Moreland City Council

COUNCIL AGENDA

PLANNING AND RELATED MATTERS

WEDNESDAY 24 APRIL 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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ਇਹ ਕੌਂਸਲ ਦੀ ਮੀਟਿੰਗ ਦਾ ਏਜੰਡਾ ਹੈ।
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D19/146265

Moreland City Council

1. WELCOME

2. APOLOGIES

Leave of absence has been granted to:

Cr Carli Hannan - 11 April 2019 to 12 August 2019 and Cr Riley - 14 April 2019 to 27 April 2019.

3. DECLARATION OF INTERESTS AND/OR CONFLICTS OF INTERESTS

4. CONFIRMATION OF MINUTES

The minutes of the Council Meeting for Planning and Related Matters held on 27 March 2019 be confirmed.

5. COMMITTEE REPORTS

CITY FUTURES

DCF27/19	**11 PASCOE STREET, PASCOE VALE - PLANNING PERMIT APPLICATION MPS/2018/533 (D19/97318)**	**3**
DCF28/19	**216 ALBION STREET, BRUNSWICK - PLANNING APPLICATION MPS/2012/848/C (D19/114824)**	**37**
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6. URGENT BUSINESS REPORTS

DCF27/19 11 PASCOE STREET, PASCOE VALE - PLANNING PERMIT APPLICATION MPS/2018/533 (D19/97318)

Director City Futures

City Development

Executive Summary

The application seeks approval for the development of seven dwellings with a reduction to the standard car parking requirement. The application was advertised and 16 objections were received. The main issues raised in objections are traffic and car parking.

A Planning Information and Discussion meeting was organised for 20 February 2019. No objectors attended.

The report details the assessment of the application against the policies and provisions of the Moreland Planning Scheme.

The key planning considerations are:

- The impact of the proposal upon the amenity of adjoining properties;
- The internal amenity of the proposed dwellings; and
- Car parking.

The proposal incorporates a high level of compliance with the planning scheme, including Clause 55. Importantly the dwelling layouts affords future residents a reasonable internal amenity, which does not unduly impact neighbouring apartments. The number of parking spaces provided is also appropriate given the location of the site and scale of development proposed.

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 a Planning Permit No. MPS/2018/533 be issued for the development of seven dwellings, a reduction in car parking and alteration of access to a Road Zone, Category 1 at 11 Pascoe Street Pascoe Vale, subject to the following conditions:

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans (advertised 4 December 2018) but modified to show:

    a) A public works plan in accordance with condition 12 of this permit.

    b) Compliance with Melbourne Water conditions 15-22.

    c) Bedroom 3 of dwelling 7 setback a minimum 3.94 metres from the east boundary.

    d) A minimum 500 millimetres landscape strip along the accessway to the west boundary.

    e) The balconies to the west elevation to have 1.7 metre high timber battens with no more than 25% transparency.

f) A screen diagram drawn at a scale of 1:50 which details the screen associated with balconies to dwellings 2-7. This diagram must include:

i. All dimensions, including the width of slats and the gap between slats.

ii. All side screens.

iii. How compliance is achieved with the standard of Clause 55.04-6 (overlooking) of the Moreland Planning Scheme.

g) At least 6 cubic metres of storage to the dwellings.

h) A landscape plan in accordance with condition 3 of this permit.

i) All council trees and the trees marked on the endorsed plans as being retained must have a Tree Protection Zone (TPZ) in accordance with condition 4 of this permit.

j) The awning must not project beyond the street alignment in accordance with condition 23 of this permit.

k) An amended Waste Management Plan in accordance with condition 27 of this permit.

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.

Landscape conditions

3. Prior to the commencement of any development works, a landscape plan must be submitted to and approved by the Responsible Authority. The landscape plan must provide the following:

a) A schedule of all proposed trees, shrubs and ground covers (including numbers, size at planting (including pot sizes,) 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 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 is encouraged.

4. Prior to development commencing (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), all Council trees and the trees (or nominate tree numbers or species of individual 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 diameter at breast height (DBH – measured at 1.4 metres above ground level as defined by the Australian Standard AS 4970.2009).

b) Fencing

All tree protection fencing required by this permit must be erected in accordance with the approved TPZ.

The TPF must be erected to form a visual and physical barrier and must be a minimum height of 1.5 metres and of chain mesh or similar fence with 1.8 metre support posts (e.g. treated pine or similar) every 3-4 metres, including a top line of high visibility plastic hazard tape 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

All services (including water, electricity, gas and telephone) should be installed underground, and located outside of any TPZ, wherever practically possible. If underground services are to be routed within an established TPZ, they must be installed by directional boring with the top of the bore to be a minimum depth of 600 millimetres below the existing grade, to the satisfaction of the Responsible Authority.

Bore pits must be located outside of the TPZ or manually excavated without damage to roots, 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).

5. 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.

6. 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.

ESD Conditions

7. Prior to the endorsement of plans, a Sustainable Design Assessment (SDA) must be submitted to and approved to the satisfaction by the Responsible Authority. The Sustainable Design Assessment must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the SDA by M3 Consulting, advertised 4 December 2018 including BESS report (Project Number 16905) and STORM (Transaction ID: 666131) but modified to include the following

changes:

a) An amended 'Energy' response in the BESS report that maintains a minimum score of 50% but is modified so that the heating and cooling loads and the NatHERS star rating reflect preliminary NatHERS modelling and an average target of 6.5 stars.

The amended BESS report must achieve an overall score of 50% or higher and have 'pass' rates of 50% for the 'Energy', 'Water' and 'IEQ' categories and 100% for the 'Stormwater' category.

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.

8. All works must be undertaken in accordance with the endorsed Sustainable Design Assessment report to the satisfaction of the Responsible Authority. No alterations to the Sustainable Design Assessment report may occur without the written consent of the Responsible Authority.

9. 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.

10. 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.

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

Public works plan

12. Prior to the endorsement of plans, 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 in front of the approved building along Pascoe Street and include:

a) The public footpath is to be reinstated with the standard crossfall slope of 1 in 40 from the top of roadside kerb to the property boundary, with any level difference made up within the site.

b) The upgrade of the footpaths adjacent to the site, which as far as practical match the existing paving treatment

c) A detailed level and feature survey of the footpaths and roads.

d) The existing crossovers at the site removed and the kerb and channel, footpath and nature strip reinstated to Council's/VicRoads standards using construction plans approved by VicRoads and Moreland City Council, City Infrastructure

Department.

e) The location, method and number of bicycle parking to be accommodated within the road reserve.

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.

VicRoads conditions (13-14)

13. The disused or redundant vehicle crossing must be removed and the area reinstated to the satisfaction of and at no cost to the Roads Corporation.

14. With regards to condition 13 the proposed development requires reinstatement of disused crossovers to the satisfaction of VicRoads and/or the Responsible Authority. Separate approval under the Road Management Act for this activity may be required from VicRoads (the Roads Corporation). Please contact VicRoads prior to commencing any works.

Melbourne Water conditions (15-22)

15. Prior to the endorsement of plans, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Plans must be submitted with surface and floor levels to Australian Height Datum (AHD) and must be modified to show:

    a) The dwellings and shop must be set with finished floor levels set no lower than 77.23 metres to Australian Height Datum, which is 300 millimetres above the applicable flood level of 76.93 metres to Australian Height Datum.

    b) The garages must be set with finished floor levels set no lower than 77.08 metres to Australian Height Datum, which is 150 millimetres above the applicable flood level of 76.93 metres to Australian Height Datum.

16. The dwellings and shop must be constructed with finished floor levels set no lower than 77.23 metres to Australian Height Datum, which is 300 millimetres above the applicable flood level of 76.93 metres to Australian Height Datum.

17. The garages must be constructed with finished floor levels set no lower than 77.08 metres to Australian Height Datum, which is 150 millimetres above the applicable flood level of 76.93 metres to Australian Height Datum.

18. Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.

19. Imported fill must be kept to a minimum on the property and only be used for the sub floor areas of the dwellings, garages and driveway ramps.

20. The setbacks as shown on the endorsed plan must not be altered without the prior approval of Melbourne Water.

21. A building setback of not less than 3 metres from the western boundary and 1 metre from the southern boundary will be required to allow for the free flow of flood waters.

22. These setbacks must be set at natural ground level and be free of any solid structures such as sheds, masonry fencing or water tanks.

23. The awning 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.

24. 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.

25. Before the occupation of the development, lighting no higher than 1.2 metres above ground level is to be installed and maintained on the land to automatically illuminate pedestrian access from the building to the car parking spaces on-site between dusk and dawn with no direct light emitted onto adjoining property to the satisfaction of the Responsible Authority.

26. Before the occupation of the development, shields are to be placed on each street light that exists within 5 metres of a dwelling window, at the cost of the applicant, to lower the glare to lighting no higher than permitted by the Australian Standard for Obtrusive Effects of Outdoor Lighting – Roads and Public Places (AS4282) to the satisfaction of the Responsible Authority.

Waste Management Plan

27. Prior to the endorsement of plans, 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) A description of ease of disposal for residents that does not disadvantage recycling.

    b) Confirmation that educational material will be displayed in the waste bin storage area explaining what material can be recycled.

    c) Calculations showing the amount of garbage and recycling expected to be generated.

    d) A statement of whether the garbage, medical waste, hard waste and recycling will be collected by Council or a private collection, stating the size of bins, frequency of collection and hours of collection.

    e) Include a plan showing the location of the bin storage area on the site and details of screening from public view.

    f) Include a dimensioned plan showing the storage area is sufficient to store the required number of bins in a manner that allows easy access to every bin.

    g) Detail the ventilation to prevent garbage odours entering the car park and/or dwellings.

    h) Detail the ease of taking the fully loaded waste bins to the point of waste collection.

    i) State where and when the bins will be placed for waste collection.

    j) Confirm that the bins will be removed from the street promptly after collection.

    k) Include a plan showing where the waste trucks will stop to service the waste bins and state whether ‘No Parking’ restrictions will be required for the waste trucks to access that space (for example 6 am-midday, Wednesday).

    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.

28. 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).

29. The stormwater run-off from the accessway must not flow out of the property over the

public footpath to the satisfaction of the Responsible Authority.

30. 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.

31. 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.

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

    a) The development is not commenced within 2 years from the date of issue of this permit.

    b) The development is not completed within 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:

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.

Council charges supervision (2.50%) and plan checking (0.75%) fees on the cost of constructing the drain along the easement or street as permitted by sections 5&6 of the Subdivision (Permit and Certification Fees) Regulations 2000.

Further approvals are required from Council's City Infrastructure Department who can be contacted on 8311 4300 for any works beyond the boundaries of the property. Planting and other vegetative works proposed on road reserves can be discussed with Council's Open Space Unit on 8311 4300.

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.

REPORT

1. Background

Subject site

The site is located on the south side of Pascoe Street, Pascoe Vale between Lake Avenue to the east and Northumberland Road to the west.

The subject site is rectangular and has a frontage of 19.2 metres and a depth of 45.29 metres. The total site area is approximately 869 square metres. A 1.83 metre wide easement runs along the rear (south) boundary.

The site is occupied by an unused single storey building. A galvanised iron fence is located along the frontage to Pascoe Street. The site is relatively flat.

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

Surrounds

The surrounding area is largely contained within the Commercial 1 Zone, with mixed use commercial activities and buildings to the south of Pascoe Street. Opposite the site is the Westbreen Primary School.

The site forms part of a Local Centre which contains buildings varying from single storey brick dwellings to five storey mixed use buildings which accommodate ground level retail/commercial uses and dwellings to upper levels.

To the west of the site is a 5-storey apartment building comprising a commercial use at ground level and residential apartments above.

Adjoining to the east is a 4-storey building comprising a commercial use and garages at ground level and residential apartments to upper levels.

To the south is residential zoned land which has frontage to Lake Avenue.

Pascoe Street is a Road Zone Category 1.

A location plan forms **Attachment 1**.

The proposal

The proposal is summarised as follows:

- Construction of a 3-storey building with a maximum height of 9.68 metres.
- At ground floor fronting Pascoe Street, the building will consist of a retail premises with an overall area of 62.62 square metres.
- A total of 7 dwellings, with 3 bedrooms each.
- Dwelling 1 will have a single car garage and dwellings 2-7 will each have a double garage with access via the existing crossing located to the north boundary.
- Secluded private open space a minimum of 9.2 square metres and a width of 1.6 metres in the form of balconies has been provided.
- A mix of materials including brickwork, and wall cladding is proposed.

The development plans form **Attachment 2**.



3D image of building

Statutory Controls – why is a planning permit required?

