guidelines for commercial construction sites which set working hours and noise management expectations. For developments of this scale, a Construction Management Plan is usually required pursuant to Council's General Local Law 2018 to ensure public amenity and safety are maintained, Council and community assets are protected, nuisances are controlled and prevented, disruptions to traffic are minimised, waste is managed appropriately, and appropriate environmental controls are in place during the construction phase.

Loss of views

While VCAT has recognised that views can be a relevant amenity consideration, it has also held that there is no right to a view and that the weight to be given to the amenity impact of loss of views is diminished where no planning control applies encouraging retention or sharing of views. There is no specific policy or provision regarding views within the Moreland Planning Scheme. In this context, the extent of loss of view in this case does not warrant a variation to, or refusal of the proposal.

Overlooking

The overlooking standard of Clause 55, which requires habitable room windows and balconies to be designed to prevent overlooking of neighbouring habitable rooms or secluded private open space, does not apply to apartment developments in the ACZ1. This standard is intended for residentially zoned areas where there is greater expectation that existing residential amenity will be protected. Nonetheless, the proposal would comply with this standard if applicable, as the building is setback more than 9 metres from any sensitive interface.

Daylight to existing dwellings

Clause 22.07 sets out building separation requirements between sites to ensure adequate and equitable access to daylight and outlook. The clause includes separation requirements where a site directly abuts another or is located across a laneway from another. Neither of those circumstances apply here. However, applying the requirements for setbacks from a lane to the surrounding roads, the proposal complies. As such, the impact on daylight to surrounding dwellings is not unreasonable.

6. Officer Declaration of Conflict of Interest

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

7. Financial and Resources Implications





There are no financial or resource implications.

8. Conclusion

The proposal is generally of a high quality, with acceptable internal amenity for future residents, a high quality of architectural resolution, high level of accessibility, an affordable housing contribution and a widened Wardens Walk, Coburg. However, the height of the proposal is inconsistent with the vision for this area and is not justified by the positive features of the development when balanced against the failure to satisfy many other design objectives, including to achieve the required benchmark of an exemplary quality design that makes a positive contribution to the character of the neighbourhood. The proposal fails to deliver specific design and community benefits necessary to justify the increased height and fails to demonstrate that the additional building height will not result in the range of adverse impacts discussed in this report.

On the balance of policies and controls within the Moreland Planning Scheme and objections received, it is recommended that Council advise VCAT and all parties that the application No. MPS/2018/972 is not supported.

Attachment/s

<u>1</u> 	Location plan - 9S Wardens Walk, Coburg	D19/439946
<u>2</u> 	Development plans - 9S Wardens Walk, Coburg	D19/439945
<u>3</u> 	Existing permit plans - 9S Wardens Walk, Coburg	D19/439944
<u>4</u> 	Objector map - 9S Wardens Walk, Coburg	D19/439943

**DCF87/19 81 AND 81A LYGON STREET, BRUNSWICK EAST -
MPS/2019/375 (D19/422538)**

Director City Futures

City Development

Executive Summary



Property:	81 and 81A Lygon Street, Brunswick East.
Proposal:	Use of the land for the sale and consumption of liquor (on premises licence) in association with a bar, part demolition to the existing building, alterations and additions to the rear in the Heritage Overlay and a reduction in the statutory car parking requirement.
Zoning and Overlay/s:	<ul style="list-style-type: none"> • Commercial 1 Zone. • Heritage Overlay (HO439). • Design and Development Overlay (DDO19). • Parking Overlay (PO1). • Development Contributions Plan Overlay (DCPO1).
Strategic setting:	<div>Minimal housing growth</div> <div>Incremental housing growth</div> <div>Increased house densities encouraged</div> <div>Significant housing growth</div>
Objections:	<ul style="list-style-type: none"> • 19 objections. • Key issues: <ul style="list-style-type: none"> – Amenity impacts – Car parking and traffic.
Planning Information and Discussion Meeting:	<ul style="list-style-type: none"> • Date: 2 October 2019 • Attendees: 8 objectors, the applicant and 2 Council officers.
ESD:	<ul style="list-style-type: none"> • The proposal will achieve best practice in environmentally sustainable development via conditions of permit.
Key reasons for support	<ul style="list-style-type: none"> • Responds to the existing and preferred built form character of the Lygon Street Corridor of the Brunswick Activity Centre; • Respects the significance of the Heritage Place (via conditions); • Off-site amenity impacts can be managed through the recommended permit conditions.
Recommendation:	It is recommended that a Notice of Decision to Grant a Planning Permit be issued for the proposal.

Officer Recommendation

That a Notice of Decision to grant Planning Permit MPS/2019/375 be issued for the use of the land for the sale and consumption of liquor (on premises licence) in association with a bar, part demolition to the existing building, alterations and additions to the rear in the Heritage Overlay and a reduction in the statutory car parking requirement at 81 and 81A Lygon Street, Brunswick East, subject to the following conditions:

1. Before the use and development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the advertised plans prepared by Ewert Leaf Pty Ltd dated May and June 2019 (referenced as TP-020 to TP-023, TP-100 to TP-105, TP-110, TP-111, TP-120, TP-121, TP-400, TP401 and TP-500) but modified to show:
 - a) All speakers in the open, outdoor dining area to be removed and an annotation stating that no music (including background music) is to be played in the outdoor dining areas at ground floor.
 - b) An annotation confirming that the fireplace is to be LPG or ethanol.
 - c) The smoking area adjacent to the pergola removed.
 - d) At the street elevation, the dark blue tiles replaced with a smooth render (natural cement color).
 - e) At the street elevation, the glazed entry door replaced with a solid paneled door.
 - f) The existing crossover to Lygon Street removed and the footpath and kerb reinstated.
 - g) Employee bicycle parking facility provided as a bicycle parking rail in a secure, weather protected compound or locker.
 - h) Any modifications arising from the amended Acoustic report (Condition 15 of this permit).
 - i) Any modifications arising from the amended Waste Management Plan (Condition 4 of this permit).
 - j) Any modifications arising from the Sustainable Design Assessment (Condition 6 of this permit).
 - k) The location and specifications of the proposed lighting at the façade of the existing building.
 - l) An updated schedule of all proposed exterior decorations, materials, finishes and colours, including a colour samples.

Compliance with the endorsed plans

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

Revised Patron and Venue Management Plan

3. Before the endorsement of plans, a revised Patron and Venue Management Plan, generally in accordance with the plan prepared by Sophie Jordon Consulting Pty Ltd, dated July 2019, must be submitted to and approved by the Responsible Authority to include the following, to the satisfaction of the Responsible Authority:
 - a) Updated to state that no music (including background music) is to be played in the outdoor dining area at ground floor.
 - b) Remove reference to the smoking area adjacent to the pergola and state that the

only smoking area is to be located adjacent to the bike rack.

- c) Security personnel will be employed during functions at first floor that include a DJ or amplified music.
- d) All doors to the outdoor area of the venue are to have self-closing mechanisms.
- e) All doors and windows to the outdoor areas of the venue are to be closed after 10 pm, every day.
- f) 75 per cent of the floor area of the indoor dining areas must comprise seating, tables and chairs, unless where the prior written consent of the Responsible Authority has been obtained.
- g) A bar food menu consisting of more than pre-packaged snacks must be made available to patrons in all dining, seating and function areas at all times that alcohol may be consumed.
- h) Measures to inform patrons that food is available up until the conclusion of trade, including snacks, and the method of ordering.

Once submitted and approved, the Patron Management Plan must be carried out to the satisfaction of the Responsible Authority.

Amended Waste Management Plan

- 4. Prior to the endorsement of plans, an updated Waste Management Plan, generally in accordance with the plan advertised on 23 July 2019, must be submitted and approved to the satisfaction of the Responsible Authority. The Plan must include:
 - a) Any changes to waste management as a consequence of the Sustainable Development Assessment required at Condition 6.

When submitted and approved to the satisfaction of the Responsible Authority, the Waste Management Plan and associated notated plans will form part of this permit.

Compliance with the Waste Management Plan

- 5. 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.

Sustainable Design Assessment

- 6. Prior to the endorsement of plans, a Sustainable Design Assessment (SDA) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The SDA must be completed by a suitably qualified person/s, must demonstrate best practice environmentally sustainable design in accordance with Clause 22.08 of the Moreland Planning Scheme, identify the responsibilities and schedule for implementation and ongoing management of incorporated and proposed sustainability design initiatives to the satisfaction of the Responsible Authority and address the following:
 - a) Energy efficiency
 - b) Water resources
 - c) Indoor Environment Quality
 - d) Stormwater Management
 - e) Transport
 - f) Waste Management
 - g) Urban Ecology

When submitted and approved to the satisfaction of the Responsible Authority, the SDA and associated notated plans will be endorsed to form part of this permit.

7. All works must be undertaken in accordance with the endorsed SDA to the satisfaction of the Responsible Authority. No alterations to the SDA may occur without the prior written consent of the Responsible Authority.

Protection of trees during construction

8. Prior to development commencing (including any demolition, excavations, delivery of building/construction materials and/or temporary buildings), the trees marked on the endorsed plans as being retained must have a Tree Protection Zone (TPZ) to the satisfaction of the Responsible Authority. The fencing associated with this TPZ must meet the following requirements:
 - a) Extent - The tree protection fencing (TPF) is to be provided to the extent of the TPZ, calculated as being a radius of 12 x Trunk Diameter at Breast Height (DBH – measured at 1.4 metres above ground level as defined by the Australian Standard AS 4970.2009. If works are shown on any endorsed plan of this permit within the confines of the calculated TPZ, then the TPF must be taken in to only the minimum amount necessary to allow the works to be completed.
 - b) Fencing - The TPF must be erected to form a visual and physical barrier, be a minimum height of 1.5 metres above ground level and of chain mesh or similar material. A top line of high visibility plastic tape must be erected around the perimeter of the fence.
 - c) Signage - Fixed signs are to be provided on all visible sides of the TPF clearly stating 'Tree Protection Zone – No Entry', to the satisfaction of the Responsible Authority.
 - d) The area within the TPZ and TPF must be irrigated during the summer months with 1 litre of clean water for every 1 cm of trunk girth measured at the soil/trunk interface on a weekly basis.
 - e) Unless with the prior written consent of the Responsible Authority, all services (including water, electricity, gas and telephone) must be installed underground, and located outside of any TPZ, to the satisfaction of the Responsible Authority.
 - f) Should temporary access be necessary within the Tree Protection Zone during the period of construction, a qualified Arborist (or similar) must be informed prior to relocating the fence, with any measures recommended by the Arborist to maintain the health of the trees implemented. A written record of measures must be kept and made available to the Responsible Authority upon request.

Development contributions

9. Prior to the issue of a Building Permit in relation to the development approved by this permit, a Development Infrastructure Levy must be paid to Council in accordance with the approved Development Contributions Plan. The Development Infrastructure Levy is charged per 100 square metres of leasable floor space.

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

- a) a maximum of 12 months from the date of issue of the Building Permit; or
- b) prior to the issue of a Statement of Compliance for the subdivision;

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

Hours of operation

10. The use allowed by this permit must operate only between the following hours;

External dining areas

Monday to Sunday 7 am to 10 pm

Internal trading

Sunday to Wednesday 7 am to 11 pm

Thursday to Saturday 7 am to 1 am (the following day)

Good Friday and ANZAC day 12 noon to 11 pm

Patron numbers

11. The maximum number of patrons permitted on the premises must not exceed;
- a) 7 am to 10 pm – 300 patrons.
 - b) 10 pm to 1 am – 250 patrons.
 - c) 69 patrons at all times within the first-floor function room.

