



Moreland
City Council

COUNCIL AGENDA

PLANNING AND RELATED MATTERS

Wednesday 24 February 2021

Commencing 6.30 pm

The Council Meeting will be held in the Council Chamber, Moreland Civic Centre, 90 Bell Street, Coburg subject to public health requirements

Language Link

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

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

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

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

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

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

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

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

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

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

Acknowledgement of the traditional custodians of the City of Moreland

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

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

The minutes of the Planning and Related Matters Meeting held on 27 January 2021 be confirmed.

5. COUNCIL REPORTS

- | | | |
|-----|--|----|
| 5.1 | 488-490 Victoria Street, Brunswick West - Planning Permit Application (MPS/2020/340) | 4 |
| 5.2 | 8 Lily Street, Coburg North - Planning Permit Application (MPS/2020/367) | 77 |

6. URGENT BUSINESS

7. CONFIDENTIAL BUSINESS

Nil.

5. COUNCIL REPORTS

5.1 488-490 VICTORIA STREET, BRUNSWICK WEST - PLANNING PERMIT APPLICATION (MPS/2020/340)

Director City Futures, Kirsten Coster

City Development

Executive Summary



Property:	488-490 Victoria Street, Brunswick West 3055			
Proposal:	Development of the land to construct ten dwellings over two storeys, demolition of non-contributory buildings in a heritage overlay and a reduction in the standard car parking rate.			
Zoning and Overlay/s:	<ul style="list-style-type: none"> • Neighbourhood Residential Zone – Schedule 1 • Heritage Overlay – Schedules 186 & 56 • Environmental Audit Overlay • Development Contributions Plan Overlay – Schedule 1 			
Strategic setting:	Minimal housing growth	Incremental housing growth	Increased house densities encouraged	Significant housing growth
Objections:	<ul style="list-style-type: none"> • 13 objections • Key issues: <ul style="list-style-type: none"> ○ Heritage ○ Car Parking ○ Traffic and use of the Right-of-Way 			
Objector consultation meeting:	<ul style="list-style-type: none"> • Date: 17 December 2020 • Attendees: 5 objectors, the applicant and two Council officers. 			
ESD:	<ul style="list-style-type: none"> • BESS Score of 83% • STORM Rating of 117% • NatHERS average rating of 8.3 Stars • Design is informed by passive design principles • Photovoltaic solar system with a peak capacity of 19kW 			
Key reasons for	<ul style="list-style-type: none"> • The design incorporates excellent ESD features and passive design principles. • The landscape response makes a positive contribution to the landscape character of the surrounds and exceeds policy expectations. • Acceptable response to heritage character. • Off-site amenity impacts are minimised by the proposed building siting and landscaping. • Car parking provision is acceptable. Services and alternative transport options are conveniently accessible. 			
Recommendation:	A Notice of Decision to Grant a Planning Permit be issued.			

Officer Recommendation

That a Notice of Decision to Grant a Planning Permit No. MPS/2020/340 be issued for 'Development of the land to construct ten dwellings over two storeys, demolition of non-contributory buildings in a heritage overlay and a reduction in the standard car parking rate' at 488-490 Victoria Street, Brunswick West, subject to the following conditions:

Amended Plans 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 and reports advertised 21 October 2020 but modified to show:
 - a) Tree Protection Zones for the two street trees in accordance with Condition 6 of this permit.
 - b) Any changes required by the Tree Management Plan for the retained *Grevillea Robusta* in accordance with Condition 7 of this permit.
 - c) All ground level bathroom doors designed in accordance with Standard B41 of Clause 55.07-7.
 - d) Any level difference between the car parking area and the laneway made up using ramps within the site, and a note stating that the levels of the laneway must not be altered.
 - e) Any changes arising from the Green Travel Plan in accordance with Condition 10 of this permit.
 - f) A scaled elevation of the front fence that clearly shows:
 - i. A maximum fence height of 1.5 metres
 - ii. Proposed materials
 - g) A screen diagram drawn at a scale of at least 1:50 which details 'MP - Metal Privacy Screen' on the south elevation. This diagram must include:
 - i. All dimensions, including the width of the openings and the gap between the openings.
 - ii. How compliance is achieved with the standard of Clause 55.04-6 (overlooking) of the Moreland Planning Scheme.
 - iii. Details to show that screening is to be applied to a height of 1700mm from the finished floor level.
 - h) An amended stormwater catchment plan consistent with the 'Site Layout Plan' in the Sustainability Management Plan but amended so that:
 - i. All catchment areas are shown with dimensions and their respective stormwater treatment (or no treatment) measures consistent with the STORM Report.
 - ii. The catchment plan is provided in a format that can be endorsed and will form part of the set of endorsed plans.
 - i) Internal north and south elevation plans, clearly indicating window operation on all elevation plans (e.g. arrows for a sliding window, a V for an awning).