Control	Permit Requirement
Commercial 1 Zone	Pursuant to Clause 34.01-4 of the Moreland Planning Scheme, a permit is required to construct a building. No permit is required for the retail use or dwellings.
Special Building Overlay	Clause 44.05-2 - A permit is required to construct a building or construct or carry out works
Particular Provisions	Clause 52.06- A permit is required to reduce the car parking requirement from 16 to 13 spaces. Clause 52.29- A permit is required to create/alter access to a Road in a Road Zone Category 1.

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

- Clause 45.06: Development Contributions Plan Overlay.
- Clause 53.18: Stormwater Management in Urban Development.

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 Pascoe Street frontage of the site.

Council has received 16 objections to date. A map identifying the location of objectors forms **Attachment 1**.

The key issues raised in objections are:

- Loss of daylight.
- Drainage issues to Pascoe Street.
- No parking provided to shop.
- Dwellings will create additional noise.
- No parking will cause people to park illegally and will compromise safety.

A Planning Information and Discussion meeting was organised on 20 February 2019 and attended by Cr Yildiz, a Council Planning Officer, and the applicant. No objectors attended the meeting.

Internal/external referrals

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

External Agency	Objection/No objection
VicRoads	No objection subject to conditions included in the recommendation.
Melbourne Water	No objection subject to conditions included in the recommendation relating to finished floor levels to be 300mm above the applicable flood level

Internal Branch/Business Unit	Comments
Urban Design Unit	No objections were offered to the proposal subject to landscaping be provided along the accessway. This is addressed by conditions detailed in the recommendation
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 subject to modification, which are addressed in the conditions 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)
- 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 22.08 Environmentally Sustainable Design

The subject site is located within a Commercial 1 Zone within a designated 'Local Centre' as shown on the Map 1A Strategic Framework Plan at Clause 21.02. This policy states that Local Centres play an important role in 'plugging the gap' in the activity centre network. These centres serve daily convenience needs of the local community.
Policy states that in Commercial 1 Zones in 'Local Centres', increased densities are encouraged and states at Clause 22.02-3 (Strategic Direction 3: Housing):

> *These areas are expected to experience a change in character towards a more dense urban environment, with housing predominantly apartment and townhouse style in buildings of three to four storeys.*

In this local centre, incremental change of no more than 4-storeys is expected. The proposal enjoys strong strategic policy support.

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 proposal respond to the preferred character of the area?

The proposal is an acceptable response to Clause 22.01 (Neighbourhood Character) and Clause 55.02 (Neighbourhood Character and Infrastructure) of the Moreland Planning Scheme.

The proposal is an acceptable response to Clause 22.01 (Neighbourhood Character) of the Moreland Planning Scheme as:

- The proposed built-form will be three-storey with a maximum height of 9.63 metres. For a site in a Commercial 1 Zone in a local centre this is considered an acceptable height as it responds to the neighbourhood character.
- The height is a suitable transition to the 3-storey building to the east and 5-storey building to the west.
- Materiality and articulation are well considered.

Does the proposal impose unreasonable amenity impacts to adjoining properties?

The Decision Guidelines of the Commercial 1 Zone at Clause 34.01-8 require buildings and works applications to consider the objectives, standards and decision guidelines of Clause 55 (2 or more dwellings on a lot) of the Scheme.

The development has a high level of compliance with Clause 55 requirements. Specifically, the dwellings:

Privacy/overlooking

The plans lack clear information of the screening proposed to the balconies in respect to height and transparency. Given the proximity of the balconies to the west, a condition that clarifies the screening detail is necessary to limit unreasonable overlooking.

The decision guidelines associated with Clause 55.04-6 include consideration of internal amenity which can be compromised when extensive screens are used. The internal amenity of these dwellings is acceptable as there will be adequate ventilation and daylight, as the dwellings are dual aspect.

Overshadowing

There will be some additional overshadowing to the adjacent secluded private open space to the south at 3/10 and 4/10 Lake Avenue. The secluded private open space to these dwellings will not receive a minimum of 5 hours of sunlight between 9 am and 3pm at the equinox and therefore does not meet the overshadowing standard B21. However, there are reasonable amounts of time that the secluded private open space to these dwellings will receive sunlight. On balance it is considered that the shadow impacts caused by the proposed development are acceptable and need to be tempered against the strategic direction for increased residential density and substantial change sought by the Commercial 1 Zone.

Visual bulk

The development is within the building envelope described by Clause 55.04 (side and rear setbacks) with the exception of the east boundary. This is the most sensitive interface as there are balconies located on the common boundary. At first floor, a setback of 1.84 metres is required from the boundary to the east. A setback of between 1.87 metres and 3.44 metres is proposed, which satisfies the standard. At the second floor, a setback of 4.39 metres is required. A setback of between 2.46 metres and 3.94 metres has been provided from the boundary where it is opposite balconies and habitable room windows. A variation of between 0.45 and 1.93 metres is proposed. A condition on the permit will require bedroom 3 of dwelling 7 to be setback 3.94 metres from the boundary in line with the other bedrooms. A variation of 0.45 metres can be supported.

The Commercial 1 zoning of the site and location within a Local Centre encourage increased density and growth is anticipated in these areas. Therefore, the same level of amenity cannot be expected as in a Neighbourhood or General Residential Zone.

Daylight to existing windows

Standard B19 requires walls or carports more than 3 metres in height opposite an existing habitable room window should be set back from the window at least 50 per cent of the height of the new wall if the wall is within a 55 degree arc from the centre of the existing window. Therefore, a setback of 3.2 metres is required at first floor and 4.65 metres at second floor from the east. The proposal provides for a 4.5 metre setback at first floor and 4.98 at second floor, and therefore complies with the standard.

Drainage flooding and inundation concerns

Melbourne Water have not objected to the application and conditions of any permit that may issue can ensure that all of Melbourne Water's and Council's drainage requirements are met including a requirement for finished floor levels to be 300 millimetres above the flood level.

Has adequate car parking/bicycle parking been provided?

Pursuant to Clause 52.06-5, the following car parking provision is required given the subject site is covered by a Parking Overlay:

Land Use	Parking demand	Parking supply	Reduction required
7 x 3 bedroom dwellings	14	13	1
Retail premises (shop) (62.62 square metre)	2	0	2
Total	**16**	**13**	**3**

A total of 14 spaces are required for the dwellings and 2 car spaces for the retail premises. The development provides 13 on-site spaces. The proposal satisfies the objectives of Clause 52.06 of the Moreland Planning Scheme with respect to the provision of car parking for the following reasons:

- The site is within:
  - A 50 metre walk of a bus stop route 513 (east-west travel).
  - A 20 metre walk of a bus stop route 534 (north-south travel).
  - A 1500 metre walk to Oak Park Station (north-south travel).

- Vehicles, whether related to this or other developments in the street, can only park on the street in accordance with any parking regulations. The number of vehicles that can park on the street and at what time will be dictated by the parking restrictions and the availability of on-street car spaces.
- A bicycle space has been provided for each dwelling and 4 bicycle parking spaces have been provided for visitors. This is in excess of the requirement in Clause 52.34 (Bicycle facilities) and is encouraged by Clause 22.03 (Car and Bike Parking)
- The reinstatement of the redundant crossing to the eastern boundary of the site will result in 1 additional on-street car parking space.
- Council's Strategic Transport and Compliance Branch is satisfied that car parking requirement can be reduced for this application.
- The applicant has agreed to provide for a bicycle hoop to Pascoe Street, which is conditioned as part of the recommendation.

The dwellings will not be eligible for parking permits in the event that parking restrictions are imposed by Council on the street. This is included as a note in the recommendation.

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

In relation to traffic impacts, Council's Strategic Transport and Compliance Branch have assessed the proposal and consider that the development will result in 48 additional vehicle movements per day on Pascoe Street. This remains within the street's design capacity and is not expected to cause traffic problems.

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 the number of vehicle crossings to one per site frontage.
- Removes the existing vehicle crossing to the eastern boundary which will reduce potential points of conflict between pedestrians and vehicles.
- Retains the existing street tree.
- There is 1-hour restricted parking to the street frontage. This is adequate to allow for loading and unloading to the retail component. With a floor area of 65 square metres, deliveries are most likely to be from small vehicles.
- Provides bicycle spaces to each dwelling and 4 bicycle spaces for visitors.
- Weather protection for pedestrians via a canopy over the footpath.
- High quality design of shopfront and active frontage. The first floor balcony provides passive surveillance.
- A BESS score of 53%.

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

ESD features of the development are considered to be adequate and include:

A 103% STORM score, which includes 14,000 L rainwater harvesting tanks

- Double glazing to all habitable room windows.
- Bicycle racks to each dwelling.
- 80% construction and demolition waste recycled.

Is the proposal accessible to people with limited mobility?

Objective 9 of Clause 21.03-3 (Housing) is to increase the supply of housing that is visitable and adaptable to meet the needs of different sectors of the community. Due to the typology of the dwellings being townhouse, the living areas are located at first floor and therefore will not be accessible to people with limited mobility.

5. Response to Objector Concerns

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

- Carparking.
- Traffic.
- Overlooking.
- Loss of daylight.

Other issues raised by objectors are addressed below.

Noise associated with dwellings

Concerns have been raised regarding the potential noise generated from the dwellings after occupancy. The consideration of this planning application is confined only to the construction of the dwellings. The residential use of the dwellings does not require a planning permit. Residential noise associated with a dwelling is considered normal and reasonable in an urban setting. Any future issues of noise disturbance, if they arise, should be pursued as a civil matter.

Drainage, flooding and inundation concerns

The application has been referred to Melbourne Water who required that specific conditions be included on any planning permit that is issued. These conditions are included in the recommendations.

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 development is an appropriate response to the provisions of the Moreland Planning Scheme, including policies which seek to increase residential density in this location.

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/2018/533 should be issued for development of seven dwellings including a reduction in car parking and alteration to a Road Zone Category 1 subject to the conditions included in the recommendation of this report.

Attachment/s

1⇩	Objector and Locality Map - 11 Pascoe Street, Pascoe Vale	D19/131554
2⇩	Advertised Plans - 11 Pascoe Street, Pascoe Vale	D19/127278

DCF28/19 216 ALBION STREET, BRUNSWICK - PLANNING APPLICATION MPS/2012/848/C (D19/114824)

Director City Futures

City Development

Executive Summary

The application seeks to amend planning permit MPS/2012/848 which allows for the use and development of a six storey, mixed use building and above basement car parking. The amendment seeks to increase the building height to 9-storeys (with a roof top garden), reduce the car parking to zero spaces and adding 147 bicycle spaces.

The application was advertised and 5 objections were received. The main issues raised in objections are height, neighbourhood character, car parking and traffic and off-site amenity impacts.

The report details the assessment of the application against the policies and provisions of the Moreland Planning Scheme.

The key planning considerations are:

- Whether the height of the development is consistent with planning controls within the Design and Development Overlay Schedule 18.
- Whether the proposal has any unreasonable impacts upon neighbouring residential properties.
- Whether no on-site car parking is appropriate for this site.

Subject to recommended conditions, the proposal will provide an appropriate built form outcome that is consistent with the emerging character of the precinct and an appropriate level of onsite amenity. The zero car parking provision can be supported due to the locational attributes of the site, bicycle parking provision and housing model that caters for future occupants that do not own cars.

It is recommended that a Notice of Decision to Grant an Amended Planning Permit be issued for the proposal subject to conditions.