Noise and acoustic requirements

12. The indoor areas at ground floor of the venue must not be used for live music and no music other than of a type and volume appropriate to background music may be emitted. Background music is defined as any music played at a level that enables patrons to conduct a conversation at a distance of 600 millimeters without having to raise their voice to a substantial degree. It is not background music if it is played at a level which requires patrons to shout or use a stage voice such as that used by an actor in the theatre, in order to carry out a conversation at such a distance.
13. External and outdoor areas, including the outdoor dining area, must not be used for any music, including background music, amplified music and live music.
14. Prior to the endorsement of plans, an updated Acoustic Report to the satisfaction of the Responsible Authority, generally in accordance with the advertised report prepared by Clarity Acoustics dated 28 June 2019, (referenced as Report R01 Rev1 19047) must be submitted and approved to the satisfaction of the Responsible Authority. The report must include:
- a) An assessment of the impact of the proposal on the existing outbuilding to the rear of 118 Weston (labelled as 'single storey brick workshop' on the advertised existing site plan TP-005) and detail any acoustic treatments to ensure compliance with SEPP N-1 and SEPP N-2 and that the impact from patron noise will not be unreasonable.
 - b) That all speakers in the open area outside to be removed from the plans.
 - c) Removal of smoking area adjacent to the pergola and only use the smoking area adjacent to the bike parking

When submitted and approved to the satisfaction of the Responsible, Authority, the Acoustic Report will be endorsed to form part of this permit.

15. Within 3 months of the use commencing, acoustic testing is to be carried out to ascertain whether the use complies with the maximum noise levels prescribed by SEPP N-1 and SEPP N-2. The testing is to be carried out by an independent acoustician approved by the Responsible Authority. If the testing reveals that the use does not meet the specified maximum noise levels the buildings and works must be modified to make the use compliant with those levels. After any modifications have been made further acoustic testing must be carried out to ascertain whether the use complies with the prescribed noise levels. All acoustic testing is to be carried out during a busy period. The results of testing are to be provided to the Responsible Authority and made available to the public. For the purpose of this condition 'busy period' means when the premises (including the outdoor areas) are at 80% capacity (or greater). All to the satisfaction of the Responsible Authority.

16. The building must be constructed and maintained in accordance with the recommendations contained within the approved Acoustic Report to the satisfaction of the Responsible Authority. 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.
17. Noise levels associated with the use must at all times comply with the State Environment Protection Policy (Control of noise from commerce, industry and trade) No. N-1. Should the Responsible Authority deem it necessary, the owner and/or occupier of the land must submit an Acoustic Report to the satisfaction of the Responsible Authority which demonstrates compliance, or which outlines any measures considered necessary to achieve compliance. The recommendations of the Acoustic Report must be implemented to the satisfaction of the Responsible Authority. The endorsed plans must be amended to accord with the recommendations contained in the Acoustic Report to the satisfaction of the Responsible Authority.
18. Noise levels associated with the use must at all times comply with the State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2. Should the Responsible Authority deem it necessary, the owner and/or occupier of the land must submit an Acoustic Report to the satisfaction of the Responsible Authority to demonstrate compliance, or which outlines any measures considered necessary to achieve compliance. The recommendations of the Acoustic Report must be implemented to the satisfaction of the Responsible Authority. The endorsed plans must be amended to accord with the recommendations contained in the Acoustic Report to the satisfaction of the Responsible Authority.

General

19. 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).
20. Prior to the commencement of the use, the existing vehicle crossing at the Lygon Street, Brunswick East frontage must be removed and the kerb, channel and footpath reinstated to the satisfaction of the Responsible Authority (Moreland City Council, City Infrastructure Department).

Time limit – use and development

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

The Responsible Authority may extend the period referred to if a request is made in writing before the permit expires or:

- 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 notice of decision/permit or conditions of this notice of decision/permit.

Note 1: Unless no permit is required under the Moreland Planning Scheme, no sign must be constructed or displayed on the land without a further planning permit.

Note 2: This planning permit does not imply consent of Council for any requirements not

complying with *Tobacco (Amendment) Act 2005*.

Note 3: This permit contains a condition requiring payment of Development Contributions. The applicable development contribution levies are indexed annually. To calculate the approximate once off levy amount, please visit <http://www.moreland.vic.gov.au/planning-building/> and click on 'Moreland Development Contributions Plan (DCP)'. Alternatively, please contact Moreland City Council on 9240 1111 and ask to speak to the DCP Officer.

1. Background

Subject site

The subject site is located at 81 and 81A Lygon Street, Brunswick East.

The site has a frontage to Lygon Street, Brunswick East of 19.1 meters, an average depth of 27.5 meters and a total site area of 525.2 square meters.

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

The land is developed with a double storey, Edwardian-era bank building, sited at the south-east corner of the site. The remaining land is used for on-site car parking and is impervious.

Vehicle access to the site is provided via a single crossover to Lygon Street, Brunswick East. There is a Canary Island Palm located to the north of the building, along the Lygon Street, Brunswick East frontage.

The site was most recently used as a real estate agency (office).

Surrounds

The area is characterised by a mix of Victorian and Edwardian-era commercial shopfronts and recent mixed-use development, including residential apartment buildings with ground floor commercial tenancies.

All land adjoining the subject site is included within the Commercial 1 Zone, with the nearest residential zoned land (that being 57 Luscombe Street, Brunswick East) located 16.2 meters to the west.

The land immediately to the north, at 91 Lygon Street, Brunswick East is developed with a single storey, brick building and is used as an office (accounting firm).

To the west, the site adjoins 118 Weston Street, Brunswick East and 59 and 1/59 Luscombe Street, Brunswick East. The land at 59 and 1/59 Luscombe Street, Brunswick East is developed with a double storey commercial building with a saw tooth roof. The land at 118 Weston Street, Brunswick East is developed with a single storey dwelling, with a commercial shopfront that extends to the Weston Street frontage.

A planning permit (MPS/2014/3) has been issued for building and works at 118 Weston Street, Brunswick East to construct a second storey addition to an existing brick building to the rear of the dwelling, which is constructed along the boundary with the subject site. The planning permit is valid and allows for a ground floor studio and a mezzanine level comprising a study and bedroom. The permit has not been acted upon.

To the south, the site adjoins 79 Lygon Street, Brunswick East which is developed with a single storey building and used for the commercial display of furniture.

A location and zoning plan forms **Attachment 1**.

The proposal

The proposal is summarised as follows:

- To use the land for the sale and consumption of liquor (on premises licence) in association with a bar;
 - The maximum number of patrons will be 300.
 - The maximum number of staff will be 27.
 - The proposed hours of operation are:
 - Sunday to Wednesday: 7:00am to 11:00pm.
 - Thursday to Saturday: 7:00am to 1:00am (the following morning).

- Good Friday and ANZAC day: 12 noon to 11:00pm.
- Partial demolition of the existing building, including the removal of existing business signage and ground floor windows and door at the façade, the existing exhaust fan to the rear, canopy structure at the entry at the north elevation and demolition of windows and brickwork for new openings at the rear of the building;
- Building and works to install new glazing and entry door at the façade and to construct a single storey extension to the rear of the building;
- To reduce the number of car parking spaces required on site to zero.

At ground floor, the proposal primarily comprises indoor dining and seating areas, including two small bars. Together, these indoor areas are intended to accommodate the majority of patrons throughout the day and evening. Also, at ground level, there is an outdoor dining area and deck, located to the north of the existing building and a pergola at the north-east corner, which will be used to accommodate small groups as a private dining area.

Two 'smokers areas' have been nominated outside, at ground level, including at the north-east corner of the site (used before 10pm) and along the north boundary, between the pergola and the outdoor dining area (used after 10pm). Background music, that allows for conversation, is proposed at ground level, both inside and outside.

The first floor of the existing building will comprise a function room that will be serviced by a bar with a maximum capacity of 69 patrons. The first-floor function room will also provide for amplified and live music. The premise is proposed to be licenced for the sale and consumption of liquor on-site, at both ground and first floor.

The development plans form **Attachment 2**.

Statutory Controls – why is a planning permit required?

Control	Permit Requirement
Commercial 1 Zone	Clause 34.01-4: a planning permit is required to construct a building or carryout works. Clause 34.01-1: A permit is not required to use the land for a retail premises (including a bar).
Heritage Overlay	Clause 43-01-1: a permit is required to demolish or remove a building, construct a building or construct or carry out works.
Design and Development Overlay	Clause 43.02-2: a planning permit is required to construct a building or construct or carryout works.
Car Parking	Clause 52.06-3: a planning permit is required to reduce (including to zero) the number of car parking spaces required under Clause 52.06-5.
Licensed Premises	Clause 52.27: a planning permit is required for the sale and consumption of liquor (on-site).

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

- Clause 45.06: Development Contributions Plan Overlay
- Clause 52.34: Bicycle Facilities
- Clause 53.06: Live Music and Entertainment Noise.

2. Internal/External Consultation

Public notification

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

- Sending notices to the owners and occupiers of adjoining and nearby land.
- By placing a sign on the frontage of the site.

Council has received 19 objections to date. A map identifying the location of objector's forms **Attachment 3**.

The key issues raised in objections are:

- Noise impacts to surrounding dwellings;
- Negative cumulative impact associated with the cluster of licenced premises;
- Car parking;
- Hours of operation;
- Maximum number of patrons;
- Impact on heritage values;
- Waste management;
- Anti-social behaviour;
- Smoke pollution from the fire place.

A Planning Information and Discussion meeting was held on 2 October 2019 and attended by 2 Council Planning Officer, the applicant and 8 objectors. The meeting provided an opportunity to explain the application, for the objectors to elaborate on their concerns, and for the applicant to respond.

Following the discussions at the Planning and Information Discussion meeting, it was agreed by the applicant to make the following changes to the proposal (by way of conditions of permit):

- All speakers in the open areas outside to be removed from the plans;
- Change the fireplace to LPG or ethanol to ensure there is no smoke emission to surrounding properties;
- Remove the smoking area adjacent to the pergola and only use the smoking area adjacent to the bicycle racks at the interface with Lygon Street, Brunswick East;
- Any functions that are booked to have a DJ or amplified music to have security.

Internal/external referrals

The proposal was not referred to any external referral authority. The proposal was referred to the following internal business units.

Internal Branch/Business Unit	Comments
Development Advice Engineer	No objections were offered to the proposal subject to modifications, which are addressed by conditions detailed in the recommendation.
ESD Unit	No objections were offered to the proposal. The recommendation includes a condition to require an SDA to be submitted and approved by Council.
Heritage Advisor	No objections were offered to the proposal subject to modifications detailed in the recommendation.

3. Policy Implications

Planning Policy Framework (PPF)

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

- Clause 11 - Settlement
- Clause 15 - Built Environment and Heritage including:
 - Built Environment (Clause 15.01)
 - Healthy neighbourhoods (Clause 15.01-4S and 15.01-4R)
 - Sustainable Development (Clause 15.02)

- Heritage (Clause 15.03)
- Clause 17 - Economic Development
- Clause 18 -Transport.

Local Planning Policy Framework (LPPF)

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

- Clause 21.01 - Municipal Profile
- Clause 21.02 - Vision
- Clause 21.03-1 - Activity Centres
- Clause 21.03-4 - Urban Design, Built Form and Landscape Design
- Clause 21.03-5 - Environmentally Sustainable Design (Water, Waste and Energy).

Local Planning Policies:

- Clause 22.03 - Car and Bike Parking and Vehicle Access
- Clause 22.06 - Heritage
- Clause 22.08 - Environmentally Sustainable Design
- Clause 22.09 - Entertainment Venues and Licensed Premises.

Planning Scheme Amendments

Amendment VC163: The original application submitted to Council included a description of the land use as a 'tavern'. The application material, including consultant reports, also make reference to the use of land as a tavern. Amendment VC163 amended Victorian Planning Schemes to replace land use term 'tavern' with 'bar'. The amendment relates only to the naming of the use and does not impact on merits of the application.

Amendment C183 supports the Moreland Integrated Transport Strategy (MITS) that was adopted by Council in March 2018 and seeks to improve sustainable transport and better manage car parking and traffic congestion in Moreland over the next decade and beyond.

The amendment seeks to introduce changes to car parking requirements for new developments in designated Activity Centres and Neighbourhood Centres by applying three new Parking Overlays. In the Brunswick Activity Centre, a minimum car parking requirement would no longer be specified for new use and development, and instead a maximum rate of allowed car parking would be specified, above which a permit would be required.

The period for public feedback and submissions has closed. Feedback and submissions will be considered by Council at a meeting in December 2019 before proceeding to a Panel hearing in February 2020.