Compliance with Endorsed Plan Condition

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.

ESD Conditions

3. Prior to the endorsement of plans, a Sustainability Management Plan (SMP) must be submitted to the satisfaction by the Responsible Authority. The SMP must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the SMP prepared by Zen Architects advertised on 21/10/2020.

When submitted and approved to the satisfaction of the Responsible Authority, the Sustainability Management Plan and associated notated plans will be endorsed to form part of this permit. No alterations to the plan may occur without the written consent of the Responsible Authority.

4. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all works must be undertaken in accordance with the endorsed Sustainability Management Plan to the satisfaction of the Responsible Authority. No alterations to this plan may occur without the written consent of the Responsible Authority.
5. Prior to the issue of an Occupancy Permit 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 (and include evidence) that all measures specified in the SMP have been implemented in accordance with the approved plan.

Tree Protection and Landscaping Conditions

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

- a) Tree Protection Fencing

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

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

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

- b) Signage

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

- c) Irrigation

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

d) Provision of Services

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

7. Prior to the endorsement of plans, a Tree Management Plan (TMP) must be submitted to and approved by the Responsible Authority. The TMP must be prepared by a suitably qualified Arborist and make specific recommendations in accordance with the Australian Standard AS4970: 2009 - Protection of Trees on Development Sites to ensure that the Grevillea Robusta remains healthy and viable during construction.

The TMP must include the following to the satisfaction of the Responsible Authority:

- a) A tree protection plan to scale that shows:
- i. All Tree Protection Zones and Structural Root Zones
 - ii. All Tree Protection Fencing
 - iii. Areas where ground protection systems will be used
 - iv. The type of footings within any Tree Protection Zone
 - v. The location of services within any Tree Protection Zone
- b) The location and design of Tree Protection Fencing.
- c) Details of appropriate footings and landscaping treatments within the Tree Protection Zone.
- d) The method of installing any services through the Tree Protection Zone.
- e) Details of how the root zone within the Tree Protection Zone will be managed throughout the project.
- f) A timetable outlining works requiring supervision by the Project Arborist.
- g) The results of any exploratory trenching where there is encroachment (construction or excavation) greater than 10% into the Tree Protection Zone (in accordance with Australian Standard AS4970:2009 - Protection of Trees on Development Sites) of any tree to be retained. This must include photographic evidence of any trenching/ excavation undertaken.
- h) All remedial pruning works that are required to be performed on the tree during the development of the site. The pruning comments must reference Australian Standards 4373:2007, Pruning of Amenity Trees and a detailed photographic diagram specifying what pruning will occur.

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

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

Green Travel Plan Condition

10. Prior to the endorsement of plans a Green Travel Plan (GTP) must be prepared by a suitably qualified person and submitted to the satisfaction of the Responsible Authority. The GTP must include the following:
 - a) Describe the site's location in the context of alternative modes of transport and objectives for the GTP.
 - b) Outline GTP measures for the development including:
 - i. Household welcome packs including provision of a Myki for each apartment in the development or other incentives to encourage public transport usage;
 - ii. Outline bicycle parking and facilities available onsite;
 - iii. Provide details on car share/bicycle share schemes in the surrounds;
 - iv. Outline the management of onsite carparking and detail how the allocation of carparking spaces will occur to future residents.

Once approved, the GTP will be endorsed to form part of the permit. The GTP approved under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority. No alterations to the plan may occur without the written consent of the Responsible Authority

DCP Condition

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

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

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

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

Vehicle Access Condition

12. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority (Moreland City Council, City Infrastructure Department).

Stormwater Conditions

13. All stormwater from the land, where it is not collected in rainwater tanks for re-use, must be collected by an underground pipe drain approved by and to the satisfaction of the Responsible Authority (Note: Please contact Moreland City Council, City Infrastructure Department).
14. Stormwater from the land must not be directed to the surface of the right-of-way to the satisfaction of the Responsible Authority.

Site Services and Management Conditions

15. Prior to the endorsement of plans, a Waste Management Plan (WMP) must be submitted to the satisfaction by the Responsible Authority. The WMP must be generally in accordance with the WMP prepared by Eco Results advertised on 21/10/2020.

When submitted and approved to the satisfaction of the Responsible Authority, the Waste Management Plan and associated notated plans will be endorsed to form part of this permit. No alterations to the plan may occur without the written consent of the Responsible Authority.

16. The Waste Management Plan approved under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.
17. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all visual screening measures shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. All visual screening and measures to prevent overlooking must be maintained to the satisfaction of the Responsible Authority. Any screening measure that is removed or unsatisfactorily maintained must be replaced to the satisfaction of the Responsible Authority.
18. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.
19. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, automatic or sensor-controlled lighting no higher than 1.2 metres above ground level is to be installed and maintained on the land to automatically illuminate pedestrian access to the rear dwelling(s) between dusk and dawn with no direct light emitted onto adjoining property to the satisfaction of the Responsible Authority.
20. Lighting on each balcony must be designed to not emit light direct onto any adjoining property to the satisfaction of the Responsible Authority.
21. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land (including all existing and new buildings) must be underground to the satisfaction of the Responsible Authority.