Officer Recommendation

That a Notice of Decision to Grant an Amended Planning Permit No. MPS/2012/848/B be issued for the construction of a 9-storey building (plus roof deck) and a reduction of the car parking requirement at 216 Albion Street, Brunswick subject to the following amended conditions, which have been significantly modified to reflect current drafting standards and recognising that the development layout has been significantly altered:

Amendments

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 3 copies must be provided. The plans must be generally in accordance with the plans advertised on 5 December 2018 (Revision 2 TP01-TP28), but modified to show:

a) The changes shown on the concept plans received 14 February 2019 (Revision 3 TP01-TP28) including:

   i. The height of the archway along the western façade increased to two levels and the archway supports are further setback increasing the width of the Upfield Bicycle Path.

   ii. Public bicycle hoops and alfresco seating located further west.

   iii. Apartment 109 changed from 2-bedroom to 1 bedroom, and apartment 110 changed from 3-bedroom to 2-bedroom.

   iv. The north-facing landscaped areas on levels 3 and 6 decreased and the size of decking for apartments 303 and 602 increased.

   v. Openings on the northern façade increased to full height openings and associated increased balcony landscaping.

   vi. Swing doors provided for access to the bicycle storage areas.

   vii. The provision of mail boxes.

b) Screening of the kitchen windows to dwellings 109, 209, 308 and 408 to prevent overlooking of neighbouring secluded private open space and habitable room windows.

c) Semi-transparent materials to the bike store at the rear of the building.

d) Deletion of the fencing/gates to the rear court yard area to allow for uninterrupted pedestrian and bicycle access.

e) Dimensions of the lift, demonstrating it is large enough to accommodate 2 cyclists with bikes and passengers.

f) 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 or confirmation on the plans that a substation is not required.

g) Initiatives contained within the amended Sustainability Management Plan (SMP), including:

   i. Rainwater calculations.

   ii. Raingarden area, sizes and locations.

   iii. Non-residential energy modelling.

   iv. Residential NatHers modelling further enhanced to model all thermally unique dwellings and the heating and cooling loads within dwellings.

   v. The retention rainwater harvesting tank on the ground floors capacity in litres (to match the STORM report).

h) A schedule of all proposed exterior decorations, materials, finishes and colours, including colour samples.

i) Details of the lighting to the rear court yard and western boundary adjoining the Upfield Shared Path.

j) A Green Travel Plan in accordance with condition 6 of this Permit.

k) An Acoustic Report in accordance with condition 7 of this Permit.

l) A Sustainability Management Plan in accordance with condition 10 of this Permit.

m) A Waste Management Plan in accordance with condition 12 of this Permit.

n) Landscape plans in accordance with condition 14 of this Permit.

o) An Accessibility Report in accordance with condition 16 of this Permit.

p) Any practical changes to the plans required by the additional reports and plans required by conditions of this Permit.

Development not to be altered

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.

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 through the rear courtyard (between the Upfield Shared Path and rear laneway) and the ground level setback from the western boundary 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 rear court yard and area adjoining the western boundary and responsibility for the on-going maintenance of the areas.

Public areas lighting

4. Before the occupation of the development, external lighting to the ground level rear courtyard, western boundary setback and Upfield Shared Path is to be installed and maintained on the land to automatically illuminate these areas between dusk and dawn to the satisfaction of the Responsible Authority.

Environmental Assessment and Auditing Requirements

5. Prior to the commencement of construction or carrying out of works pursuant to this permit, or any works associated with a sensitive use (other than buildings and works required to be undertaken in association with the Environmental Audit and testing, as detailed in the remediation plan under condition 5) 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, or prior to the issue of an Occupancy Permit under the *Building Act 1993* (whichever is the earliest), 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).

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.

Green Travel plan

6. The Green Travel Plan, prepared by Ratio Consultants dated October 2018 approved under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.

Acoustic Requirements

7. Prior to the endorsement of plans, an Acoustic Report prepared by a qualified Acoustic Engineer generally in accordance with the report prepared by Arup Pty Ltd dated 22 October 2018 must be submitted and approved to the satisfaction of the Responsible Authority.

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

8. 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.

9. 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.

Sustainability Management Plan

10. Prior to the endorsement of plans, the Sustainability Management Plan prepared by Hip V Hype dated October 2018 must be amended by a suitably qualified environmental engineer or equivalent to the satisfaction of the Responsible Authority to include the following:

    a) Rainwater calculations.

    b) Raingarden area, size and location clarified.

    c) Non-residential energy modelling lodged.

    d) Residential NatHERS modelling further enhanced to model all thermally unique dwellings, and the heating and cooling loads within.

Where alternative ESD initiatives are proposed to those specified in this condition, the Responsible Authority may vary the requirements of this condition at its discretion, subject to the development achieving equivalent (or greater) ESD outcomes in association with the development.

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

11. 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.

    Prior to the commencement of occupation or issue of a Statement of Compliance, whichever comes first, of any dwelling approved under this permit, a report from the author of the Sustainability Management Plan (SMP) approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the SMP have been implemented in accordance with the approved plan.

Waste Management

12. Prior to the endorsement of plans, a Waste Management Plan generally in accordance with the Waste Management Plan prepared by Leigh Designs dated October 2018 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.

13. 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.

Landscaping

14. 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 Open Works Pty Ltd dated October 2018 but modified to show:

    a) 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.

    b) Information about the maintenance of landscaping including the planters at 110, 102, 108, 202, 302, 402, 502, 602, 603 and 506.

    c) Details of proposed watering methods and maintenance of the plants, including an automatic irrigation system for all planter boxes and landscaped areas.

    d) The location of any rain gardens as detailed in the endorsed Sustainability Management Plan.

15. 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.

Access Plan

16. 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 Access Studio dated October 2018 but updated to refer to the plans required by Condition 1 of this permit and 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). 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.

17. 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.

Development Contributions Levy

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

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

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

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

General

19. Prior to the occupation of the development, the bicycle parking racks must be installed in a secure manner that accords with the specifications in Bicycle Victoria's Bicycle Parking Handbook, to the satisfaction of the Responsible Authority.

20. Prior to the occupation of the development, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.

21. Unless with the prior written consent of the Responsible Authority, any plumbing pipe, ducting and plant equipment must be concealed from external views. This does not include external guttering or associated rainwater down pipes.

22. Prior to the occupation of the development, any air-conditioning and other plant and generator equipment must be screened from the view of adjoining properties and the street to the satisfaction of the Responsible Authority.

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

24. 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).

25. Prior to occupation of the development, the applicant must apply to Council for a 10-metre long No Parking any time (limit 10 minutes) zone in Albion Street in front of the site.

26. The public footpath is to be reinstated with the standard cross-fall slope of 1 in 40 from the top of roadside kerb to the property boundary, with any level difference made up within the site.

27. 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).

28. Stormwater from the land must not be directed to the surface of the laneway to the satisfaction of the Responsible Authority

Permit Expiry

29. The development approved by this permit will expire if one of the following circumstances applies:

    a) The development is not commenced within 2 years from the date of issue of this permit.

    b) The development is not completed within 4 years from the date of issue of this permit.

    The Responsible Authority may extend the periods 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 of the development and use;
    - Within 12 months after the permit expires to extend the completion date of the development if the development has lawfully commenced.

Notes: These notes are for information only and do not constitute part of this Permit.

Note 1 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

Note 2 Contact needs to be made with CitiPower to determine whether CitiPower will require the power lines to be relocated away from the dwellings.

REPORT

1. Background

Subject site

The subject site is located on the south side of Albion Street adjoining Anstey Station to the west. Sydney Road is approximately 200 metres to the east.

The subject site is occupied by a single storey warehouse building and has an area of approximately 1033 square metres. It has a frontage of 31.7 metres and depth of 50 metres. The Albion Street frontage includes a vehicle crossing providing access to parking at the front of the site. The western boundary adjoins the Upfield Shared Path.

There is a restrictive covenant on the title, prohibiting construction of a fence higher than 1.5 metres on the western boundary due to the proximity to the station.

The subject site is relatively flat whilst the adjacent Upfield Shared Path is uneven with rises and falls in the path.

Surrounds

The surrounding area is characterised by a mix of existing commercial and industrial properties, traditional dwellings and more recent midrise developments. Within 400 metres of the site there are shops, childcare facilities, parks and public transport.

The transport options are dealt with in more detail later in the report.

North of the site is Albion Street. This section of Albion Street is either a no standing or bus zone. Two hour restricted parking is available elsewhere in Albion Street. Further north, on the opposite side of the street, are double storey brick warehouse buildings with at grade car parking facing the street.

East of the site is 212-214 Albion Street, which is currently occupied by a single storey commercial building. Council refused a planning application for an 8-storey building at this site in November 2018. The grounds of refusal pertained to height which was exacerbated through inadequate setbacks and building separation, an inadequate ESD response, landscaping, internal amenity and activation of the street. This application is the subject to an appeal by the permit applicant to be heard at VCAT commencing 6 May 2019 (for a 4 day hearing).

South of the subject site is 6 and 8 Florence Street. The property at 6 Florence Street in on the opposite side of a laneway and is occupied by a 5-storey building with roof terrace. The property at 8 Florence Street Street adjoins the rear boundary of the site and is occupied by a warehouse building, although a planning permit has been issued for a 5-storey building with roof terrace.

West of the subject site is the Upfield Shared Path. The path provides 2-way traffic for cyclists and pedestrians. The eastern platform of Anstey Station is immediately to the west of the path providing access to a single storey station building and platform.

A location plan forms **Attachment 1**.

The proposal

The application seeks to amend planning permit MPS/2012/848/B from:

> *Construction of a six storey building (plus roof deck, and above basement) comprising shops and a restaurant at ground level with dwelling above, use of the land for dwellings, a reduction of the car parking requirement and waiver of the loading bay requirements, in accordance with the endorsed plans.*

To MPS/2012/848/C:

> *Construction of a nine storey building (plus roof deck) and a reduction of the car parking requirement in accordance with the endorsed plans.*

The proposal is for a completely redesigned building and includes:

- Construction of a 9-storey building of 27.4 metres.
- 54 dwellings (8 studios, 14 one bedroom, 27 two bedrooms and 5 three bedrooms).
- 2 communal roof areas with a total area of 193 square metres.
- Two offices of 193 square metres (total).
- Two cafes of 194 square metres (total).
- 147 bicycle parking spaces including 14 visitor spaces.
- Pedestrian access from the shared path.
- The material palate comprises blonde and white bricks with textured and painted precast concrete panels.
- The basement is deleted and no car parking is provided.

	Approved MPS/2012/848/B	**Amendment Proposed MPS/2012/848/C**
Storeys	6	9
Building height	19.91 metres	27.4 metres
Number of dwellings	41	54
Ground floor uses	Shop x 2 Café x 1	Café x 2 Office x 2
Number of car parking spaces	17	0
Number of bicycle parking spaces	52	147



Proposal – Advertised Plans - Albion Street Façade

The development plans form **Attachment 2**.

The existing endorsed plans form **Attachment 3**.

Concept plans

In response to comments provided by Council's Planning Officer, neighbouring objectors, Council's Urban Designer, Development Advice Engineer and ESD Officer, the applicant submitted concept plans demonstrating an improved design response. These plans are referred to in the recommended conditions. The changes made by the concept plans include:

- The height of the archway along the western façade increased in height and the archway supports are further setback increasing the width of the Upfield Bicycle Path.
- Public bicycle hoops and alfresco seating located further west.
- The gross floor area of the dwellings is reduced from 545 square metres to 498 square metres.
- Apartment 109 has changed from 2-bedroom to 1 bedroom, and apartment 110 has changed from 3-bedroom to 2-bedroom.
- The landscaped areas are maintained by automatic irrigation.
- The north-facing landscaped areas on levels 3 and 6 have decreased while the size of decking for apartments 303 and 602 has increased.
- Openings on the northern façade are increased to full height openings and increased landscaping.
- Swing doors provided for access to the bicycle storage areas.
- The provision of mail boxes.

The concept plans form **Attachment 4**.

Statutory Controls – why is a planning permit required?

Control	Permit Requirement
Commercial 1 Zone	Clause 34.01-1: A permit is required to construct a building or construct or carry out works. The land uses proposed (dwelling, restaurant and office) are 'as of right' (Section 1) and do not require a permit.
Design and Development Overlay Schedule 18	Clause 43.02-2: A permit is required to construct a building or construct or carry out works.
Particular Provisions	Clause 52.06 (Car Parking): A permit is required to reduce the car parking requirement to 0 spaces.

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

- Clause 45.06: Development Contributions Plan Overlay (Schedule 1).
- Clause 45.09: Parking Overlay (Schedule 1).
- Clause 45.03: Environmental Audit Overlay (Schedule 1).
- Clause 52.34: Bicycle Parking.
- Clause 58: Apartments.

A Special Building Overlay previously applied to the site and was removed by Planning Scheme Amendment GC34 on 1 February 2018. Therefore, the Melbourne Water conditions on the existing permit have been removed.

2. Permit History

The existing planning permit MPS/2012/848 was issued on 11 March 2014 in accordance with the Victorian Civil and Administrative Tribunal (VCAT) order P638/2014 dated 30 September 2014. The application was determined and approved by the Urban Planning Committee (24 September 2014). The applicant lodged a VCAT review relating to a condition which sought to delete the level 6. The matter was settled at a VCAT mediation and referred back to the Urban Planning Committee. It was agreed to amend the permit and plans reducing the size of level 6.

An amendment to the permit (MPS/2012/848/B) was issued 22 September 2017. The amendment allowed changes to the internal layout of the building to increase dwelling diversity.

The permit has been extended previously three times. Works must now commence no later 11 March 2021 and be completed no later than 11 March 2025. Given that the development is yet to commence, the existing permit expiry condition can remain.