Human Rights Consideration

This application has been assessed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Moreland Planning Scheme) reviewed by the State Government and which complies with the Victorian Charter of *Human Rights and Responsibilities Act 2006*.

4. Issues

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

Does the proposal have strategic support?

The site forms part of the Brunswick Activity Centre, which is one of the three larger activity centres within the municipality identified to accommodate significant change. It is policy within these larger activity centres to encourage a broad mix of housing, commercial and employment uses, including entertainment uses.

Specifically, Clause 21.03-1 seeks to:

- Encourage a mix of retail, office, commercial, entertainment and community uses to be located within activity centres;
- Ensure residential uses do not undermine the viability of businesses operating in activity centres. Residential amenity expectations should be consistent with activity centres' role to accommodate a mix of uses with day and night time activity.

The site is located within the Commercial 1 Zone and the purpose of that zone includes:

- To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.

The proposal enjoys strong strategic support.

Does the proposal respond to the preferred character of the area?

The decision guidelines of the Commercial 1 Zone (C1Z) and the Design and Development Overlay (DDO19), direct Council to consider how new development responds to the preferred character of the area.

Having regard to the above decision guidelines, the proposed development responds to the preferred character of the area, for the following reasons:

- It retains the view of the individually significant building on the site;
- It limits the height of the new development to single storey, which is significantly lower than the mid-rise building height of 3 to 9 storeys that is envisaged for the area;
- It reinforces the fine grain character of Lygon Street, Brunswick East by replacing the homogenous expanse of glazing at the ground floor façade with textured materials, including clear and reed glazing, with LED lighting within the building recesses to highlight architectural features at the street level;
- It converts the vehicle access and car parking area along the Lygon Street frontage to an outdoor dining area, which will contribute to the vibrancy of the street and create an active frontage.

Does the proposal provide an acceptable response to the requirements of the Heritage Overlay?

The site is affected by the Heritage Overlay, Schedule 439 (HO439), titled *Lygon Street Precinct E, Brunswick East*. The Statement of Significance for HO439 relates to the Victorian and Edwardian-era commercial and retail development along Lygon Street in Brunswick East. The site is identified as individually significant within the Precinct.

The existing building is significant as an example of an Edwardian-era bank (former) and of commercial development within Brunswick East. The existing Canary Island palm is also referenced in the physical description of the site. The existing ground floor window and door have been modified and are not contributory. The building is otherwise intact.

Having regard to the decision guidelines of the Heritage Overlay and Council's local heritage policy, the proposal is acceptable for the following reasons:

- The proposed demolition involves the removal of the non-contributory fabric, including the door and windows at façade at ground level and the exhaust at the

west elevation, which is supported by local policy. Minor demolition works are proposed at the north, west and south elevation for new windows and door openings, which does not impact on the street elevation and are supported by Council's Heritage Advisor;

- The proposed alterations to the façade incorporate a simplified design of glazing and a stall riser of dark blue tiles that enclose the existing openings. These changes are not consistent with the buildings original use as a bank. The following changes are recommended as condition of permit to improve the response to the significance of the heritage place:
 - Replace the dark blue tiles with a smooth render (natural cement colour).
 - Replace the glazed entry door with a solid panelled door.
- The proposed extension is sited to the rear of the existing building and is generally concealed from view from Lygon Street, Brunswick East. The extension is single storey in height and incorporates a flat roof design, which clearly distinguishes it as a non-contributory, later addition;

Does the proposal provide an acceptable amenity outcome?

The amenity impacts associated with the proposal must be considered. However, residential amenity expectations should be consistent with activity centres' role to accommodate a mix of uses with day and night time activity.

In determining whether the application provides an acceptable amenity outcome, the key questions include:

- Are the proposed hours of operation acceptable?
- Is the proposed maximum number of patrons acceptable?
- Are noise attenuation measures acceptable?
- Is the cumulative impact of licensed premises in the surrounding area acceptable?

Are the proposed hours of operation acceptable?

The proposed hours of operation are

- Sunday to Wednesday: 7 am to 11 pm.
- Thursday to Saturday: 7 am to 1 am (the following day).
- Good Friday and ANZAC day: 12 noon to 11 pm.

The proposed hours of operation are consistent with Council's Entertainment Venues and Licenced Premises local policy, which seeks to encourage licensed venues that operate after 11 pm to be located within Activity Centres.

Several measures have been proposed by the applicant, which would limit adverse amenity impacts. These measures include:

- Locating the primary outdoor dining area at the centre and east of the site, towards Lygon Street, Brunswick East and sited along the interface with the office building to the north. This will minimise the impact on the residential area to the west.
- A staggered closing process, whereby the outdoor areas are closed at 10 pm and the capacity of the venue is reduced, from 300 to 250 patrons.
- Security staff will manage patron numbers and assist with the closure of the outdoor area at 10 pm.
- CCTV surveillance will be installed at the entry and exit point of the site.

These measures will assist with reducing amenity impacts.

A Venue and Patron Management Plan has been submitted, which is a requirement of the local policy for venues trading after 11 pm. The recommendation includes conditions to ensure this plan is implemented.

Is the proposed maximum number of patrons acceptable?

The venue would have a maximum patron capacity of 300 patrons. This is considered reasonable in the context of the size of the site, which is approximately 525 square meters. The venue is sufficient in size to safely accommodate 300 patrons, which is confirmed by the Patron Capacity Report prepared by Floreancingsmith building surveyors (dated 13 June 2019).

The applicant also proposed to decrease the maximum patron number after 10 pm, from 300 to 250 people, which reflects the reduced size of venue with the closure of the outdoor dining areas at 10 pm.

A 300-patron capacity is acceptable, as the site and venue is large enough to accommodate enough circulation and open space to dissipate this number of patrons across the venue. The venue management plan contains a number of operational measures to limit amenity impacts and respond to issues, including:

- That staffing numbers (maximum of 27 persons) will be adequate to ensure that the venue is managed effectively.
- Security personnel will be employed for private functions held on the first floor and during peak times or as required.

Are the noise attenuation measures acceptable?

Within activity centres, it is a Council strategy (at Clause 21.03-1) to implement the 'agent of change' principle by encourage new noise generating uses to integrate appropriate noise attenuation measures. Further, in accordance with the 'agent of change' principle, under Clause 53.06 'Live Music and Entertainment Noise' of the Planning Scheme, there are acoustic requirements for new venues that includes live music.

The applicant has engaged Clarity Acoustics Pty Ltd to complete an acoustic assessment of the proposal and make recommendations on the appropriate acoustic treatments for effective noise mitigation.

The acoustic assessment has considered the relevant legislation and noise related standards and guidelines, including the:

- *State Environmental Protection Policy (Control of Noise from Commerce, Industry and Trade)* No. N1 (SEPP N-1). This policy protects people from commercial, industrial or trade noise; and,
- *State Environmental Protection Policy (Control of Music Noise from Public Premises)* No. N-2 (SEPP N-2). This policy protects residents from music noise.

The above policy does not consider the noise from patrons associated with the venue. However, the acoustic assessment has applied the patron noise criteria contained within the Yarra Planning Scheme (at Clause 37.01 of the Yarra Planning Scheme) to assess the patron noise from the proposed venue, which has been accepted at the Victorian Civil and Administrative Tribunal.

The applicant has proposed several noise attenuation measures, including closing the outdoor dining areas at 10 pm.

Additionally, the acoustic report offers several design/construction and operational recommendations to mitigate noise impacts to ensure compliance with SEPP N-1, SEPP N-2 and the patron noise criteria, including:

- Upgraded glazing to the windows of the first-floor function room;
- A recommended minimum sound insulation rating for construction materials associated with the dining pavilion roof, doors, glazed elements and windows;
- The doors and windows of the dining pavilion are to be closed from 10 pm.

With respect to patron noise, the acoustic report finds that proposal will comply with the day time patron noise targets but is expected to exceed those targets for evening patron noise by an average of 1 dB for the apartments at 93-97 Lygon Street, Brunswick East. The acoustic report states that the level of variation to the evening patron noise target is generally imperceptible and will not likely result in an adverse acoustic impact.

A limitation of the acoustic report is that it fails to identify the entire property boundaries of 118 Weston Street, Brunswick East which includes a garage and outbuilding (used as a home office/studio) at the rear and interfaces with the subject site. A condition of the recommendation requires the acoustic report prepared by Clarity Acoustics dated 28 June 2019 (referenced as Report R01 Rev1 19047) to be updated to include an assessment of the impact of the proposal on this outbuilding. The amended report must detail any acoustic treatments to ensure compliance with SEPP N-1 and SEPP N-2 and ensure the impact of patron noise will be reasonable, noting that this dwelling is located within the boundaries of the activity centre and the outbuilding presently does not contain living rooms or bedrooms.

The recommendation also includes permit conditions requiring:

- Additional acoustic testing to be undertaken and a report provided within 3 months of the new use commencing;
- That the building be constructed and maintained in accordance with the endorsed acoustic report;
- That the use must comply with the requirements of SEPP N-1 and N-2 at all times. If necessary, Council can request a new acoustic report to demonstrate compliance, or which outlines measures required to achieve compliance.

Is the cumulative impact of the licensed premises in the surrounding area acceptable?

There are a total of 49 licenced premises within 500 meters of the site, with 45 of those premises in operation.

A concentration of this scale is considered a cluster, according to *Planning Practice Note 61 – Licensed Premises: Assessing cumulative impact*. Due to the subject site's Activity Centre context, it is expected that there will be a concentration of licences premises in the immediate area.

The existence of a cluster of licences premises can contribute to a variety of positive cumulative impacts, including the creation of a vibrant local identity, economic benefits and increased consumer choice. To mitigate the negative cumulative impacts of the proposed additional premises, the applicant has:

- Proposed an earlier closing time compared to other venues, which limits the number of patrons that would be ejected onto the street at any given time;
- Provides a substantial food and dining area, which limits the likelihood of patrons visiting the venue primarily to consume liquor;
- Limited patron capacity to what can reasonably and safely be accommodated on the site, considering its size;
- Confined amplified music to the first floor of the existing building, provides background music indoor at ground level and no music provided to outdoor areas;
- While there are a large number of licensed premises, only 3 of the 49 licenced premises can accommodate more than 200 people. Of those venues with a capacity of more than 200 people, only two are trading after 11 pm. Therefore, application will not result in a concentration of similar venues within the area. It is noted that 22 of the surrounding licences are restaurant and café licences;
- The subject site is well serviced by public transport, with the route 1 and 6 tram operating along Lygon Street, which can assist with the orderly dispersal of patrons.

The cumulative impact of an additional licenced premises in this area is considered reasonable and acceptable in this instance.

Has adequate car and bicycle parking been provided?

A total of 12 car parking spaces are required for the use. The proposal seeks to reduce the number of car parking spaces required to zero.

Based on Council's Local Planning Policy at Clause 22.03-3 (Car and Bike Parking and Vehicle Access) it is considered reasonable to reduce the car parking requirements. Clause 22.03-3 states that it is policy to:

- Support reduced car parking rates in developments within and in close proximity to activity centres, with excellent access to a range of public transport options and with increased provision of bicycle parking above the rates specified in clause 52.34.

The site has excellent access to public transport including the route 1 and 6 tram, that operate along Lygon Street, Brunswick East. The nearest tram stop is 90 meters from the subject site. The proposal provides 9 bicycle parking spaces which is above the 5 specified in Clause 52.34.

Council's Development Advice Unit is satisfied that car parking requirement can be reduced to zero for this application.

Vehicles, whether related to this or other developments and uses in the street, can only park on the street in accordance with any parking regulations. The number of vehicles that can park on the street and at what time will be dictated by the parking restrictions and the availability of on-street car spaces.

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

In relation to traffic impacts, Council's Development Advice Unit has assessed the proposal and consider that the use and development could result in a maximum of 221 additional vehicle movements along Lygon Street, Brunswick East (a Council major road). The additional vehicles will not result in this street exceeding the maximum volumes permitted under the Moreland Integrated Transport Strategy.

What impact does the proposal have on cycling, bike paths and pedestrian safety, amenity and access in the surrounding area?

The proposal provides an acceptable response to Council's Local Planning Policy Clause 22.03 (Car and Bike Parking and Vehicle Access) as it:

- Limits additional traffic movements by providing minimal on-site car parking, in an area well serviced by public transport;
- Removes an existing vehicle crossover from Lygon Street, Brunswick East; and,
- Provides 9 bicycle spaces, with convenient access to the East Brunswick shimmy and Capital City Trail.

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

The recommendation includes a condition requiring the submission of a Sustainable Design Assessment demonstrating best practice in environmentally sustainable development in accordance with Council's ESD local policy. The applicant has committed to the following ESD features, which can be confirmed through the submission of the Sustainable Design Assessment:

- Use of an ORCA waste disposal system (aerobic digestion system) for organic waste generated by the kitchen;
- Installation of a solar hot water system.
- Provide for insulation to roof structure within the solid roof section of the dining pavilion to maximise the energy efficiency of the new building;

- Upgrade the glazing to Heritage Building which will improve acoustics and energy efficiency;
- Install weather seals to new external doors and windows to improve the thermal insulation within the space;
- Ceiling fans to be installed within the Dining Pavilion to assist with airflow within the space and reduce the frequency when Mechanical Cooling is required;
- Incorporation of greenery throughout the Dining Pavilion will assist with stabilising the temperature within the space over the hotter months and assist in reducing the reliance on Mechanical Cooling System;
- Secure Bike Parking to be provided at the entrance to the venue to encourage patrons and staff to use their bikes rather than cars to come to the venue;
- Glazed Section over the Dining Pavilion will allow optimal daylight access to the area and reduce the reliance on artificial lighting;
- Paints, adhesives and sealants of low VOCs will be specified for the Project wherever possible;
- Water Efficiency Sanitary Fixtures and Fittings will be specified as part of the Project wherever possible;

5. Response to Objector Concerns

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

- Adverse noise impacts to surrounding dwellings;
- Negative cumulative impact associated with the cluster of licenced premises;
- Car parking;
- Hours of operation;
- Maximum number of patrons;
- Impact on heritage values;

Other issues raised by objectors are addressed below.

- Waste management;
- Anti-social behaviour;
- Smoke pollution from the fire place;

Waste management

The applicant engaged Leigh Designs Pty Ltd to prepare a Waste Management Plan for the proposed use of the site. Should a planning permit issue, the Waste Management Plan will be endorsed and form part of the permit. This will enable Council to enforce the waste management processes and commitments contained within the plan.

The objection made specific reference to waste and rubbish from patrons leaving the site. The proposed use is not expected to generate any waste that patrons would take with them. The Venue and Patron Management Plan also includes provision for supervision of departing patrons.

Anti-social behaviour

Whilst offsite amenity impacts are difficult to capture through planning permit conditions, the applicant has submitted a Venue and Patron Management Plan that lists operational commitments, such as staffing levels and the employment of security personnel to be employed for private functions.

The recommendation includes a condition to require the implementation of the Venue and Patron Management Plan.

Smoke pollution from the proposed fire place

In response to this objection, the permit applicant has agreed to the inclusion of a condition of permit that requires the proposed fire place (located within the dining pavilion) be changed to LPG or ethanol to ensure there is no smoke to surrounding neighbours.

6. Officer Declaration of Conflict of Interest

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

7. Financial and Resources Implications

There are no financial or resource implications.




8. Conclusion

It is considered that the proposed use and development of the land at 81 and 81A Lygon Street, Brunswick East, is consistent with the purpose of the Commercial 1 Zone and with Council's Strategic Framework Plan.

The proposed development will result in a built form outcome that respects the heritage significance of the site and contributes to the fine grain character of Lygon Street. The proposed use and development strikes a balance between the level of change and activity encouraged within the Brunswick Activity Centre and the amenity of the surrounding area.

On the balance of policies and controls within the Moreland Planning Scheme and objections received, it is considered that a Notice of Decision to Grant a Planning Permit No MPS/2019/375 should be issued for use of the land for the sale and consumption of liquor (on premises licence) in association with a bar, partial demolition and alterations and additions to construct an extension to the existing building and a reduction in the statutory car parking requirement, subject to the conditions included in the recommendation of this report.

Attachment/s

<u>1</u> 	Location and Zoning map - 81 and 81A Lygon Street, Brunswick East	D19/446016
<u>2</u> 	Advertised plans - 81 and 81A Lygon Street, Brunswick East	D19/446018
<u>3</u> 	Objector location map - 81 and 81A Lygon Street, Brunswick East	D19/446020

**DCF88/19 200-216 SYDNEY ROAD, COBURG - MPS/2017/1029/A
(D19/434286)**

Director City Futures

City Development

Executive Summary



Property:	200-216 Sydney Road, Coburg
Existing permit allows:	Development of the land for the purpose of an 8-storey building comprising shops, offices and apartments, and 2 and 3-storey townhouses; a reduction of the car parking requirement; and alteration of access to a road in a Road Zone, Category 1 (removal of crossovers) in accordance with the endorsed plans.
Proposal:	Amendment to the permit to allow 3 additional apartments and to increase the size of the communal rooftop terrace.
Zoning and Overlay/s:	<ul style="list-style-type: none"> • Activity Centre Zone (Schedule 1) • General Residential Zone (Schedule 1) • Parking Overlay (Schedule 1) • Environmental Audit Overlay • Development Contributions Plan Overlay.
Strategic setting:	<div>Minimal housing growth</div> <div>Incremental housing growth</div> <div>Increased housing densities encouraged</div> <div>Significant housing growth</div>
Objections:	<ul style="list-style-type: none"> • 10 • The key issues raised by objectors are overlooking and noise from an expanded rooftop terrace, contrary to the agreement reached at the VCAT Compulsory Conference
Planning Information and Discussion Meeting:	<ul style="list-style-type: none"> • None held.
ESD:	<ul style="list-style-type: none"> • Minimum average NatHERS rating of 6.5 stars (no change).
Accessibility:	<ul style="list-style-type: none"> • The three additional apartments will all be adaptable • Adaptable apartments comprise 91 per cent of the total development.
Key reasons for support	<ul style="list-style-type: none"> • The applicant has agreed to return the rooftop terrace to the size agreed at the VCAT Compulsory Conference • The 3 additional dwellings do not result in an unacceptable planning outcome.
Recommendation:	It is recommended that a Notice of Decision to Grant an Amended Planning Permit be issued for the proposal.

Officer Recommendation

That a Notice of Decision to Grant an Amended Planning Permit No. MPS/2017/1029/A be issued for the development of the land for the purpose of an 8-storey building comprising shops, offices and apartments, and 2 and 3-storey townhouses; a reduction of the car parking requirement; and alteration of access to a road in a Road Zone, Category 1 (removal of crossovers) at 200-216 Sydney Road, Coburg, subject to the following conditions:

(Note: amended conditions in bold)

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 be generally in accordance with the plans prepared by Hayball Pty Ltd Drawing Nos. **TP01.00 to TP01.09, TP06.04 and TP12.01 Revision 9 dated 1 October 2018 and TP01.10, TP01.13, TP06.01 to TP06.03 and TP07.01 to TP07.03 Revision 11 dated 7 December 2018** but modified to show:
 - a) **The rooftop terrace reduced in size to match that shown on TP01.10 Revision 9 dated 1 October 2018 (i.e. the roof terrace plan agreed to at the Compulsory Conference - VCAT Ref: P1190/2018).**
 - b) Screening of all habitable room windows and balconies/terraces where necessary to prevent overlooking of neighbouring secluded private open space and habitable room windows in accordance with Standard B22 of Clause 55.
 - c) A screen diagram drawn at a scale of 1:20 which details the any screening proposed to prevent overlooking in accordance with Standard B22 of Clause 55. The diagram/s must include:
 - i. All dimensions, including the width of slats and the gap between slats.
 - ii. The angle of any louvres.
 - iii. All side screens.
 - iv. How compliance is achieved with the standard of Clause 55.04-6 (overlooking) of the Moreland Planning Scheme.
 - d) The location of bollard lighting as required by Condition 23 of this Permit.
 - e) The after-hours gate at the eastern and western ends of the pedestrian link deleted.
 - f) An apartment storage summary table that details the internal, external and total storage for each apartment (or apartment type) and shows compliance with Standard D20 of Clause 58.
 - g) Initiatives contained within the amended Sustainability Management Plan (SMP), including:
 - i. External shading devices (or eaves where appropriate) to protect exposed north, east and west facing glazing from peak summer sun, which does not detract from desired winter heat loading. This includes windows as well as glazed sliding doors. A section detail of the shading is required.
 - ii. Stormwater management treatments, such as rainwater harvesting tanks (and the tank capacity in terms of litres, which is independent of any detention requirements), raingardens (including a clear location, type of raingarden, and relevant setbacks from adjoining structures). If a raingarden is used, a section detail of the raingarden as per Moreland raingarden guidelines is required.
 - iii. Any details required to achieve the energy efficiency improvements, such

as improved glazing or external sun shading.

- iv. Confirmation that the bin chutes within the apartment building have dedicated chutes for both garbage waste and recycling waste (not only garbage waste).
- h) Introduction of screening vegetation including retention of Tree 11 along the south boundary adjacent to Nos. 3, 5, 7, 9, 11 and 13 Rennie Street, Coburg;
- i) At least 20 per cent of the bicycle parking devices on each level and at each location to be designed to park bicycles horizontally (i.e. 1.7 metres long) in accordance with the Australian Standard for Bicycle Parking (AS2890.3).
- j) One bicycle parking device in each of the townhouse garages but not located within the 'clearance required' areas in Diagram 1 of Clause 52.06 of the Moreland Planning Scheme. The plans are to specify the type of bike parking device and the dimensions shown must accord with the specifications in Australian Standard for Bicycle Parking (AS2890.3).
- k) All parking spaces with a wall adjacent to one side of the parking space be at least 0.3 metres wider, to allow for opening car doors in accordance with Clause 2.4 of the Australian Standard for Off-Street Parking (AS2890.1).
- l) The arbour/trellis over the widened north-south laneway from Rennie Street, Coburg contained within the title boundaries of the subject site.
- m) All commercial spaces marked 'retail' re-labelled as 'shop'.
- n) Additional windows to apartments E003, W409 and W509 to allow for cross ventilation.
- o) Floorplans modified to note windows as openable where necessary to achieve cross ventilation, including windows to communal corridors.
- 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) 1:50 or 1:20 detailed drawings of any service cupboard/s facing a street, showing a proposed design, including details of materials, finishes and colours, that complements the appearance of the development and does not detract from the amenity of the public realm.
- r) All existing trees clearly labelled as 'to be retained' or 'to be removed'.
- s) Landscape plans in accordance with Condition 5 of this permit.
- t) A Sustainability Management Plan in accordance with Condition 32 of this permit.
- u) A Waste Management Plan in accordance with Condition 34 of this permit.
- v) An Acoustic Report in accordance with Condition 38 of this permit.
- w) An Accessibility Report in accordance with Condition 36 of this Permit.
- x) Any practical changes to the plans required by the additional reports and plans required by conditions of this Permit.

Public works plan

- 2. Prior to the commencement of development, a Public Works Plan and associated construction drawing specifications detailing the works to the land must be submitted and approved to the satisfaction of the Responsible Authority. The plan must detail works within the public realm surrounding the site and include:
 - a) A detailed level and feature survey of the footpaths and roads.

- b) The proposed vehicle crossings to a standard satisfactory to the Responsible Authority (Moreland City Council, City Infrastructure Department).
- c) Any Council or service authority pole or pit within 1 metre of a proposed
- d) vehicle crossing, including the 1 metre splays on the crossings, relocated or modified.
- e) Any required relocation of parking and traffic signs.
- f) Public footpaths to be reinstated to the previous levels with a maximum cross fall slope of 1 in 40 (2.5 per cent).
- g) A request for a traffic management device for traffic calming measures opposite the pedestrian link on Cash Street, Coburg.
- h) Any other works to the public land adjacent to 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 occupation of the development unless otherwise agreed with prior written consent of the Responsible Authority.