3. 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, including VicTrack.
- By placing a sign on the Albion Street frontage and the western boundary adjoining the Upfield Shared Path.

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

The key issues raised in objections are:

- Lack of car parking.
- Height.
- Amenity impacts including overlooking and overshadowing.
- Traffic.
- Car, pedestrian and bicycle congestion.
- Construction disturbance.
- Overdevelopment.
- Lack of landscaping.

A planning and discussion meeting was not held. However, the applicant met with neighbours prior to advertising and has met with or contacted each of the objectors. The objectors within close proximity to the site have all been consulted with.

Internal referrals

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

Internal Branch/Business Unit	Comments
Urban Design Unit	No objections were offered to the proposal subject to modifications, which are addressed by conditions detailed in the recommendation.
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 subject to modification, which are addressed in the conditions 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)
- 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: 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 create and reinforce an active and pedestrian friendly 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 Principle Activity Centre. The proposal enjoys strong strategic support at both State and Local level.

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. It is important to note that Council's ambit of discretion is limited to those aspects of the amendment which seek to vary the current planning approval. To put it in other words there is an accrued development right to 6 storeys due to the current planning approval. The assessment therefore focuses on the aspects of the development that depart from the approved building envelope, altering dwelling layouts, amends the architectural expression and reduces the car parking provision.

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

The proposal is considered against Clause 22.01 (Neighbourhood Character) and Clause 43.02 (Design and Development Overlay Schedule 18) 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 DDO18 establishes the following preferred building envelope.

- A preferred street wall height requirement for the Albion Street frontage of 9 to 12 metres.
- A preferred minimum upper level setback of 5 metres.
- A preferred building height of 19 metres.

The proposal complies with the preferred street wall height and upper level setback but exceeds the preferred building height.

Building height

The proposal seeks a maximum building height of 27.4 metres (taken from the Albion Street frontage to the roof of the services plant room/roof circulation space). The DDO specifies that a lift overrun, plant and structures associated with green roofs are an allowable encroachment into the height control (which provide a height of 29.55 metres). The proposed variation to the DDO sought is 6 metres and the increase in height above the existing approval is 6.7 metres.

While the proposal exceeds the preferred 19 metres building height, it will achieve the objectives of the DDO.

Although the building is technically 9-storeys it will appear and should be considered as 8-storeys. The ninth storey comprises a small plant and services room and an access way to the lift core. It is approximately 8.6 metres by 4.5 metres and will have limited visibility and impact.

At 9-storeys the height sits within the 4-10 storeys range of heights sought by the following objective of the DDO:

> *To encourage a new mid-rise built form character with buildings generally ranging from 4-10 storeys with lower built form at the interfaces with the adjoining low rise residential areas.*

The size and locational attributes enable this site to accommodate a building at the taller end of this scale. Contextual features of the site that are relevant to the proposal include the wide frontage, long depth, setback from residential neighbours to the west afforded by the Upfield Shared Path and train line and the emerging character of taller buildings within the immediate vicinity.

It is envisaged that remaining warehouse buildings and undeveloped sites are likely to eventually accommodate a building of a taller scale as encouraged by the DDO.

The closest residentially zoned land is on the on the opposite side of the Upfield Shared Path. All these factors together with the supportive policy context significantly contribute to this site being able to accommodate a taller building.

The proposal improves the approved ESD commitments and exceeds the following objective of the DDO18, which further supports a variation to the height control:

> *To ensure building design incorporates best practice environmentally sustainable design initiatives.*

The proposal was supported by Council's ESD officers as it offers a high level of sustainability. Notably the provision of bicycle parking and encouragement of alternative transport modes, the generous provision of green landscaped spaces and provision of ESD infrastructure demonstrates that this site achieves best practice.

The DDO also includes the following objectives relating to the interface with the public realm:

> *To create an inviting, safe and vibrant public realm.*
>
> *To ensure new development around the Jewel, Brunswick and Anstey Railway Stations includes the provision of well designed public spaces that integrate with the Upfield Shared Path and improve visibility of and access to the railway station buildings.*

A positive element of the existing approval is the activation of the ground floor and interface with the Upfield Shared Path. The amended proposal retains this positive element. The ground and first floor design of the western boundary adjoining the Upfield Shared Path extends the public realm into the site through at grade paving and an open space area accessible to the public. The proposal essentially widens the public area offering landscaping, seating, lighting and publicly accessible land uses (café) to enhance this section of the path adjoining the station.

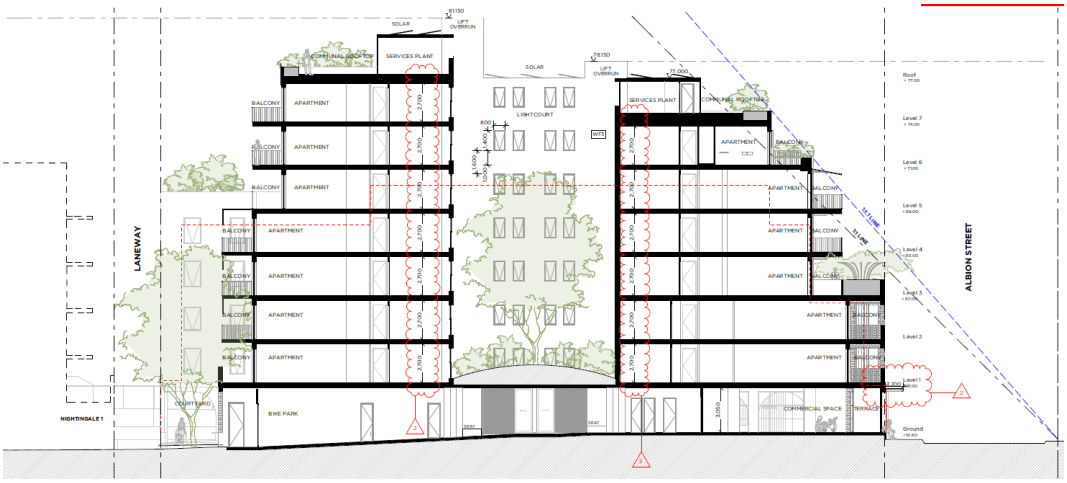
1:1 ratio

The DDO18 seeks:

> *to establish a new built form character in off-corridor locations to the east and west of Sydney Road to achieve an appropriate balance between a sense of enclosure and openness by applying a 1:1 ratio of building height to distance from the opposite side of the street boundary.*

Albion Street is 12.5 metres wide and the street wall proposed is 11 metres with a 5 metre upper level setback. The existing approval has a street-wall of 8.4 metres with an upper level setback of 3 metres. The additional street wall height more closely matches the width of Albion Street and is considered an improvement.

As demonstrated in the diagram below the 1:1 ratio is exceeded by less than half a storey. This is appropriate in this instance given the high architectural quality of the design, the setback of the upper levels and the minimal variation sought. Furthermore, this variation is appropriate in this location given the wide street frontage and large size of the site and the sense of openness afforded by its location adjoining the Upfield Shared Path and railway line, which is unlikely to be developed with buildings of a comparable scale to the proposal.

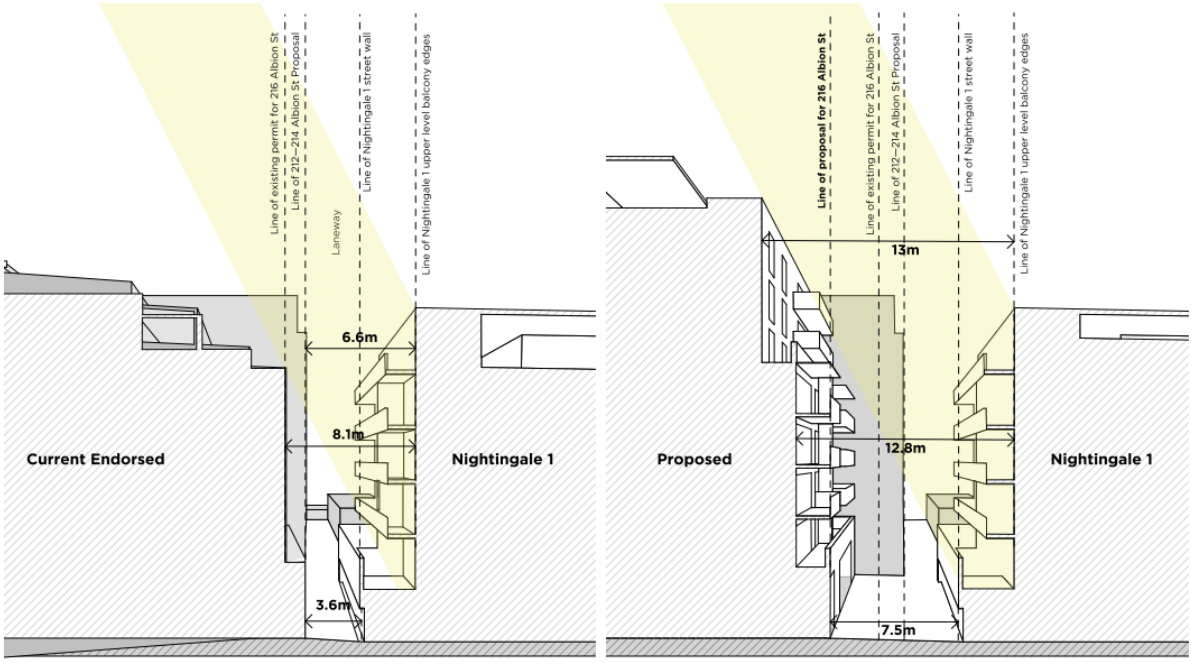


Proposal – Advertised Plan – Cross Section

Are the building separation and light court dimensions acceptable?

Clause 22.07 (Apartment Developments of Five or More Storeys) has discretionary requirements for light court dimensions and building separation. The proposal generally complies with the requirements of Clause 22.07, except for balcony setbacks from the rear laneway at levels 3 and 4.

The south facing balconies of apartments on levels 3 and 4 are setback 5.67 metres from the centre of the rear lane and require a 6m setback in accordance with Clause 22.07. This minor variation is acceptable as this amendment increases the setback of the building from the rear boundary when compared to the approved development. The current proposal will allow for improved outlooks from south facing apartments and greater sunlight penetration into the north facing apartments of 6 Florence Street, as shown in the image below:



The setback of the existing approved and proposed building from the rear adjoining laneway and neighbouring properties.

The light court along the eastern boundary has a minimum width of 4.5m, which complies with Clause 22.07, and an area of 47m^2, which exceeds the 29m^2 requirement of Clause 22.07. The overall size and dimensions of this light court are comparable in size to the existing approval and will continue to provide an acceptable level of daylight and ventilation to the bedrooms that face it.

Off-site amenity impacts

Given the building separation requirements are mostly met or exceeded, there are limited opportunities for overlooking and the offsite amenity impacts of this proposal are limited.

The shadow cast by the proposal is minimal and falls mostly upon existing shadows. In the morning, the shadow will fall on the Upfield Shared Path and railway line. In the afternoon, the shadow will fall mostly upon the roofs of the eastern adjoining building and the Florence Street dwellings at the rear.

Does the proposal offer an appropriate level of amenity for future occupants?

The building compared to the existing approval offers greater dwelling diversity with the introduction of studio dwellings. The two and three bedroom dwellings are larger than those approved under the existing approval. The proposal offers a high level of onsite amenity, notable features include:

- The building offers dwelling diversity with 4 dwelling types of varying sizes.
- 2 large areas of communal open space are provided.
- Ground floor communal areas including seating and the landscaped area at the rear of the site.
- Each dwelling is allocated 2 bicycle spaces.
- All rooms have direct access to natural light, with no provision for borrowed light or saddleback arrangements.
- The size of the bedrooms all exceed the sizes identified in Standard D7 of Clause 58.
- Each dwelling has adequate storage.
- 80% of dwellings are provided with appropriate cross ventilation.
- An acoustic report accompanied the application demonstrating the dwellings will be appropriately designed to restrict noise from the railway line.

Clause 58.05-3 seeks to ensure each dwelling has adequate private open space. Dwelling 501 and 601 have a balcony of 7.9 square metres, which is just under the $8m^2$ required. The Clause also has a minimum width requirement of 2 metres, which these balconies fall short of by 0.5 metres. This is acceptable given the layout, orientation, the location of the balconies which ensure they are usable and functional and the access to communal open space within the building.

Clause 58.04-2 seeks to limit internal views. There is a potential internal view from the kitchen window of dwellings 109, 209, 308 and 408 to the decking of 108, 208, 307 and 407. This can be addressed via a condition requiring screening of the kitchen windows.