Section 173 Agreement – Public asset/pedestrian access/indemnify

3. Prior to the occupation of any part of the development hereby permitted, an agreement under Section 173 of the Planning and Environment Act 1987 must be entered into between the Owners of the land and the Responsible Authority in a form satisfactory to the Responsible Authority providing for:
 - a) Unrestricted public pedestrian and bicycle access to the pedestrian link and pocket park for 24 hours a day (364 days a year) unless otherwise agreed to by the Responsible Authority.
 - b) The owners of the land to indemnify the Moreland City Council against any claims associated with the use of the pedestrian link and pocket park and responsibility for the on-going maintenance of the pedestrian link and pocket park.

Development not to be altered

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

Landscaping

5. Prior to the commencement of any development works, amended landscape plans must be submitted to and approved by the Responsible Authority. The landscape plans must be generally in accordance with the plans prepared by LBA Design dated January 2018 but modified to show:
 - a) All existing trees clearly labelled as 'to be retained' or 'to be removed'. A schedule of all proposed trees, shrubs and ground covers (including numbers, size at planting, size at maturity and botanical names), as well as sealed and paved surfaces. The flora selection and landscape design should be drought tolerant and based on species selection recommended in the Moreland Landscape Guidelines 2009.
 - b) Details of proposed planter boxes and above basement planting areas confirming sufficient soil volume for the proposed planting and appropriate drainage design.
 - c) Details of proposed watering methods and maintenance of the plants, including an automatic irrigation system for all planter boxes and planting directly above the basement.

- d) Details of the location and type of all paved and sealed areas. Extensive hard surfaces are not supported. The adoption of porous/permeable paving, rain gardens and other water sensitive urban design features are encouraged.
 - e) The provision of at least one tree within the front setback of each townhouses facing the street to assist in the integration of the development within the existing streetscape, with the tree species selected according to the available space, in accordance with the Moreland Tree Planting Manual for Residential Zones, 2014.
 - f) The location of any rain gardens as detailed in the endorsed Sustainability Management Plan.
 - g) Planting within all open areas of the site.
 - h) Details of the design of the 'pocket park' adjacent to the Cash Street, Coburg frontage.
6. 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.
 7. Prior to the commencement of occupation or at a later date with the prior written consent of the Responsible Authority, the owner must pay Council to remove and provide advanced replacement tree(s) in an appropriate location in a nature strip nearby in accordance with the Moreland Street Landscape Strategy for each street tree removed for the vehicle crossing, to the satisfaction of the Responsible Authority.

Tree Protection

8. Prior to development commencing (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), all trees to be retained, including Council street trees, must have a Tree Protection Zone (TPZ) to the satisfaction of the Responsible Authority. The fencing associated with this TPZ must meet the following requirements:
 - a) Extent

The tree protection fencing (TPF) is to be provided to the extent of the TPZ, calculated as being a radius of 12 x Diameter at Breast Height (DBH – measured at 1.4 metres above ground level as defined by the Australian Standard AS 4970.2009)

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

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

Fixed signs are to be provided on all visible sides of the TPF clearly stating "Tree Protection Zone – No Entry", to the satisfaction of the Responsible Authority.
 - d) Irrigation

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

Unless with the prior written consent of the Responsible Authority, all services (including water, electricity, gas and telephone) must be installed underground, and located outside of any TPZ, to the satisfaction of the Responsible Authority.

f) Access to TPZ

Should temporary access be necessary within the Tree Protection Zone during the period of construction, the Responsible Authority must be informed prior to relocating the fence (as it may be necessary to undertake additional root protection measures such as bridging over with timber).

Parking and access

9. 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 the commencement of the use or occupation of the development.
 - 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.
 - f) Be marked with the associated apartment or shop number to facilitate management of the car park.
10. Car parking within the development must be allocated as follows:
 - a) At least 1 car parking space to each commercial tenancy
 - b) At least 1 car parking space to each 1 and 2 bedroom dwelling
 - c) At least 2 car parking spaces to each dwelling with 3 or more bedrooms
 - d) Any tandem parking spaces must be allocated to the same dwelling or commercial tenancy

Car parking spaces must be available for use by the allocated dwelling or commercial tenancy at all times.
11. Prior to the occupation of the development, the car park entry gate and/or garage roller door(s) must be automatic and remote controlled.
12. The vehicular access ramp from the basement to the street be installed with traffic signal devices so vehicles do not enter the bend from opposing directions at the same time to the satisfaction of the Responsible Authority.
13. 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).
14. Prior to the occupation of the development, any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority (Moreland City Council, City Infrastructure Department).
15. Public footpaths are to be reinstated with a crossfall slope of 1 in 40 (2.5 per cent)
16. The widened north-south laneway from Rennie Street, Coburg is to be constructed to Council's standards using construction plans approved by Council and the works supervised by Council.
17. All bicycle parking racks must be installed in a secure manner that accords with the specifications in Australian Standard for Bicycle Parking (AS2890.3), to the satisfaction

of the Responsible Authority.

Projections over the street

18. All awnings over the Sydney Road, Coburg footpath must not project beyond the street alignment more than 2.4 metres and at any height less than 2.4 metres above the level of the footpath in accordance with Clause 508 of the Building Regulations 2006 to the satisfaction of the Responsible Authority.

Stormwater

19. 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).
20. Stormwater from the land must not be directed to the surface of the right-of-way to the satisfaction of the Responsible Authority.

VicRoads conditions

21. All disused or redundant vehicle crossings must be removed and the area reinstated to kerb and channel to the satisfaction of and at no cost to the Roads Corporation prior to the commencement of the use or the occupation of the buildings or works hereby approved.

Transport for Victoria condition

22. The permit holder must take all reasonable steps to ensure that disruption to tram operation along Sydney Road, Coburg is kept to a minimum during the construction of the development. Foreseen disruptions to tram operations during construction and mitigation measures must be communicated to Yarra Trams and Public Transport Victoria eight (8) weeks prior. The permit holder must ensure that all track, tram and overhead infrastructure is not damaged. Any damage to public transport infrastructure must be rectified to the satisfaction of Public Transport Victoria at the full cost of the permit holder.

Pedestrian paths illuminated

23. Before the occupation of the development, bollard lighting standing no higher than 1.2 metres above ground level is to be installed and maintained on the land to automatically illuminate pedestrian access to the dwelling(s) between dusk and dawn with no direct light emitted onto adjoining property to the satisfaction of the Responsible Authority.

Front windows retained for display

24. The shopfront windows may only be used for promotion and display of goods and must not be painted or blocked out in any way to the satisfaction of the Responsible Authority.

Development Contributions Plan

25. 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.
26. If an application for subdivision of the land in accordance with the development approved by this permit is submitted to Council, payment of the Development Infrastructure Levy can be delayed to a date being whichever is the sooner of the following:
 - a) For a maximum of 12 months from the date of issue of the Building Permit for the

development hereby approved; or

- b) Prior to the issue of a Statement of Compliance for the subdivision;

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

Environmental Audit

27. 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:
28. 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,
29. 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.
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.
32. 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).
33. Prior to any remediation works 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.

Sustainable Management Plan

34. Prior to the endorsement of plans, the Sustainability Management Plan prepared by JBA Consulting Engineers Pty Ltd dated 20 September 2018 must be amended by a suitably qualified environmental engineer or equivalent to the satisfaction of the Responsible Authority to achieve best practice in environmentally sustainable development in accordance with Clause 22.08 of the Moreland Planning Scheme, to the satisfaction of the Responsible Authority.

35. Where alternative ESD initiatives are proposed to those specified in this condition, the Responsible Authority may vary the requirements of this condition at its discretion, subject to the development achieving equivalent (or greater) ESD outcomes in association with the development.
36. When submitted and approved to the satisfaction of the Responsible Authority, the amended Sustainability Management Plan and associated notated plans will be endorsed to form part of this permit.
37. All works must be undertaken in accordance with the endorsed Sustainability Management Plan (SMP). No alterations to the SMP may occur without the prior written consent of the Responsible Authority.

Waste Management Plan

38. Prior to the endorsement of plans, a Waste Management Plan generally in accordance with the Waste Management Plan prepared by Leigh Designs dated 19 December 2017 but updated to reflect the plans required by Condition 1, must be submitted and approved to the satisfaction of the Responsible Authority. When submitted and approved to the satisfaction of the Responsible Authority, the Waste Management Plan and associated notated plans will form part of this permit.
39. 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

40. Prior to the endorsement of plans, an Accessibility Report prepared by a suitably qualified person must be submitted and approved to the satisfaction of the Responsible Authority. The report must be generally in accordance with the report prepared by Before Compliance Pty Ltd dated 20 February 2018 but updated to refer to the plans required by Condition 1 of this permit, detail how the development will incorporate adaptable, accessible and visitable design features in accordance with the Silver Performance Level of the Liveable Housing Design Guidelines 2012, and comply with Standard D17 (Accessibility) of Clause 58 of the Moreland Planning Scheme, including the detailed design of the adaptable bathrooms (e.g. confirmation of hobless showers and removable hinges to doors) and confirmation that the shower screen can encroach on the circulation space of the 'design option B' accessible bathroom layout. The recommendations of the report must be implemented to the satisfaction of the Responsible Authority prior to the occupation of the development. No alterations to the plan may occur without the written consent of the Responsible Authority.
41. Prior to the occupation of any dwelling approved under this permit, 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

42. Prior to the endorsement of plans, an Acoustic Report prepared by a qualified Acoustic Engineer and generally in accordance with the Acoustic Report prepared by Vipac Engineers and Scientists Limited dated 20 February 2018 must be submitted and approved to the satisfaction of the Responsible Authority.
43. The building must be constructed and maintained in accordance with the recommendations contained within the approved Acoustic Report to the satisfaction of the Responsible Authority. 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.

44. Prior to the occupation of any dwelling approved under this permit, 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.

Permit expiry

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

The Responsible Authority may extend the period referred to a request is made in writing before the permit expires or;

- i. Within six months after the permit expires to extend the commencement date.
- ii. Within 12 months after 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.

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

Should Council impose car parking restrictions in this street, the owners and/or occupiers of the land would not be eligible for any Council parking permits to allow for on street parking.

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.

Where a Statement of Environmental Audit issued for the land contains conditions that the Responsible Authority considers to be unreasonable in the circumstances, the Responsible Authority may seek cancellation or amendment of the planning permit in accordance with Section 87 of the Planning and Environment Act 1987.

This permit has been issued in accordance with the Victorian Civil and Administrative Tribunal's Order P1190/2018 dated 14 November 2018.

1. Background

Subject site

The subject site is located at 200-216 Sydney Road, Coburg, on the eastern side of Sydney Road, Coburg between Edward Street, Coburg to the north and Rennie Street, Coburg to the south.

The site is irregular in shape, with a maximum depth of 123 metres, a frontage to Sydney Road, Coburg of 60 metres, a frontage to Cash Street, Coburg of 47 metres and a frontage to Rennie Street, Coburg of 12 metres. The total site area is approximately 7,438 square metres.

The site is currently occupied by a display suite/sales office and a few remaining buildings from the previous commercial use that have yet to be demolished.

The majority of the site is within the Activity Centre Zone. The eastern end of the site, adjacent to Cash Street, Coburg, is within the General Residential Zone.

Surrounds

The surrounding area is characterised by commercial uses fronting Sydney Road, Coburg and dwellings fronting Cash Street, Coburg and Rennie Street, Coburg. Both residential and commercial buildings in the area are of a predominantly single and double storey scale.

Adjoining the subject site to the north is a single storey commercial building at 218 Sydney Road, Coburg, a car park associated with a retail premises at 228-238 Sydney Road, Coburg, and dwellings at 2/7 and 5 Cash Street, Coburg.

Adjoining the subject site to the south is an attached double storey building accommodating a restaurant fronting Sydney Road, Coburg (188 Sydney Road, Coburg) and the backyards of residential properties facing Rennie Street, Coburg. Most notably, a new double storey dwelling has relatively recently been constructed at 1 Cash Street, Coburg, which was formerly the rear of the two properties at the north-west corner of Rennie Street, Coburg and Cash Street, Coburg. This dwelling is oriented northwards, towards the subject site, and has been designed with a number of passive environmentally sustainable design features that rely on its northern aspect and access to sunlight.