Clause 58.07-1 relates to functional layout and seeks to ensure all rooms are of an adequate size. The proposal mostly meets or exceeds these requirements however the 2-3 bedroom dwellings are required to have living areas of 12 square metres. The proposal falls just short of this with 6 x 2-bedroom dwellings having living areas measuring between 10 square metres and 11.9 square metres. The impact of this minor variation will not unreasonably impact upon the amenity of occupants.

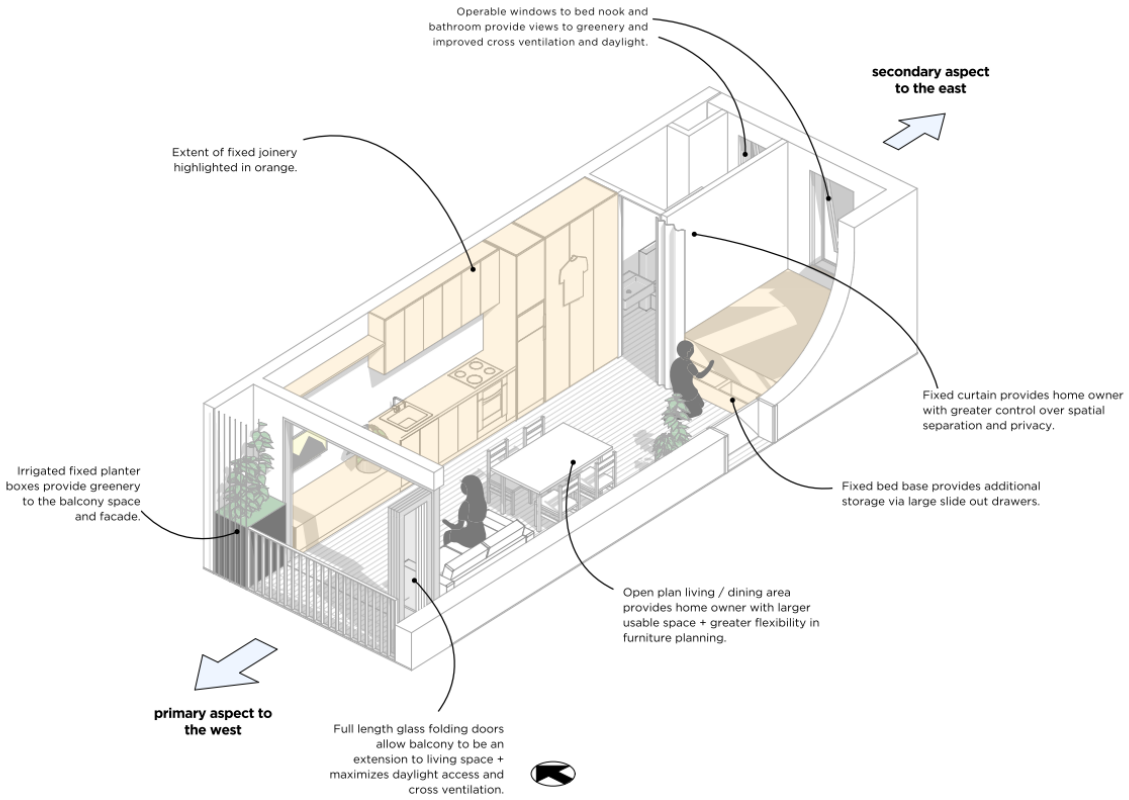
Studio apartments

Clause 58 anticipates studio style apartments and includes standards and objectives that apply to these types of dwellings. The 8 studios (described as Telihaus on the plans) generally comply with the Standards of Clause 58 except for the standards relating to balcony size and functional layout.

Clause 58.07-1 requires studios to have a living area of 10 square metres with a minimum dimension of 3.3 metres. The proposed studios generally comply with this standard, with an area of 10.4 square metres and internal width (measured wall to wall) of 3.3 metres. However, part of the inbuilt kitchen joinery encroaches into this space along one wall and results in a non-compliance with the standard.

Clause 58.05-3 seeks to ensure each dwelling has adequate private open space. The 8 studios have small 'Juliette' style balconies with an area of 2.2 square metres, which is below 8 square metres required by the standard.

The image below shows the layout of the studio apartments, including in-built storage:



Proposed plans – Studio Apartments

Overall, it is considered that the studios will have an acceptable level of internal amenity. All studio apartments are dual aspect, with good daylight access and cross ventilation, and an uninterrupted main outlook over the train line. The in-built joinery and design of the Juliet balconies, which become an extension to the living space when the doors are fully opened, provide a functional living space with good amenity. While the balconies are small, these dwellings have access to excellent communal facilities and communal open space.

Is no car parking appropriate?

The development provides no on-site spaces and a reduction of 70 spaces applies. The parking requirement is summarised below:

Type	Number	Rate	Parking Required	Parking Allocated
Studio	8	1 space/dwelling	8 spaces	0
1-bedroom apartment	14	1 space/dwelling	14 spaces	0
2-bedroom apartment	27	1 space/dwelling	27 spaces	0
3-bedroom apartment	5	2 space/dwelling	10 spaces	0
Cafes	194 square metres	3.5 space/100 square metres	6 spaces	0
Office	193 square metres	3 space/100 square metres	5 spaces	0
			70 spaces	**0**

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.*

It is noted that this site has the following within proximity:

- The site adjoins Anstey Station providing access to the Upfield Line.
- Tram 19 providing access to North Coburg or Flinders Street is 200 metres from the site.
- Tram 6 providing access to Glen Iris and Moreland Station is 650 metres from the site.
- Bus 503 provides access to Essendon and East Brunswick is immediately opposite the site.
- Buses 510 – Essendon to Thornbury, 508 Alphington to Moonee Ponds and 509 Brunswick West to Barkly Square are within 750 metres of the site.
- There are 9 car share locations, with 12 vehicles within 500 metres of the site.
- The site has immediate access to the Upfield Shared Path and close to other bicycle routes.
- The bicycle parking on site is ample, secure and convenient.
- The application was accompanied by a Green Travel Plan which includes information for tenants, residents and staff discouraging private car use.

Council's Strategic Transport and Compliance Branch is satisfied that car parking requirement can be reduced to zero for this application.

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

The Green Travel Plan includes a number of sustainable transport initiatives including the implementation of a Sustainable Transport Fund. It is proposed for the Body Corporate to implement a 'Sustainable Transport Fund' via a levy to which residents will contribute and which will be used on sustainable transport alternatives, including car share membership, public transport and bicycle equipment, servicing, insurance and repairs. The levy is likely to be in the order of $500, with annual Body Corporate reviews of the fund to be undertaken. The sustainable transport fund would be mandatory and would be included as part of the Body Corporate fees. The purchaser group would be aware of the levy and previous purchaser groups have indicated that they would be most likely to spend the fund on Myki credit, car share memberships and bicycle purchase and maintenance.

The applicant advised that purchasers are limited to a group who support zero parking.

Implementation of the Green Travel Plan will be required via condition to ensure these measures are continued over time.

There have been similar developments without onsite parking approved in the area. Significantly to the south of the site 11 Florence Street comprises of 24 dwellings with no car parking. 209 Sydney Road, Brunswick has 20 dwellings and commercial uses with no car parking and 451 Lygon Street ,East Brunswick comprises 12 dwellings with no car parking. These developments were all supported by VCAT. When determining 209 Sydney Road, Brunswick VCAT noted:

> *With respect to the concerns raised by the applicants for review about the lack of carparking provided by the proposal, this aspect of the proposal is acceptable. The site'slocation in an activity centre and its proximity to a range of public transport and alternative transport options, complemented by the proposal's management regime, is sufficient to persuade me that a waiver of car parking requirements is appropriate in this location.*
>
> *There is a wealth of policy in the planning scheme supporting the reduction or waiving of parking requirements in appropriate locations. My findings about the acceptability of a total waiver of parking is consistent with the findings of recent Tribunal decisions that have commented on the policy encouragement for a modal shift to sustainable transport options in suitable locations.*

Has adequate bicycle parking been provided?

The development includes 147 bicycle parking spaces, well in excess of the requirements. These include 2 spaces per dwelling in the main bicycle storage room, 4 visitor bicycles in the main bicycle storage room; 2 longer resident bicycle parking spaces in the main bicycle storage room; 6 resident bike share spaces in a secure area; 7 resident vertically parked bicycles; and 10 public bicycle spaces. All parking spaces are provided in accordance with the dimensions required by the Australian Standard for Parking Facilities - Bicycle parking (AS2890.3). The bicycle parking access aisles also meet the requirements of the AS2890.3.

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

This site is located adjacent to the Upfield shared bicycle/pedestrian path. The path is on railway land that Council leases for the path. This development has been assessed to ensure that whilst it can access the path, the development is not dependent upon the path for access.

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

- Removes a vehicle crossing increasing on street parking.
- Encourages the use of bikes and alternative transport modes through the provision of no car parking.
- Provides generous bicycle parking for residents, staff and visitors.
- Enhances the section of the Upfield Shared Path adjoining the station entry though the expansion of the path, the complementary land uses and the open design bridging the public and private realms.
- The application proposes lighting to the open area adjoining the Upfield Shared Path this will enhance the amenity and sense of safety experienced around the path and station particularly at night.

A permit condition will require the preparation of a Section 173 agreement that is to ensure the land along the western and southern boundaries remain open and publicly accessible.

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

The plans were supported by Council's ESD Officer's subject to conditions which are included the recommendation. The proposal exceeds best practise ESD in accordance with Clause 22.08 of the Moreland Planning Scheme. The proposal includes a Sustainable Design Response that includes:

- 7.5-star NatHERS average commitment for the dwellings.
- Gas free development.
- Ceiling fans in both living rooms and bedrooms.
- Appliances within 1 star of best available (assuming at time of installation).
- 20kW solar PV system.
- Embedded network with 100% certified 'green power'.
- Water fixtures (taps, toilets, showers) with typical best practice WELS ratings.
- 15,000L rainwater tank (for toilet flushing) and the monthly fire testing water to be harvested and reused.
- Construction and demolition waste – 95% recycling target.
- On-site provided centralised composter/worm farms.
- Excellent materials commitments:
  - All timber is committed to be FSC/AFS certified
  - Low/zero VOC products
  - Low SRI roof paints
- Excellent use of roof space – combination of solar PV, landscaped communal spaces, rainwater harvesting, and staggering of these elements across the levels to take advantage of sunlight/space, and considered shadowing from the services.

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. Standard D17 (Accessibility) of Clause 58 requires at least 50% of apartments to be accessible and to meet certain design criteria, including clear paths of travel and adaptable bathrooms.

In this instance 63% of the dwellings are accessible. The recommendation includes a condition ensuring the recommendations of the access report provided with the application be implemented.

The existing approval did not provide accessible dwellings.

Is the site potentially contaminated?

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 land uses subject to the completion of an Environmental Audit. A condition is therefore contained in the recommendation requiring an Environmental Audit to be undertaken before the development commences. This will ensure that the site is remediated to an appropriate standard to ensure the land use is safe for the proposed uses.

5. Response to Objector Concerns

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

- Height.
- Amenity impacts including overlooking and overshadowing.
- Lack of car parking.
- Car, pedestrian and bicycle congestion.
- Lack of landscaping.

Other issues raised by objectors are addressed below.

Overdevelopment

The proposal satisfies the requirements of Clause 58, therefore the proposal is not considered to be an over development of the site. State Government Policy, particularly Plan Melbourne, as well as Council Policy supports higher densities in areas that are within Activity Centres, or within areas with good access to public transport and other services.

Given the sites location in an Activity Centre and its proximity to public transport the level of development proposed is appropriate and consistent with the Planning Policy Frameworks.

Construction issues

Noise and amenity impacts during the construction process are not generally a planning matter. The *Environmental Protection Act* (s.48A(3)), provides noise control guidelines for commercial construction sites which set working hours and noise management expectations. Council's General Local Law 2018 also includes provisions regarding control of noise associated with commercial and industrial building work.

Concern has been raised in relation to potential closure of roads and footpaths during construction. Such closures are not a planning consideration. Closure or occupation of public spaces requires a Public Occupation Permit under Council's General Local Law 2018. Council's Environmental and Civic Assets Local Law 2018 requires an Asset Protection Permit to be obtained to ensure infrastructure assets within the road reserve are protected or repaired if damaged.

A range of other approvals are required from Council's City Infrastructure Department related to construction impact on public space. Consideration of such closure and notice as required is undertaken through these processes.

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 9 storey building containing dwellings, cafes and offices with a full reduction of the car parking requirement adequately addresses the matters raised in the Moreland Planning Scheme. It is therefore, appropriate that an amended planning permit be issued subject to the conditions in the recommendation.