The context is largely unchanged from when the permit was issued, except for a small single storey extension to the rear of 3 Rennie Street, Coburg.

A location plan forms **Attachment 1**.

The proposal

This application proposes to amend the existing permit as follows:

- Provision of an additional 3 apartments at Level 7 at the Sydney Road, Coburg end of the site.
- An increase in the size of the communal rooftop terrace.

Following notice, the applicant advised they will accept a condition requiring the deck to remain at its approved size.

The development plans form **Attachment 2**.

Planning Permit and site history

The Planning Permit being amended was originally issued on 15 November 2018 following successful mediation at Victorian Civil and Administrative Tribunal (VCAT) through the Compulsory Conference process. This involved the agreement of all parties, including the applicant, Council, and 5 objector parties. The mediated proposal was supported by Council at its October 2018 Planning and Related Matters meeting.

The now approved development made significant changes through the Compulsory Conference process. These are summarised below:

- Significantly increased boundary setbacks between the south-east corner of the proposed apartment building and the southern boundary that abuts resident properties fronting Rennie Street, Coburg.
- Deletion of a townhouse in the south-eastern corner of the site, to be replaced with a publicly accessible pocket park of approximately 200 square metres.
- Modifications to the Cash Street, Coburg townhouses to provide for a more recessed second floor level.
- Environmentally Sustainable Design (ESD) response improved to 'best practice'.
- Improvements to the design of the Sydney Road, Coburg wall.
- Provision of an additional point of pedestrian access to the pedestrian link and courtyard on the southern side of the 8-storey building via the Rennie Street, Coburg laneway.
- Additional deep soil planting areas.
- The rear Rennie Street, Coburg townhouse (TH11) reduced in height from 3 to 2 storeys.
- An additional 2-storey townhouse provided adjacent to the northern boundary (TH13) and associated changes to the ground level circulation.
- Townhouse TH05 reduced in height from 3 storeys to 2 storeys.
- Various changes to apartment layouts to achieve compliance with Clause 58 Standard D19 (Private Open Space) and Standard D27 (Natural Ventilation).
- A permit condition to allow 24-hour access to the pedestrian link and pocket park.
- Reduction in the size of a rooftop deck
- The number of apartments reduced from 158 to 155.

While discussions within a Compulsory Conference are undertaken on a 'without prejudice' basis, it is relevant to note that the 3 additional apartments now proposed were discussed at the Compulsory Conference. The applicant decided against adding these apartments through the VCAT process, as it would have given rise to a need to re-advertise and further delay the VCAT decision. Given that in-principal agreement on the development had been reached by the existing parties, and the not insignificant time invested by all parties in reaching this position, the applicant decided to seek this change and advertise through a new future planning permit amendment process rather than through the VCAT process.

Statutory Controls – why is an amended planning permit required?

Control	Permit Requirement
Activity Centre Zone Schedule 1 (Precinct 6)	Clause 37.08-2: A permit is required for the use of the land for dwellings Clause 37.08-5: A permit is required to construct a building or construct or carry out works.

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

- Clause 45.03 - Environment Audit Overlay
- Clause 45.06 - Development Contributions Plan Overlay (Schedule 1)
- Clause 45.09 - Parking Overlay (Schedule 1)

- Clause 58 - Apartment Developments.

2. Internal/External Consultation

Public notification

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

- Sending notices to the owners and occupiers of adjoining and nearby land; and
- Placing signs on each street frontage of the site.

Council has received 10 individual objections from 8 different households. A map identifying the location of objectors forms **Attachment 3**.

The key issues raised in objections are:

- Overlooking and noise from the increased rooftop terrace area.
- The increase in the size of the rooftop terrace is contrary to the agreement at the Compulsory Conference.
- The visual bulk and amenity impact of the additional dwellings.
- Various concerns with the existing approved development.

Overwhelmingly, the key concern of objectors was the proposed change to the rooftop terrace. Given that the applicant has agreed to a condition to resolve this issue, a Planning Information and Discussion meeting has not been held. This has been communicated to the objectors concerned with this issue.

Internal/external referrals

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

Internal Branch/Business Unit	Comments
Urban Design Unit	While the approved design is preferred, overall the proposal still achieves a positive outcome and is supported.

3. Policy Implications

Planning Policy Framework (PPF)

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

- Clause 11 - Settlement
- Clause 13.04-1S - Contaminated and potentially contaminated land
- Clause 13.05 - Noise
- Clause 15.01 - Built Environment
- Clause 15.02 - Sustainable Development
- Clause 16.01 - Residential development
- Clause 17.02 - Commercial
- Clause 18.02 - Movement Networks.

Local Planning Policy Framework (LPPF)

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

Municipal Strategic Statement:

- Clause 21.01 - Municipal Profile
- Clause 21.02 - Vision;
- Clause 21.03-1 - Activity Centres;
- Clause 21.03-3 - Housing;
- Clause 21.03-4 - Urban Design, Built Form and Landscape Design;

- Clause 21.03-5 - Environmentally Sustainable Design (Water, Waste and Energy);
- Clause 21.03-6 - Open Space Network.

Local Planning Policies:

- Clause 22.01 - Neighbourhood Character;
- Clause 22.03 - Car and Bike Parking and Vehicle Access;
- Clause 22.07 - Development of Five or More Storeys;
- Clause 22.08 - Environmentally Sustainable Design.

Council through its MSS, seeks increased residential densities in the Coburg Activity Centre to take advantage of the excellent access to public transport and other services within this location. The proposal meets the objectives and strategies of the LPPF by incorporating a mix of uses including differing housing typologies in the form of both apartments and townhouses, with active spaces at ground level to create and reinforce an active and pedestrian friendly environment. The proximity of the site to a variety of public transport options and the provision of bicycle facilities on the site encourages less reliance on cars as a means of travel.

Council's Neighbourhood Character Policy supports substantial change and the creation of a new character of increased scale associated with increased density in this Activity Centre.

Planning Scheme Amendment C183

Amendment C183 supports the Moreland Integrated Transport Strategy (MITS) that was adopted by Council in March 2018 and seeks to improve sustainable transport and better manage car parking and traffic congestion in Moreland over the next decade and beyond.

The amendment seeks to introduce changes to car parking requirements for new developments in designated Activity Centres and Neighbourhood Centres by applying three new Parking Overlays. In the Coburg Activity Centre, a minimum car parking requirement would no longer be specified for new development, and instead a maximum rate of allowed car parking would be specified, above which a permit would be required.

The period for public feedback and submissions has closed. Feedback and submissions will be considered by Council at a meeting in December 2019 before proceeding to a Panel hearing in February 2020.

Human Rights Consideration

This application has been assessed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Moreland Planning Scheme) reviewed by the State Government and which complies with the Victorian Charter of *Human Rights and Responsibilities Act 2006*.

4. Issues

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

Does the amended proposal achieve the objectives with the ACZ1?

The additional apartments will increase the visual bulk of the development in some views from Sydney Road, Coburg, but on balance, the impact is not considered unreasonable and the proposed development remains an acceptable one.

The site is located in the Activity Centre Zone Schedule 1 (ACZ1), which has a preferred maximum height of 18 metres for this site. The existing approval exceeds this height, with a maximum height of 25.7 metres. The three additional dwellings do not increase the overall height of the approved development, rather they expand the footprint of the top level at the Sydney Road, Coburg end of the site.

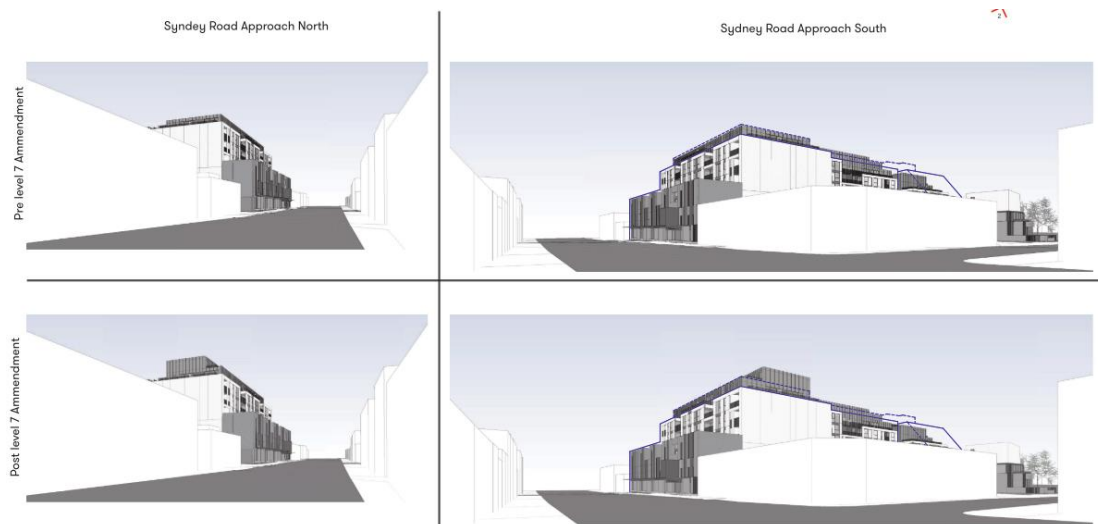
Clause 4.4. of the ACZ1 provides the following policy to consider where a proposal exceeds the preferred height:

- *The proposed development supports the vision for the Activity Centre and achieves objectives of this schedule; and*
- *The development is of an exemplary quality design that makes a positive contribution to the character of the neighbourhood;*
- *The additional height or reduced setback:*
 - *results in specific design benefits;*
 - *facilitates benefits to the community, such as excellent ESD performance, positive contributions to public open space or the public realm, or the provision of affordable housing;*
 - *does not have an adverse impact on the streetscape, heritage values, the public realm or the amenity of adjoining properties;*
 - *meets the overshadowing standards for key public spaces as set out in Table 1 where applicable;*
 - *does not increase overshadowing of primary pedestrian routes on 21 March/September (equinox) between 10.30 am and 2 pm, particularly the southern footpath of Bell Streets, Harding Streets and Munro Streets; Coburg and*
 - *does not cause an unacceptable visual impact on surrounding streets, public spaces or private open space.*

In accordance with the above policy, the justification for the original approval being above the preferred height included the public benefit of the pedestrian link and pocket park to be created in Cash Street, Coburg. The proposal was also considered to be architecturally exemplary and the negotiated setbacks from residential interfaces go beyond the minimum setback requirements the ACZ1. These positive features of the proposal remain unchanged.

The positive features of the existing approval are relevant to the consideration of the additional apartments. Council must decide not simply whether the additional apartments make the proposal better or worse, but whether the development as a whole remains an acceptable one.

The impact of the additional dwellings is largely limited to a visual bulk impact on the Sydney Road streetscape. The siting of the additional dwellings at the Sydney Road end of the site means they will have minimal impact on adjoining residential properties. Furthermore, there will be no impact from directly in front of the site. Sight line diagrams show that the additional dwellings will not be visible from the footpath on the opposite side of Sydney Road, Coburg. The impact on the Sydney Road streetscape would be on approach to the site from the north and south. The massing diagrams below show a comparison between the approved development and proposed amendment as viewed Sydney Road, Coburg to the north and south:



While the additional dwellings increase the visual bulk of the building from these angled views, the impact is not considered unacceptable. Further, the visibility to the top level from these angles will be reduced over time as adjoining properties in Sydney Road, Coburg are developed to the extent envisaged by the ACZ1. Given the positive features of the existing approval and the overall relatively minor visual bulk impact on the Sydney Road streetscape, the additional apartments are considered to be acceptable.

Do the three additional dwellings achieve an acceptable level of internal amenity?

A detailed assessment of the proposal against the objectives and standards at Clause 58 has been undertaken. The additional dwellings comply with all standards relating to the internal amenity, including those addressing functional layout, accessibility, cross ventilation, room depth, storage and private open space.

Will the additional dwellings result in any unreasonable amenity impacts on adjoining residential properties?

The ACZ1 requires consideration of overshadowing of the secluded private open space of dwellings outside the Activity Centre. Shadow diagrams submitted with the original application, which included the three additional dwellings, show that they will cause no additional overshadowing to the secluded private open spaces of the residential properties fronting Rennie Street, Coburg at the equinox in accordance with the requirements of the Moreland Planning Scheme.

The ACZ1 also requires the consideration of overlooking of residential properties outside the Activity Centre. Overlooking is typically only considered up to a distance of 9 metres. The additional dwellings are located a minimum of 29 metres from the nearest residential property and therefore comply with the overlooking requirements of the Moreland Planning Scheme.

Has adequate car and bicycle parking been provided?

The existing approval includes a surplus of car parking spaces for dwellings. While the permit allows a reduction of parking, this relates only to parking for the commercial tenancies. As such, the additional statutory car park requirement of five spaces for the additional three dwellings can be accommodated within the existing approved basement car park. Similarly, the additional bicycle parking requirement of five spaces can be accommodated within the 340 spaces already approved, which exceeds the number of spaces required by the ACZ1.

The surplus of car parking for the dwellings cannot be reconsidered as it forms part of the existing approval and the Moreland Planning Scheme currently requires a minimum rate of car parking provision. It is noted that since the issue of the planning permit, Council has advanced the strategic planning work associated with the Moreland Integrated Transport Study in the form of Amendment C183. If gazetted in its current form, the amendment would require consideration of the surplus of car parking.

5. Response to Objector Concerns

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

- Overlooking and noise from the increased rooftop terrace area.
- The increase in the size of the rooftop terrace is contrary to the agreement at the Compulsory Conference.
- The visual bulk and amenity impact of the additional dwellings.

Other issues raised by objectors are addressed below.

Various concerns with the existing approved development.

Council's decision-making power is limited to the changes proposed. The existing approval has been through the planning application process previously, which included public notice and third-party appeal rights. Council is not able to reconsider elements of the development that have already been through this process and received approval.

6. Officer Declaration of Conflict of Interest

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

7. Financial and Resources Implications

There are no financial or resource implications.

8. Conclusion

It is considered that the proposed amended development will remain an acceptable one. The impact of the additional dwellings is limited to a visual bulk impact on Sydney Road, Coburg when viewed from the north and south. When considered against the policy of the ACZ1 and the positive features of the existing approval, the relatively minor additional visual bulk is considered acceptable.

On the balance of policies and controls within the Moreland Planning Scheme and objections received, it is considered that a Notice of Decision to Grant an Amended Planning Permit No. MPS/2017/1029/A should be issued for the development of the land for the purpose of an 8-storey building comprising shops, offices and apartments, and 2 and 3-storey townhouses; a reduction of the car parking requirement; and alteration of access to a road in a Road Zone, Category 1 (removal of crossovers) subject to the conditions included in the recommendation of this report.

Attachment/s

<u>1</u>	Location plan - 200-216 Sydney Road, Coburg	D19/444283
<u>2</u>	Development plans - 200-216 Sydney Road, Coburg	D19/444282
<u>3</u>	Objector map - 200-216 Sydney Road, Coburg	D19/444280

**DCF89/19 8 HOPE STREET, BRUNSWICK - MPS/2014/957/A
(D19/448042)**

Director City Futures

City Development

Executive Summary



Property:	8 Hope Street, Brunswick			
Existing permit allows:	Planning Permit MPS/2014/957/A granted approval for a six-storey building comprising dwelling and a reduction in the car parking requirement and waiver of loading bay requirement.			
Proposal:	Amendment to the permit, seeking retrospective approval to reflect as built conditions, including: <ul style="list-style-type: none"> • Enlarged basement level to locate service equipment • Increased overall building height by 0.65 metres to a total of 20.65 metres • Modifications to the first-floor rear dwellings to enlarge the balconies. 			
Zoning and Overlay/s:	<ul style="list-style-type: none"> • Commercial 1 Zone • Design and Development Overlay Schedule 18 • Parking Overlay Schedule 1 • Environmental Audit Overlay • Development Contributions Plan Overlay Schedule 1. 			
Strategic setting:	Minimal housing growth	Incremental housing growth	Increased housing densities encouraged	Significant housing growth
Objections:	There are no objections to this amendment. Council received three objections, that were subsequently withdrawn.			
Planning Information and Discussion Meeting:	No meeting was held for this matter.			
ESD:	<ul style="list-style-type: none"> • The amendment does not reduce the ESD outcomes approved by the original permit approval. 			
Accessibility:	<ul style="list-style-type: none"> • The amendment does not reduce the accessibility outcomes approved by the original permit approval. 			
Key reasons for support:	The amendments maintain reasonable amenity for dwellings both at the subject site and at the adjoining property. The amendments are consistent with planning policy and are appropriate in the physical context and streetscape.			

Recommendation:	It is recommended that an Amended Planning Permit be issued for the proposal.
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Officer Recommendation

That an Amended Planning Permit No. MPS/2014/957/A be issued for the development of a six-storey building comprising dwellings and shop generally in accordance with the endorsed plans; a reduction of the car parking requirement; and waiver of the loading bay requirement at 8 Hope Street, Brunswick, subject to the following conditions:

(Note: amended conditions in bold)

Amended plans required

1.A. Within 30 days date of the date of this Amended Planning Permit, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended plans will be endorsed and will then form part of the permit. The amended plans must be drawn to scale with dimensions and three copies must be provided. The amended plans must be generally in accordance with the plans advertised 24 September 2019 but modified to show:

(a) The basement illustrated on all elevations.

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 be generally in accordance with the plans substituted by the Victorian Civil and Administrative Tribunal prepared by Your Design Group Pty Ltd TP3 to TP11 (inclusive) Revision G dated 11 April 2016 but modified to show:

- a) The fourth-floor wall and balcony setback from the street to match the fifth-floor wall and balcony setback.
- b) Provision of a framing element of similar feature to street façade of the three levels above the ground level that creates the appearance of a street wall.
- c) The correct balcony layout facing the street of the adjoining development at 10-14 Hope Street, Brunswick adjacent to the proposed fourth floor.
- d) The creation of an inset to that part of the western wall located opposite the southernmost east facing balconies/winter gardens of dwellings at 10-14 Hope Street, Brunswick. The inset is to be 4.5 metres wide and provide a setback of 4.5 metre setback to the western boundary opposite the balconies/winter gardens. The inset is to be provided at levels including and above the first floor.
- e) The roller door to the vehicle entry located no less than 0.3 metres from the frontage and to be of a permeable material to the satisfaction of the Responsible Authority.
- f) The width of the vehicle access way adjacent to the shop reduced to 3 metres.
- g) Provision of pedestrian access to the shop from the car park.
- h) Deletion of the glazing to west side of shop where it faces the vehicle accessway.
- i) Replacement of the car stacker allocated to dwellings 1 and 2 with an Accessible parking space to be marked as allocated for use by the occupier of the shop.
- j) Provision of 12 bicycle parking spaces in a secure manner that accord with the dimensions in Bicycle Victoria's Bicycle Parking Handbook
- k) The design of any structure to be sited within the front setback required to accommodate an electricity meter box to be no higher than 1.5 metres to minimise the visual impact on the streetscape and located to ensure there are no impacts on pedestrian safety and vehicle traffic.
- l) 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.

- m) The location of any air-conditioning units and other plant equipment, including any screening.
- n) A schedule of all proposed exterior decorations, materials, finishes and colours, including colour samples (3 copies in a form that can be endorsed and filed).
- o) Any modifications required as a result of the approved Sustainability Management Plan required by Condition 3 of this permit.
- p) A screen diagram drawn at a scale of 1:50 which details the screen associated with any external screens, this diagram must include:
- q) All dimensions, including the width of slats and the gap between slats.
- r) All side screens
- s) How compliance is achieved with the standard of Clause 55.04-6 (overlooking) of the Moreland Planning Scheme.

Secondary consent

- 2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

Sustainability Management Plan

- 3. Prior to the endorsement of plans, the Sustainability Management Plan prepared by 'Frater Energy Assessor', version 1 dated 26/05/2015 amended by a suitably qualified environmental engineer or equivalent to the satisfaction of the Responsible Authority to include the following:
 - a) Demonstration that stormwater detention volume requirements are in addition to stormwater retention and that tank is not directly topped up by mains water
 - b) Commercial areas addressed, including glazing and fit out as applicable.
 - c) A preliminary energy rating for all dwellings which demonstrate Best Practice energy efficiency and a maximum cooling load of 30MJ/m² in each dwelling
 - d) Shading on the west-facing windows to achieve cooling loads required by condition 4.c) above.
 - e) Commitment to preparing a Building Users Guide for residents
 - f) Clear commitments in the report body to credits selected in the Green Star self-assessment, demonstrating compliance with the Green Star requirements
 - g) The SMP and plans to be consistent regarding solar hot water and on-site renewable electricity generation.
- 4. All works must be undertaken in accordance with the endorsed Sustainability Management Plan to the satisfaction of the Responsible Authority. No alterations to the Sustainability Management Plan may occur without the written consent of the Responsible Authority.
- 5. Prior to the commencement of occupation of issue of Statement of Compliance whichever comes first of any dwelling approved under this permit, a report from the author of the Sustainability Management Plan 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 Sustainability Management Plan have been implemented in accordance with the approved Plan.

Waste Management Plan

- 6. Prior to the commencement of the development a Waste Management Plan must be

submitted and approved to the satisfaction of the Responsible Authority. The plan must include, but not limited to the following:

- a) Calculations showing that all occupiers will be sufficiently catered for with the proposed number of garbage and recycling bins.
- b) The size and location of the storage of general waste and recyclables on the ground floor and details of screening from view.
- c) A plan showing that the storage area is sufficient to cater for the number of bins.
- d) The size and location for the storage of recyclables on each floor.
- e) Details of ventilation if garbage bins are in enclosed areas.
- f) The provision of dual bins provided in cupboards in each unit to encourage separation of recyclables from garbage.
- g) Design details of the built-in waste/recycling system for the building indicating the provision made for the separate disposal of garbage and recycling streams.
- h) A description of ease of disposal for residents that does not disadvantage recycling (e.g. chutes work for garbage but not for recycling, because of smashed glass, requiring additional effort to recycle, discouraging recycling).
- i) The consideration of the ease of taking the fully laden bins to the collection point(s).
- j) Private contract options, if applicable, detailing the methods of collection with regard to site and road network constraints and the potential requirement to manoeuvre garbage trucks, including a collection plan approved by the proposed collection agencies that meets Council's Waste Management Plan.
- k) Confirmation of the hours and frequency of pick up for general and recyclable waste, with regard to potential noise impacts to the surrounding neighbourhood.

When submitted and approved to the satisfaction of the responsible authority, the waste management plan and associated notated plans will form part of this permit.

7. The Waste Management Plan approved under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.

Environmental Audit

8. 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:
- a) 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,
 - b) 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.

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.

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.

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).

9. Prior to any remediation works being undertaken in association with the Environmental Audit, a 'remediation works' plan 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.

General

10. 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).
11. 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.
12. Prior to the occupation of the development, any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority (Moreland City Council, City Infrastructure Department).
13. All stormwater from the land, where it is not collected in rainwater tanks for re-use, must be collected by an underground pipe drain approved by and to the satisfaction of the Responsible Authority (Moreland City Council, City Infrastructure Department).
14. 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.
15. Prior to the occupation of the development, the car park entry door must be automatic and remote controlled.
16. Prior to the occupation of the development, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.
17. Unless with the written consent of the Responsible Authority, any plumbing pipe, ducting and plant equipment must be concealed from external views. This does not include external guttering or associated rainwater down pipes.
18. 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.

19. A letterbox must be provided for each of the premises at the street frontage. The dimensions, placement and numbering must comply with the Australia Post – Letterbox Security and Specification as published on its website to the satisfaction of the Responsible Authority.
20. 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.

Development Contributions Plan

21. 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 amount for the development is \$8.95 per 100 square metres of leasable floor space and the Development and Community Infrastructure Levy amount for the development is \$602.51 per dwelling. In accordance with the approved Development Contributions Plan, these amounts will be indexed annually on 1 July.

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.

Expiry

22. This permit will expire if one of the following circumstances applies:
 - a) The development is not started within two years of the issued date of this permit.
 - b) The development is not completed within four years of the issued date of this permit.