Attachment/s

1⇩	Locality Plan - 216 Albion Street, Brunswick - MPS/2012/848/C	D19/137605
2⇩	Development Plans - 216 Albion Street, Brunswick - MPS/2012/848/C	D19/137915
3⇩	Endorsed Plans - 216 Albion Street, Brunswick - MPS/2012/848/C	D19/137724
4⇩	Sketch Concept Plans - 216 Albion Street, Brunswick - MPS/2012/848/C	D19/137932
5⇩	Objector Location - 216 Albion Street, Brunswick - MPS/2012/848/C	D19/137820

DCF29/19 21-23 AND 25 SYDNEY ROAD, COBURG - PLANNING APPLICATION MPS/2017/988 (D19/106911)

Director City Futures

City Development

Executive Summary

The application originally sought approval for the development of the land for a 7-storey building, plus basement, including a reduction in car parking. The application was advertised and 8 objections were received. The main issues raised in objections are height, overlooking, overshadowing, impact on character, carparking and impact on infrastructure capacity.

Following a Planning Information and Discussion (PID) meeting held on 15 October 2018, the proposal was amended to a 6-storey building.

The report details the assessment of the application against the policies and provisions of the Moreland Planning Scheme.

The key planning considerations are:

- Are the external amenity impacts acceptable?
- Is the built form including height, upper level setbacks and streetwall appropriate?
- Is the reduction in car parking acceptable?

The proposal is considered to be an appropriate response to the urban context, achieving a high degree of compliance with the built form guidance for the Activity Centre Zone in relation to height, streetwall and setbacks. The reduction in car parking is acceptable given the site's excellent access to public transport. The offsite amenity impacts are acceptable given the orientation of the lot and its location within an Activity Centre. In addition, the amenity for future occupants is considered acceptable with the proposal complying with the objectives of Clause 58 (Apartment Developments) of the Moreland Planning Scheme.

It is recommended that a Notice of Decision to grant a permit be issued subject to conditions included in the recommendation.

Officer Recommendation

That a Notice of Decision to Grant a Planning Permit No. MPS/2017/988 be issued for the development of the land for a 6-storey building, plus basement, including a reduction in car parking at 21-23 and 25 Sydney Road, Coburg, 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. The plans must be generally in accordance with the plans received 2 November 2018 but modified to show:

    a) A communal rooftop terrace of at least 67 square metres with appropriate landscaping and including lift and stair access.

    b) Floor to ceiling heights increased to 2.7 metres for all residential levels and 3.6 metres for the ground level.

    c) The inclusion of glazing in the western wall of shop 4 to enhance surveillance of the laneway.

    d) A plinth with a height of between 300 and 500 millimetres added to the shops facing Sydney Road and Allen Street.

e) The awning along Sydney Road and Allen Street increased in depth to 1.8 metres

f) External screens to west facing habitable room windows for bedroom 1 and 2 of apartments 6, 12, 17 and 22. The screens must be no more than 25% transparent and located to avoid overlooking below 1.7 metres above floor level of the applicable habitable room windows within the development.

g) An external screen device on the north side of the balconies of apartments 18 and 23 to prevent downward views of the terrace of apartment 13.

h) Balconies to the 2-bedroom apartments 3, 4, 5, 6, 9, 10, 11, 12, 19, 20, 21 and 22 increased in depth to achieve a 2 metre internal depth to comply with Clause 58.05-3.

i) Balconies to the 3-bedroom apartments 2 and 8 increased in size to achieve internal dimensions of 2.4 x 5 metres to comply with Clause 58.05-3.

j) Total internal storage volumes for each apartment ensuring that a minimum of 9 cubic metres for 2-bedroom apartments and 12 cubic metres for 3-bedroom apartments are provided, to comply with Clause 58.05-4.

k) The main bedrooms for apartments 2 and 8 with minimum dimensions of 3.4 x 3 metres to comply with Clause 58.07-1.

l) Items within the Sustainability Management Plan (SMP), and any changes resulting from the amended SMP in accordance with condition 6 of this Permit, including:

    i. External shading for north, east and west facing windows.

    ii. The 64 on-site bicycle parking spaces dimensioned in accordance with the Australian Standard for bicycle parking while fitting within the nominated bicycle area.

    iii. End of trip shower and change facilities for staff of the shops.

    iv. Adequate space within the residential and commercial bin room to accommodate 3 bin types (organics, commingled recycling and garbage).

    v. The solar photovoltaic system, including the location of individual panels.

    vi. A note indicating the 15,000 litre rainwater tank (connected to toilets) is not to be used for onsite detention.

m) At least 20% (12) of the bicycle parking devices designed to park bicycles horizontally (i.e. 1.8 metres long) and at ground level, in accordance with the Australian Standard for Bicycle Parking (AS2890.3).

n) Dimensions of the car stackers in accordance with the manufacturers specifications, including upper and ground floor vehicle clearance heights and specific model numbers.

o) The columns in the car park placed in accordance with the Australian Standard for Off-Street Parking (AS2890.1), which includes:

    i. No portion of the column to be inside the car parking space; and

    ii. Placed between points 0.35 and 1.35 metres from the aisle.

p) The verandah must not project beyond the street alignment unless it is setback not less than 750 millimetres from the kerb and at a height not less than 3 metres above the level of the footpath in accordance with Clause 507 of the Building Regulations 2006.

q) The Materials, Colours and Finishes Schedule amended so that:

i. The specified glazing is consistent with the amended SMP and Acoustic report.

r) Any changes required by the amended Landscape Plan in accordance with condition 4.

s) Any changes required by the Accessibility Report in accordance with condition 11.

t) Any changes required by the Acoustic Report in accordance with condition 13.

Development not to be altered

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.

Development Contributions Plan

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

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

   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.

Landscaping

4. Prior to the endorsement of plans, a landscape plan must be submitted to and approved by the Responsible Authority. The landscape plan must provide the following:

   a) 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) Landscaping of the communal roof top terrace. Landscaping features such as pergolas and sun shade structures must not exceed 3.6 metres in height.

5. 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.

Sustainable Management Plan

6. Prior to the endorsement of plans, the Sustainability Management Plan prepared by Northern Environmental Design dated 7 March 2018 must be amended by a suitably qualified Environmental Sustainable Development consultant, or equivalent, to the satisfaction of the Responsible Authority to include the following:

    a) The preliminary glazing calculator for the shop glazing to be amended to accord with the size of the glazing shown on the plans.

    b) An improved response to the 'energy response' objectives of Clause 22.08, including:

        i. External shading for exposed north, east and west facing windows, unless the SMP can demonstrate that the affected rooms are within the allowable maximum cooling loads Clause 58.03-1.

        ii. Increased capacity of solar Photo Voltaic system or better justification for the size proposed.

        iii. The commercial 'Energy' response amended to accord with the BESS report (section 'Retail Building Insulation').

    c) A stormwater catchment plan clearly showing where the areas draining to the rainwater harvesting tank on each building level are located.

    d) An improved response to the Clause 22.08-2 'Waste' objectives, including:

        i. That there is adequate space within the combined commercial and residential bin store room for 3 bin types: organics, commingled recycling and garbage (as per the Sustainability Victoria' Better Practice Guide for Waste Management and Recycling in Multi-Unit Developments').

        ii. The waste storage to accord with the recommendations of the Sustainability Victoria (as per the Sustainability Victoria 'Multi-unit and Commercial Development Waste and Recycling Generation Rates Calculator').

    e) An amended BESS report which:

        i. Is published (no longer in draft format).

        ii. The 'water' inputs amended so that the washing machines are no longer 'scoped out'.

    Where alternative ESD initiatives are proposed to those specified in the conditions above, the Responsible Authority may vary the requirements of this condition at its discretion, subject to the development achieving equivalent (or greater) ESD outcomes in association with the development.

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

7. 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.

8. Prior to the issuing of a Statement of Compliance or occupation of any dwellings or shops approved under this permit, a report (or reports) from the author of the SMP report, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report(s) must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the approved SMP and WSUD report have been implemented in accordance with the approved plans. Specific details confirming the ESD and WSUD measures have been implemented must be included, such as:

a) Evidence that the building achieved an improvement of 10% (or alternative improvement within the endorsed SMP) above minimum energy requirements.

b) Evidence that the improved glazing has been implemented throughout the site.

c) Water efficient fixtures, fitting and appliances have been installed.

d) Construction and waste management targets (including for construction and demolition waste and reuse of materials on site) occurred.

e) Materials with improved sustainability were used (including targets for improved concrete, timber, tilers and steel).

f) Internal materials, including paints, adhesives, sealants and flooring, adhered to the maximum levels of volatile organic compounds.

g) Sub-metering provisions were installed.

h) The rainwater harvesting tank was installed, connected to toilets and is collecting water from the nominated roof area.

i) Any other ESD initiatives occurred and were installed or constructed.

Waste Management Plan

9. Prior to the endorsement of plans, an amended Waste Management Plan must be submitted and approved to the satisfaction if the Responsible Authority. The plan must be generally in accordance with the Waste Management Plan prepared by Northern Environmental Design dated 7 March 2018 but amended to reflect the plans received 2 November 2018 and the updated SMP required by condition 6. When submitted and approved, the Waste Management Plan and associated notated plans will form part of this permit.

10. 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 written approval of the Responsible Authority.

Accessibility report

11. 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 Equal Access dated 9 April 2018 but updated to reflect the plans received 2 November 2018, detail how the development will incorporate design features in accordance with Standard D17 (Accessibility) of Clause 58 of the Moreland Planning Scheme, including the detailed design of the adaptable bathrooms (e.g. confirmation of hobless showers and removable hinges to doors where applicable). 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. When submitted and approved, the Accessibility Report will form part of this permit.

12. Prior to the issuing of a Statement of Compliance or 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

13. Prior to the endorsement of plans, an Acoustic Report prepared by a qualified Acoustic Engineer must be submitted and approved to the satisfaction of the Responsible Authority. The Report must be generally in accordance with the Acoustic Report prepared by Shelburg Acoustics 2 April 2018 but updated to reflect the plans received 2 November 2018. When submitted and approved, the Acoustic Report will form part of this permit.

14. 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.

15. Prior to the issuing of a Statement of Compliance or 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.

16. Prior to the commencement of the development, the landowner must commission and submit to Council for approval, a report from a suitably qualified acoustic engineer to verify that the car stackers will operate in accordance with the *Environment Protection Act 1970* (the Act) and the Environment Protection (Residential Noise) Regulations 2008 (Regulations). In the event that it is considered that the Act and Regulations would be breached, the acoustic report must recommend further noise attenuation measures to ensure compliance with the Act and these additional measures must be implemented at the owner's cost and to Council's satisfaction prior to the occupation of the development.

General

17. 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).

18. Prior to the occupation of the development, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.

19. 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.

20. Unless with the prior written consent of the Responsible Authority, any plumbing pipe, ducting and plant equipment must be concealed from external views. This does not include external guttering or associated rainwater down pipes.

21. Prior to the 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).

22. Prior to the occupation of the development all bicycle parking racks must be provided in a manner that accords with the Australian Standard for Bicycle Parking Facilities (AS2890.3) to the satisfaction of the Responsible Authority.

23. The car parking spaces provided on the land must be solely associated with the development allowed by this permit and must not be subdivided or sold separate from the development for any reason without the written consent of the Responsible Authority.

24. At least 25 per cent of the mechanical car parking spaces are to be able to accommodate a vehicle clearance height of at least 1.8 metres.

25. Prior to the occupation of the development, all parking spaces are to be marked with the associated apartment or shop number to facilitate management of the car park to the satisfaction of the Responsible Authority.

Privacy screens to be installed and maintained

26. 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.

Permit expiry

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

    a) The development is not commenced within 3 years from the date of issue of this permit.

    b) The development is not completed within 5 years from the date of issue of this permit.

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

    - Within 6 months after the permit expires to extend the commencement date.
    - 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 the conditions of this 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: Further approvals are required from Council's City Infrastructure Department who can be contacted on 9240 1143 for any works beyond the boundaries of the property. Planting and other vegetative works proposed on road reserves can be discussed with Council's Open Space Unit on 8311 4300.

Note 3: 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.

REPORT

1. Background

Subject site

The subject site is located at 21-23 and 25 Sydney Road Coburg. It is located on the western side of Sydney Road approximately 50 metres north of Moreland Road on the corner of Allen Street.



The subject site is currently developed with 2 single storey buildings, one used as a restaurant and the other appears vacant. The buildings are constructed to the Sydney Road boundary. The rear of the site contains an open concrete area used for car parking.



Looking west at the subject site



Looking east at the rear of the subject site.

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

Surrounds

The site is located within the Coburg Activity Centre which extends north and south of the subject site on both sides of Sydney Road. Properties on Sydney Road contain mostly one and two-storey shops, with the exception a 5-storey mixed use building located at 6 Sydney Road to the south east of the site.

The property north of the subject site on the opposite side of Allen Street contains an individually significant Heritage building (Heritage Overlay HO362) known as the Former Hygienic Building.

Immediately to the west of the subject site is a 2-storey brick building separated from the subject site by a laneway. This building contains a dwelling at first floor above a commercial use at ground floor. Further west there is a group of five single storey dwellings fronting Allen Street. These dwellings are located within the Commercial 1 Zone. Moreland Train Station is located at the western end of Allen Street approximately 150 metres from the rear of the subject site.

A location plan forms **Attachment 1**.

The proposal

The proposal includes the development of a 6 storey building including 4 shops and 27 dwellings. The composition of apartment types includes 19 x 2-bedroom dwellings, 6 x 2-bedroom plus study and 2 x 3-bedroom dwellings. Floor to ceiling heights for each residential level is 2.55 metres.

The building has an overall height of 18 metres and will be clad in brick, metal cladding (Colorbond), render and pre-cast concrete.

Basement

- 38 car parking spaces with 29 residential spaces within a car stacker.
- 9 spaces provided at grade for the shops with 3 spaces provided for shop 1 and two spaces each for the remaining shops.
- 15,000 litre rain watertank.
- Residential storage units.

Ground level

- 4 shops, 2 fronting Sydney Road and two fronting Allen Street, totalling 516 square metres.
- Vehicle entry from the lane to the west with access to the basement via a car lift.
- Residential entry, 64 bicycle parking spaces, utility services and bin storage.

Levels 1-5

These levels contain the apartments orientated towards either Sydney Road or Allen Street.

The development plans form **Attachment 2**.

Planning Permit and site history

The following planning permits and applications are relevant to the subject site:

- A planning permit application (MPS/2016/720) for the construction of a six-storey (plus basement) mixed use building containing a shop and dwellings, reduction of the car parking requirement and waiver of loading bay requirements at 21-23 Sydney Road was refused on 27 October 2017. The application was refused on a number of grounds including:
  - Poor internal amenity for future residents;
  - Offsite impacts including equitable development rights;
  - Poor design response and
  - Inadequate floor to ceiling heights at the ground level to accommodate future commercial uses.
- Planning Permit MPS/2017/595 for the use of the land for art and craft centre at 25 Sydney Road was issued on 16 January 2018. This permit has not been acted on.
- Planning Permit MPS/2011/803 was granted on 24 April 2012 for the construction of a 4-storey building comprising 10 dwellings and 1 shop, use of the land for dwellings, a reduction of the car parking requirement and waiving of the loading bay requirement. This permit expired on 24 April 2018 and an extension of time has not been sought.

Statutory Controls – why is a planning permit required?

Control	Permit Requirement
Activity Centre Zone Schedule 1 (Precinct 7)	Clause 37.08-5: A permit is required to construct a building or construct or carry out works.
Particular Provisions	Clause 52.06: A permit is required for a reduction in the standard car parking requirement from 43 to 38 spaces

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

- Clause 45.06: Development Contributions Plan Overlay.
- Clause 45.09: Parking Overlay (Schedule 1). The parking overlay means that the 'Column B' rates in the table to Clause 52.06 apply. As a result, no visitor car parking is required for the development.

2. Internal/External Consultation

Public notification

Notification of the original 7 storey proposal has been undertaken pursuant to Section 52 of the *Planning and Environment Act 1987* by:

- Sending notices to the owners and occupiers of adjoining land.
- Placing 4 signs on the site – 2 facing Sydney Road and 2 on the lane to the rear.

Council has received 8 objections to date. A map identifying the location of objectors forms **Attachment 1**.

The key issues raised in objections are:

- Height.
- Overlooking.
- Overshadowing.
- Impact on heritage character.
- Inappropriate appearance.
- Impact on car parking.
- Increased danger to pedestrians with vehicles driving into the laneway.
- Overcrowding.
- Impact on infrastructure – sewage, drainage, public transport, bin collection.
- Impact on foundations during construction.

A Planning and information discussion (PID) meeting was held on 15 October 2018 and was attended by Council officers, 6 objectors in Allen Street and 1 representative of the applicant. The meeting provided an opportunity to explain the application, for the objectors to elaborate on their concerns, and for the applicant to respond.

On 9 November 2018, following the PID, the application was amended under section 57A of the *Planning and Environment Act 1970*. Changes to the plans included:

- Reduction to the height of the building by 3.5 metres (1 level) resulting in an overall height of 18 metres, reduced from 21.5 metres.
- Reduction in floor to ceiling heights from 2.7 metres to 2.55 metres at each residential level.
- Removal of the communal roof top terrace including lift and stair access.
- Increased setbacks to balconies from Sydney Road at level 4 and 5.
- Provision of one additional shop with a frontage to Allen Street.
- Confirmation of bathroom layouts.
- Additional south facing window provided to the light court at each level.
- Relocation of the laundry of some apartments.
- The residential entry provided with a greater sense of address and visibility.
- Perforated access door to the carpark entry.
- Vertical louvers applied to balconies on levels 3-5 for visual interest.
- Continuing some of the vertical brick pillars to extend to the ground on the Sydney Road frontage.

The amended application was not advertised as it reduced potential amenity impacts to surrounding properties through the reduction in height, removal of roof top terrace and no change to the layout of the dwellings. Internal/external referrals.

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

Internal Branch/Business Unit	Comments
Urban Design Unit	No objections were offered to the proposal subject to modifications, which are addressed by conditions of the recommendation or as otherwise detailed in section 4 of this report.
Development Advice Engineer	No objections were offered to the proposal subject to modifications, which are addressed by conditions of the recommendation or as otherwise detailed in section 4 of this report.
ESD Unit	No objections were offered to the proposal subject to modifications, which are addressed by conditions of the recommendation. Subject to these conditions, the proposal will satisfy the objectives of Clause 22.08 (Environmentally Sustainable Development).

3. Policy Implications

Planning Policy Framework (PPF)

The following State Planning Policies are of most relevance to this application: Settlement (Clause 11.01S)

- Metropolitan Melbourne (Clause 11.01-1R1).
- Noise (Clause 13.05).
- Water Conservation (Clause 14.02-3S).
- Built Environment and Heritage (Clause 15), including:
  - Built Environment (Clause 15.01).
  - Healthy neighbourhoods (Clause 15.01-4S and 15.01-4R).
  - Sustainable Development (Clause 15.02).
- Housing (Clause 16), 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).
  - Housing Diversity (Clause 16.01-3S).
- Economic Development (Clause 17).
- Transport (Clause 18), including:
  - Principal Public Transport Network (Clause 18.02-2R).

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 Profile (Clause 21.01).
- Vision (Clause 21.02).
- MSS Vision – Sustainable Neighbourhoods (Clause 21.02-3).
- MSS Strategic Directions (Clause 21.02-3).
- Strategic Framework (Clause 21.03).
- Activity Centres (Clause 21.03-1).
    - Housing (Clause 21.03-3).
    - Urban Design, Built Form and Landscape Design (Clause 21.03-4).
    - Environmentally Sustainable Development (Clause 21.03-5).

Local policies:

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

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 Planning Policy Framework by incorporating a range of uses including increased housing and active spaces at ground level to create and reinforce an active and pedestrian friendly 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 Activity Centre. The proposal enjoys strong strategic support at both State and Local level.

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 respond to the preferred character of the area?

The proposal will result in an acceptable response to the preferred character of the Coburg Activity Centre where significant change is encouraged. In particular, the proposed development will result in a high level of compliance with the built form expectations sought through the Activity Centre Zone (ACZ).

The site is located within Precinct 7 of the ACZ which provides the following built form guidance:

	Height	Streetwall	Upper level Setback
Sydney Road	18 metres	11 metres	7 metres*
Allen Street	18 metres	-	3 metres*

*The ACZ specifies that a permit should not be granted for balconies to encroach more than 2 metres within minimum setback areas.

In addition, the ACZ gives the following guidelines for Precinct 7:

- Buildings should be designed as part of the streetscape rather than as stand-alone buildings to create a cohesive character and consistent built form.
- Residential development should address rear laneways and provide active frontages to laneways where appropriate.

Following is an assessment of the proposal against these built form guidelines.

Height

The maximum overall height of the building is 18 metres, measured to the top of the parapet of level 6. This is consistent with the preferred building height given for this site as outlined in the ACZ.

However, the proposal includes inadequate 2.55 metres floor to ceiling heights which will result in poor daylight into living spaces contrary to Clause 58.07-2 (Room Depth Objective, Standard D25). This is discussed under the Clause 58 assessment below. Furthermore, the floor to ceiling heights proposed at ground level are inadequate to accommodate commercial uses. The applicant has demonstrated that a height of 3.6 metres can be provided at ground level, which would allow greater flexibility to accommodate a range of commercial uses.

For these reasons, it is considered appropriate to require the building height to be increased to accommodate a minimum floor to ceiling height of 2.7 metres for all residential levels and 3.6 metres at ground level. This will result in an increase in height of approximately 1 metre to 19 metres.

The increase in height is acceptable for the following reasons:

- The additional one metre in height will not result in unreasonable adverse impacts to any surrounding properties.
- It will not be readily perceivable given it represents an approximate 5% increase in height.
- Will result in superior internal amenity for residents.

Conditions are included in the recommendation to address this.

Streetwalls

A streetwall height of 10 metres is proposed for Sydney Road. With the conditions recommended to increase the floor to ceiling heights, this will increase the streetwall height to 10.6 metres. This is commensurate with the preferred maximum of 11 metres as specified in the ACZ.

A preferred maximum streetwall height is not given for Allen Street within the ACZ. The streetwall height proposed ranges from 9.6 metres and 10 metres. With the conditions recommended to increase the floor to ceiling heights, this will increase the streetwall height to 10.2 m to 10.6 metres. This satisfies the built form objectives of the ACZ as it:

- Creates a consistent streetwall height.
- Will not have an adverse impact on residential properties to the west as a result of overshadowing or overlooking.
- Will result in appropriate activation of Allen Street to foster passive surveillance, provide visual interest and allow for visual interaction between people on the street and users of the building at ground level.

To improve passive surveillance and safety on the street, Council's Urban Design Unit have recommended the inclusion of glazing in the western wall of shop 4 where it abuts the laneway. This is included as a condition in the recommendation.

Upper level setbacks

Upper level setbacks designated for this site include 7 metres for Sydney Road and 3 metres for Allen Street. In addition, the ACZ specifies that a permit should not be granted for balconies to encroach more than 2 metres within minimum setback areas.

The walls and balconies of the development comply with the above setback requirements.

Design detail

A feature of this area is the use of plinths on the ground floors. To ensure the ground floor fits better within the streetscape a solid brick plinth of between 300 and 500 millimetres is recommended. In addition, the verandah should be extended to be 1.8 metres in depth to better fit with existing verandah widths in the streetscape.

Has adequate car and bicycle parking been provided?

The planning scheme requires a total of 47 spaces for the dwellings and shops. The development provides 38 on-site spaces, resulting in a shortfall of 9 spaces. 29 spaces have been allocated to the dwellings which satisfies the planning scheme requirement. The shortfall is attributed to the shops.

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 proposal is located within the Coburg Activity Centre and has excellent access to public transport including Moreland Railway Station within 150 metres and tram route 19 on Sydney Road within 50 metres. Furthermore, 63 bicycle parking spaces are provided on site which is above the 3 specified in Clause 52.34.

Council's Strategic Transport and Urban Safety Branch is satisfied that car parking requirement can be reduced for this application.

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

The dwellings will not be eligible for parking permits in the event that parking restrictions are imposed by Council on the street. This is included as a note on the planning permit in the recommendation.

Are adequate loading/unloading facilities provided?

Clause 65 of the Moreland Planning Scheme requires consideration of the adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.

A loading bay is not provided on the site however, Council's Development Advice Engineer considers that the provision of car parking for each of the shops provides sufficient loading and unloading opportunities. It is also considered that occasional larger deliveries can be accommodated on street.

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

In relation to traffic impacts, Council's Strategic Transport and Compliance Branch have assessed the proposal and consider that the development will result in 350 additional vehicle movements per day on Allen Street. This remains within the street's design capacity and is not expected to cause traffic problems.

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 the rear laneway for vehicle access to allow street frontages to prioritise pedestrian movement and safety and to create active frontages.
- Provides 64 bicycle spaces at ground level with convenient access from the street.