In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition

1. Background

Subject site

The subject site is located at 8 Hope Street, Brunswick. The site is located on the north side of Hope Street, Brunswick and has a frontage of 12 metres, a depth of 43 metres and a total site area of 516 square metres.

Construction has commenced and the development approved pursuant to Planning Permit MPS/2014/957 is nearing completion. The development comprises a six-storey building containing 19 dwellings and a ground floor shop with 20 car parking spaces (including an accessible car parking space allocated to the shop)

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

Surrounds

The site and surrounding properties are part of the Sydney Road Corridor of the Brunswick Activity Centre and is located 62 metres west of Sydney Road.

The area is experiencing renewal with several properties recently redeveloped. Notably this includes the immediately abutting property to the west at 10-14 Hope Street, Brunswick which has been constructed with a seven-storey building. This building contains balconies at its interface with the subject site.

The immediately abutting property to the east at 6 Hope Street, Brunswick contains a five-storey building for student accommodation. This building has a boundary wall at its interface with the subject site.

The immediate abuttal to the north contains a single storey dwelling.

Development within proximity of the subject site, particularly along Breese Street, Brunswick, have building heights ranging from three to nine storeys height.

A location plan forms **Attachment 1**.

The proposal

The proposal seeks an amendment to Planning Permit MPS/2014/957. Council's consideration is restricted to the changes applied for in the amendment application. Previous elements of the original planning application cannot be re-assessed including the six-storey height approved at 20 metres. The amendment proposal is summarised as follows:

- Enlarge the basement level to locate service equipment including diesel pump for the fire sprinkler system, rainwater and electrical sprinkler pump and stair access;
- Modifications to the first-floor rear dwellings to enlarge the balconies resulting in additional wall on the eastern boundary and enclosing the balconies with 1.7 metres high frosted glass;
- Increase in the overall building height by 0.65 metres to a total of 20.65 metres, 69.15 Relative Level (exclusive of plant equipment). The additional height results in the north and south roof parapets being 0.65 metres higher than approved building. The roof parapets to the east and south are 0.46 metres higher than approved building. The increase in height is a consequence of:
 - 0.168 metres thicker transfer slab, between ground and first levels;
 - 0.012 metres height increase from level 1-5 due to onsite construction adjustments;
 - 0.46 metres increase to the parapet heights and roof pitch.

The building is nearing completion and the above changes reflect the as-built condition.

The development plans form **Attachment 2**.

Planning Permit and site history

The original application sought approval for a seven-storey building. The applicant lodged a review of the application with the Victorian Civil and Administrative Tribunal (VCAT) as Council did not decide the matter in 60 statutory days. Council's position to the Tribunal was that the application was not supported. Prior to the VCAT hearing, the applicant amended the proposal to reduce it to a six-storey building at 20 metres height. Subsequently, Planning Permit MPS/2014/957 was issued on 21 October 2016 at the direction of VCAT for a six-storey building.

A previous amendment included rearrangement of the storage and bin store areas at ground floor, rearrangement to dwelling layouts, provision of one additional dwelling and two additional car spaces. Plans were endorsed on 10 February 2017. Construction commenced within the prescribed time and the permit allows completion of the development by 21 October 2020.

Statutory Controls – why is a planning permit required?

Control	Permit Requirement
Commercial 1 Zone	Pursuant to Clause 34.01-4 a permit is required to construct a building or construct or carry out works.
Design and Development Overlay schedule 18	At the time that VCAT determined to issue Planning Permit MPS/2014/957, Amendment C134 which sought to apply the Design and Development Overlay schedule 18 (DDO18) to land within the Sydney Road corridor of the Brunswick Activity Centre, had not yet been approved. DDO18 now applies to the site and pursuant to Clause 43.02-2 a planning permit for buildings and works is required.

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

- Clause 45.03 - Environment Audit Overlay
- Clause 45.06 - Development Contributions Plan Overlay
- Clause 45.09 - Parking Overlay.

The requirements of Clause 58 which implement the Better Apartments Design Guidelines through Amendment VC136 do not apply to this amendment as the original permit application was lodged before the approval date of Amendment VC136. However, in its consideration of granting Planning Permit MPS/2014/957 the Tribunal considered Amendment C142 to be a seriously entertained planning policy. Therefore, the internal and external amenity considerations of the Moreland Apartment Design Code (MADC) were considered by the Tribunal.

2. Internal/External Consultation

Public notification

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

There are no objections to this proposal. Council received three objections, with all objections subsequently withdrawn.

Internal/external referrals

Due to the nature of the amendments no internal or external referral of the application was required. Noting that there is no change to the approved ESD initiatives or the requirement to provide an accessible car space for the shop.

3. Policy Implications

Planning Policy Framework (PPF)

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

- Clause 11 - Settlement
- Clause 15 - Built Environment and Heritage including:
 - Built Environment (Clause 15.01)
 - Healthy neighbourhoods (Clause 15.01-4S and 15.01-4R)
 - Sustainable Development (Clause 15.02)
- Clause 16.02 - Housing including:
 - Integrated Housing (Clause 16.01-1S and 16.01-1R)
 - Location of Residential Development (Clause 16.01-2S)
 - Housing Opportunity Areas (Clause 16.01-2R)
- Clause 17.0 - Economic Development
- Clause 18 - Transport.

Local Planning Policy Framework (LPPF)

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

Municipal Strategic Statement:

- Clause 21.01 - Municipal Profile
- Clause 21.02 - Vision
- Clause 21.03-1 - Activity Centres
- Clause 21.03-3 - Housing
- Clause 21.03-4 - Urban Design, Built Form and Landscape Design
- Clause 21.03-5 - Environmentally Sustainable Design (Water, Waste and Energy).

Local Planning Policies:

- Clause 22.01 - Neighbourhood Character
- Clause 22.03 - Car and Bike Parking and Vehicle Access
- Clause 22.07 - Apartment Development of Five or More Storeys
- Clause 22.08 - Environmentally Sustainable Design.

Council through its MSS, seeks increased residential densities in the Brunswick Activity Centre to take advantage of the excellent access to public transport and other services within this location. The proposal meets the objectives and strategies of the LPPF by incorporating a range of uses including increased housing and active spaces at ground level to reinforce an active street environment. The proximity of the site to a variety of public transport options and the provision of bicycle facilities on the site encourages less reliance on cars as a means of travel.

Council's Neighbourhood Character Policy supports substantial change and creation of a new character of increased scale associated with increased density in this designated Major Activity Centre. The proposal enjoys support from strategic planning policies at both state and local levels.

Human Rights Consideration

This application has been assessed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Moreland Planning Scheme) reviewed by the State Government and which complies with the Victorian Charter of *Human Rights and Responsibilities Act 2006*.

4. Issues

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

Does the proposal respond to the preferred character of the area?

The proposal is considered against Clause 22.01 (Neighbourhood Character) of the Moreland Planning Scheme. The site is within an area the policy marks for substantial change and has the following objective for the Brunswick Activity Centre:

To support substantial change and create a new character of increased density and scale of built form as defined in the relevant zone or overlay, Structure Plan and/or Place Framework.

The key consideration in this matter is the increase in building height of 0.65 metres, so that the total height of the building is 20.65 metres.

Amendment C134 seeking to implement DDO18 did not apply to the subject site at the time that VCAT considered the original application. However, in considering this matter VCAT considered Amendment C134 to be a seriously entertained planning policy. Therefore, the Tribunal had regard to Council's Brunswick Structure Plan policy that sought a maximum height of 17 metres at this site.

In determining that a permit for a six-storey building at this site, was appropriate and should be granted, the Tribunal noted that planning policy requires the proposal to respond to the site context and urban character. The context of the site and the surrounds include five-storey (16 metre) and seven storey (22.5 metre) buildings at both east and west abutments. At paragraph 41 Member Wilson found:

"It is my view that the proposed 20 metre height of the proposal between these two buildings will provide an appropriate transition in scale and will sit comfortably in the streetscape. In the wider context of the Brunswick Activity Centre where there is built form existing and approved to height of up to 25 metres, the proposed building height will not be intrusive."

In considering this amendment, to increase the building height by 0.65 metres, the proposal is still considered to provide an appropriate transition in scale and sit comfortably in its context. The building will still sit between the heights of the buildings either side.

It is noted that the rooftop plant equipment meets the DDO18 requirements and does not constitute additional building height as it does not occupy more than 50 per cent of the roof area, does not exceed 3.6 metres height and is located so as not to overshadow neighbouring properties.

With respect to the design objectives of DDO18 that apply to this site, the following is relevant:

- The proposal creates a new mid-rise built form character;
- The 1:1 ratio of building height to distance from the opposite side of the street boundary, is not met with the approved height of 20 metres and the increase of 0.65 metre height is a minor additional non-compliance;
- There is no off-site amenity impact to residential properties located outside of the activity centre;
- There is no change to the approved street wall or side and rear setbacks proposed by this amendment;
- The amendment does not result in any change to the approved ESD initiatives;
- The amendment does not result in any change to the accessible features of the proposal, being an accessible car space;

- The amendment does not propose any changes to the façade of the building except for the 0.65 metre increase to the parapet height. The increased height will not have a significant impact on the street; and
- Reasonable amenity for residential properties within and adjacent to the activity centre is maintained. This is discussed in more detail below.

Does the amendment result in acceptable amenity?

In granting a permit for a six-storey building, the Tribunal considered the impact of the building on the property immediately adjacent to the west. This property has a seven-storey building containing a number of living rooms setback 4.5 metres from the boundary with balconies setback 1.8 metres from the boundary. The Tribunal considered that the daylight access to both the existing and proposed dwellings was acceptable. The 2.3 metre setback proposed to the western boundary and provision of light courts aligned to reflect the size, dimensions and locations of light courts at 10-14 Hope Street, Brunswick, provided a comparable interface with the residential interface. This met the policy intent of Moreland Apartment Design Code that new developments provide comparable setbacks to existing development for acceptable daylight access.

Council's Clause 22.07 Apartment Development of Five or More Storeys retains this policy guidance that new development provides comparable setbacks (from a minimum of one metre and a maximum of three metres) to existing developments that do not meet setbacks now required by Clause 22.07. This amendment proposal continues to meet this policy guidance.

The western parapet is an additional 0.46 metre above the approved building, it will reduce daylight to both the west facing apartments at 10-14 Hope Street, Brunswick and bedrooms serviced by light courts within the building. However, this impact is negligible and consistent with policy for the reasons set out above.

Are the remaining modifications proposed by the amendment acceptable?

The proposal also seeks to enlarge the basement level, which previously housed the pits for the car stackers. The amendment seeks to extend the basement to include an electrical and diesel pump both required for the fire sprinkler system, rainwater pump and stair access. The depth of the basement level is now proposed to be (increased from 2 metres) to 2.6 metres.

Modifications to the first-floor rear dwellings propose to enlarge the balconies to extend to the rear of the site, in lieu of the approved 2.95 metres setback. Consequentially, the wall of the eastern boundary at apartment 104 extends to the rear boundary. An additional wall extends to the rear boundary, dividing the balconies of the dwellings. The northern side of both boundaries are enclosed by frosted glass balustrades. These changes are appropriate and will provide improved internal amenity for occupants with larger balconies occupying the roof of the lower level. The additional boundary wall is appropriate as it is located abutting a higher blank boundary wall at the adjacent site.

These proposed amendments are acceptable and do not conflict with any permit conditions.

5. Response to Objector Concerns

Not applicable

6. Officer Declaration of Conflict of Interest

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

7. Financial and Resources Implications

There are no financial or resource implications.

8. Conclusion

It is considered that the proposed amendments seeking to enlarge the basement, eastern boundary wall and an increase of 0.65 metres to the building height are appropriate having regard to the six-storey building approved onsite and the context of immediate and surrounding properties ranging from five to seven storeys height.

On the balance of policies and controls within the Moreland Planning Scheme, it is considered that Amended Planning Permit No MPS/2014/957/A should be issued with plans showing the amendments detailed at section 1 of this report endorsed pursuant to the conditions included in the recommendation of this report.

Attachment/s

1	Location Plan - 8 Hope Street, Brunswick	D19/454042
2	Development Plans - 8 Hope Street, Brunswick	D19/451445