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

ESD features of the development include:

- 15,000 litre rainwater tank.
- 64 ground floor bicycle parking spaces.
- 5kW solar PV system (greater capacity is likely to be possible).
- 7.5-star NatHERS rating.
- Materials with improved sustainability including low VOC paints and adhesives and use of FSC/ACS timber.
- BESS report with an overall 65% score.

Conditions are included in the recommendation that will ensure the development results in best practice ESD. This includes improving the energy performance of the building and the stormwater management response.

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.

The proposal results in 15 (55%) of the dwellings being visitable by people with limited mobility including:

- An accessible path from the street to a level entry,
- A minimum width of 850 millimetres for doors and 1 metres for hallways; and
- A clear path of travel from the accessible entry to a living area and toilet suitable for people with limited mobility.

These 15 dwellings also provide a bedroom, living area, kitchen, private open space, bathroom and toilet which can be efficiently adapted, enabling them to be lived in by people with limited mobility. In particular, the bathrooms incorporate larger dimensions to facilitate people with limited mobility, as well as door widths of 850 millimetres for bedrooms. The proposal is compliant with Clause 58.05-1 (Accessibility) with 15 of the 27 dwellings (55%) achieving the minimum dimensions as set out in that Clause.

Does the proposal satisfy the requirements of Clause 58 (Apartment Developments)?

The proposal results in an acceptable level of compliance with this Clause, and with conditions, will result in acceptable internal amenity for future residents. Notably, each apartment will have a street outlook and living rooms and balconies are oriented north for 22 of the 27 apartments.

Of significance, a condition is recommended to increase the floor to ceiling heights to comply with Clause 58.07-2, ensuring sufficient daylight is achieved in living spaces.

An acoustic report has been submitted with the application which provides recommendations to ensure the internal amenity of apartments is protected from external noise associated with Sydney Road which includes a tram route. A condition is included in the recommendation to ensure these recommendations are adopted. Areas where additional detail is required or variations to standards are proposed are discussed below:

Clause 58.03-5 Landscaping objectives - Standard D10

The proposal does not include any landscaping and there are no communal spaces that can accommodate landscaping. While some landscaping could possibly be accommodated at level 4 in the corner of Sydney Road and Allen Street, this would be difficult to maintain, requiring access through Apartment 13.

The amendment sought on 2 November 2018 removed the top level of the development which included three apartments and a communal roof top terrace. There are now minimal open spaces available to provide meaningful landscaping.

One of the objectives of Clause 58.03-5 is to promote climate responsive landscape design and water management to support thermal comfort and reduce the urban heat island effect. Developments should incorporate landscaping opportunities such as green roofs and green walls to reduce heat absorption.

A condition is included in the recommendation to require a communal rooftop terrace where appropriate landscaping can be accommodated. This will also enhance the internal amenity of future residents. An area of at least 67 square metres should be provided, resulting in 2.5 square metres per apartment. This is based on the requirement of Clause 58.03-5 although it is acknowledged that this only applies when there are 40 or more dwellings. The original proposal included a roof top terrace of 170 square metres therefore 67 square metres is considered to be achievable. A condition is also included to require a landscape plan. This has been discussed with the applicant who is agreeable to reinstating a roof space for use by residents.

Amenity impacts

Clause 58.04-1 Building setback objectives - Standard D14

Overlooking of habitable room windows of the property to the west will be possible from west facing bedroom windows within 9 metres of the proposed development including:

- Two west facing bedroom windows within 3 metres of east facing habitable room windows at first floor of the 'shop top' dwelling at 1 Allen Street.
- Two west facing bedroom windows within 4.5 metres of the eastern boundary at levels 2-5.

The land at 1 Allen Street is included within the Commercial 1 Zone and is constructed to its eastern boundary with habitable windows facing east. Despite these features, a condition is included in the recommendation to provide for increased privacy protection for the site which is being used as a dwelling.

Clause 58.04-2 Internal views objective - Standard D15

More than 50% of the SPOS of Apartment 13 is able to be overlooked from the east facing balconies of Apartments 18 and 23 above. An external screen device on the north side of the balconies would prevent downward views which would address this issue. A condition is included in the recommendation to address this.

On-site amenity and facilities

Clause 58.05-3 Private open space objective - Standard D19

The objective of this clause is to provide adequate private open space for the reasonable recreation and service needs of residents. To meet Standard D19, a two-bedroom dwelling needs to have a minimum area of 8 square metres and a minimum depth of 2 metres. A 3-bedroom dwelling needs to have a minimum area of 12 square metres and a minimum depth of 2.4 metres.

To meet Standard D19, the 2-bed apartments 3, 4, 5, 6, 9, 10, 11, 12, 19, 20, 21 and 22 need to be increased in depth from 1.8 metres to 2 metres internal depth. The 3 bed apartments 2 and 8 need to be increased in size from 2.2 x 4.8 to 2.4 x 5 metres internal dimensions. A condition is included in the recommendation to require this.

Clause 58.05-4 Storage objective - Standard D20

The objective of this clause is to provide adequate storage facilities for each dwelling.

Total internal storage areas have not been clearly demonstrated on the plans. A condition is included in the recommendation to require the plans to be updated to show this. 6 cubic metres of external storage area is provided for 12 apartments in the basement.

Internal amenity

Clause 58.07-1 Functional layout objective - Standard D24

The objective of this clause is to ensure dwellings provide functional areas that meet the needs of residents.

Standard D24 requires the main bedrooms to have minimum dimensions of 3 x 3.4 metres and all other rooms to have dimensions of 3 x 3 metres. The main bedrooms for apartments 2 and 8 have minimum dimensions of 3 x 3.2 metres, 200 millimetres less than 3.4. A condition is included to address this. Each of the living rooms, meet the minimum dimensions specified by this Clause.

Clause 58.07-2 Room depth objective - Standard D25

The objective of this clause is to allow adequate daylight into single aspect habitable rooms.

To satisfy Standard D25, single aspect habitable rooms should not exceed a room depth of 2.5 times the ceiling height. The floor to ceiling heights of each level of the proposed development is 2.55 metres, resulting in an allowable room depth of 6.375 metres. Apartments 2, 8, 13, 18 and 23 do not exceed this depth and are therefore compliant.

The remaining 22 apartments are not compliant, ranging in depth from 7.2 to 8.7 metres. To achieve these room depths, the floor to ceiling height needs to be increased to 2.7 metres (an additional 150 millimetres).

As discussed above, the context of the site can accommodate a small increase to the overall height of the building. This would enable an increase in floor to ceiling heights for each level, resulting in improved internal amenity for future residents. Conditions are included in the recommendation to address this.

Does the proposal comply with Clause 22.07 (Development of Four or More Storeys)

This policy seeks:

- To ensure building setbacks and separation achieve adequate daylight into habitable rooms.
- To ensure living rooms achieve reasonable outlook and adequate daylight.
- To ensure living rooms achieve a greater level of privacy and higher levels of daylight compared to bedrooms.
- To ensure reasonable future development opportunities and potential amenity impacts of adjoining sites is considered.

The policy aims to achieve these objectives through minimum building setback and separation requirements and minimum light well dimensions. These are assessed in turn below.

Building separation

The proposal has responded positively to the objectives and policy of this Clause by:

- Providing only bedroom setbacks to the laneway and in accordance with table 2 to Clause 22.07 (building setbacks to a lane), as highlighted in the table below.

Building height	Required setback (bedroom outlook)	Proposed setback
2 storeys or 9 metres	0 metres	0 metres
3-8 storeys or up 25 metres	3 metres (from lane centre line)	3 metres (from lane centre line)

- Presenting blank walls and a light court with generous proportions (see discussion below) to the southern boundary to allow for equitable development opportunities for the site to the south.

Light courts

One light court is proposed on the southern boundary with dimensions of 3.3 x 9 metres and an area of 29.7 square metres at all levels from the first residential level. This exceeds the minimum dimension of 2 metres and minimum area of 9 square metres up to 4 storeys as set out in this policy.

For level 5 (the top residential level), the policy seeks a minimum dimension of 4.5 metres and minimum area of 29 square metres. The proposal achieves the minimum area at 29.7m^2 but falls short of the minimum dimension of 4.5 metres by 1.2 metres. This is considered acceptable due to:

- The generous proportions of the light court up to (and including) level 4 which exceeds the minimum area by 20 square metres.
- The light court only provides light to hallways.
- The non-compliance is only for one level.
- The reduced depth of 1.2 metres at one level will not unreasonably compromise the development opportunities of the site to the south.

5. Response to Objector Concerns

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

- Height.
- Overlooking.

Other issues raised by objectors are addressed below.

Overshadowing

The proposed development will result in overshadowing of neighbouring properties, in particular, to the shops fronting Sydney Road to the south. Some impact will also be caused to the properties at 1 and 3 Allen Street to the west (within the Commercial 1 Zone).

At 9 am, shadows will be cast across the entire yards of 1 and 3 Allen Street and at 10 am across most of the yard at 1 Allen Street. By 11 am, no shadow will fall on the yard at 1 Allen Street, beyond the extent of the eastern boundary fence.

The extent of shadowing is considered to be acceptable as:

- The development achieves a high degree of compliance with the built form expectations as set out in the ACZ.
- Some offsite impacts are to be expected as a result of the priority for greater residential intensity on this site.
- The properties to the west are included within the Commercial 1 Zone, where the priority is for commercial uses which demand a lower level of amenity protection.
- The shadow impact is limited to the morning, up to 11 am at 1 and 3 Allen Street.

Impact on heritage character

Allen Street contains a mixture of period homes set in the midst of more recent industrial brick buildings. Views of Moreland Railway station is also possible at the end of the street. A Heritage Overlay is included on Moreland Railway Station and on the properties at 27-33 Sydney Road (Corner of Sydney Road and Allen Street). There is no heritage overlay covering the subject site.

The proposed development is considered to suitably respond to the mixed character of the locality and will not have an adverse impact on the heritage value of the property at 27-33 Sydney Road or the Moreland Railway Station.

Inappropriate appearance

The proposal includes a high proportion of durable materials including brick and metal cladding. This mix of materials is considered to be an appropriate response to the character of the locality. In addition, the proposal has been reviewed by Council's Urban Design team who are satisfied with the quality of the materials and finishes of the proposed development subject to some changes which are included within the recommendation and discussed in section 4 above.

A plinth should be included to the shops on Sydney Road to better match the character of shop fronts to Sydney Road. In addition, a wider awning should be provided along Sydney Road and Allen Street to provide for better weather protection for pedestrians. Conditions are included in the recommendation to address this.

Impact on car parking

The proposed car parking rate is considered suitable for a development that has excellent access to public transport. Council's development advice engineer has reviewed the proposal and has not raised any concerns with regards to impacts to car parking in the locality.

Increased danger to pedestrians with vehicles driving into the laneway

The volume and frequency of vehicles using the laneway is not considered to result in unreasonable conflict with pedestrians. Furthermore, Council's Development Advice engineer has not raised concerns with regards to pedestrian safety.

Overcrowding

State Government Policy, particularly Plan Melbourne, as well as Council Policy supports higher densities in areas that are within Activity Centres, or within areas with good access to public transport and other services.

Given the sites location in an Activity Centre and its excellent access to public transport, the level of development proposed is appropriate and consistent with State and Local planning policy frameworks.

Impact on infrastructure – sewage, drainage, public transport, bin collection

The proposed development will result in greater burden on local infrastructure and public transport. However, it is not expected that the capacity of this infrastructure will be exceeded. State and Local planning policy directs a greater intensity of residential development in locations that have good access to public transport. In addition, Public transport is a State Government asset and the capacity of such services cannot reasonably be considered during the assessment of a planning permit application.

The site owner will be required to address infrastructure servicing demands of the additional dwellings as required by the various service agencies at the time of subdivision or connection of the development, including any service authorities requirements to contribute to the cost of upgrading trunk infrastructure.

Impact on foundations during construction

Protection of adjoining properties during construction is not a matter that can be addressed through the planning permit process, however the owners of the land proposing to build have obligations under the *Building Act 1993* to protect adjoining property from potential damage. It is the responsibility of the relevant Building Surveyor to require protection work as appropriate.

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 development results in a high degree of compliance with the Planning Policy Framework, achieving urban consolidation in a location with excellent access to services and transport. The built form in relation to height, streetwall and setbacks generally complies with the provisions of the Activity Centre Zone. Conditions are included in the recommendation to improve the internal amenity for future residents and to achieve an improved urban design outcome.

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/2017/988 should be issued.

Attachment/s

1⇩	Locality Plan	D19/107015
2⇩	Application Plans	D18/419829