Expiry Condition

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

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

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

Notes

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

Note 1: Should Council impose car parking restrictions in this street, the owners and/or occupiers of the dwellings would not be eligible for resident parking permits to park on the street. Occupiers are eligible for the resident A parking permit which only permits

parking in limited areas. The resident parking permits and Resident A parking permit are subject to future reviews and change. See Council's website for more information: <https://www.moreland.vic.gov.au/parking-roads/parking-permits/residential-parking-permits/>.

Note 2: This permit contains a condition requiring payment of Development Contributions. The applicable development contribution levies are indexed annually. To calculate the approximate once off levy amount, please visit <http://www.moreland.vic.gov.au/planning-building/> and click on 'Moreland Development Contributions Plan (DCP)'. Alternatively, please contact Moreland City Council on 9240 1111 and ask to speak to the DCP Officer.

1. Background

Subject site

The subject site is located at 488-490 Victoria Street, Brunswick West and incorporates two separately titled parcels of land. The overall site area is approximately 1173 square metres and has a frontage to Victoria Street and a 'Right-of-Way' (ROW) to the eastern interface.

The eastern lot is occupied by a single storey brick dwelling and contains vegetation to the street and in the rear yard. The dwelling is non-contributory to the Daly Street heritage precinct.

The western lot is vacant other than a shed towards the rear of the lot and a mature tree towards the southern boundary. This lot was formerly associated with the individually significant heritage place to the west (Former Brunswick West Primary School) and remains within this Heritage Overlay. The Environmental Audit Overlay is also applied to this lot. A vehicle crossover to the western lot is currently constructed on Victoria Street.

A restrictive covenant (2438508) is indicated on the Certificate of Title for the western lot (Lot 1 on Title Plan 449311Q). The covenant restricts the use of the land for the practice or business of a medical practitioner for a period of seven years from the date of the covenant. The covenant is not breached because it is dated 22 February 1951 and the proposal is for a residential development.

Surrounds

The surrounding area is characterised by a mixture of individually significant heritage places, commercial uses and a residential heritage precinct.

The abutting lot to the west is an individually significant heritage place (HO186 – Former West Brunswick Primary School) and has been partially converted into dwellings.

The lot to the east of the ROW is also an individually significant heritage place (HO185 – West Brunswick Progress Association Hall) and currently operates as a childcare centre.

The Neighbourhood Residential Zone – Schedule 1 is applied to the south side of Victoria Street in the immediate surrounds. The north side of Victoria Street is contained within the Mixed Use Zone and contains a diversity of commercial uses and residential properties. Land in Hunter Street to the south is residential and forms the northern extent of the Daly Street heritage precinct. The rear yards of 40-44 Hunter Street immediately abut the subject site.

The Melville Road/Albion Street/Victoria Street Neighbourhood Activity Centre is approximately 260 metres west of the subject site.

The proposal

The proposal is summarised as follows:

- Demolition of non-contributory buildings in a Heritage Overlay. A permit is required to demolish the dwelling on the eastern lot and shed on the western lot.
- The construction of ten dwellings over two levels within a northern and southern group of buildings. A communal open space area of 287 square metres is located between the buildings. Each dwelling is also provided with private open space, with balconies provided for first floor dwellings.
- Six car parking spaces, accessed from the ROW.

- The building adopts a contemporary design expression incorporating timber windows frames, skillion roofs and rendered masonry.
- The development model is a 'property collective', which means the proposal has been developed in consultation with future residents.

The development plans form **Attachment 1**.

Planning Permit and site history

The western lot was previously associated with the development known as 'WestWyck'. A planning permit (MPS/2011/747) was issued by the Victorian Civil and Administrative Tribunal in February 2013 for 'Development of the site for 18 dwellings, including partial demolition and external alterations to a heritage building, to renovate a former school building and construct an additional two buildings with basement car parking for 18 apartments, in accordance with the endorsed plans'.

The permit included the construction of 9 dwellings over three storeys principally in the area that now forms the western lot of the subject proposal. However, this part of the land was never developed, and the planning permit has now expired.

The previously approved endorsed plans form **Attachment 2**

Statutory Controls – why is a planning permit required?

Control	Permit Requirement
Neighbourhood Residential Zone	A permit is required to construct more than one dwelling on a lot. Pursuant to Clause 32.09-1 (NRZ) no permit is required to use land as a dwelling.
Heritage Overlay	Clause 43-01-1 (Heritage): A permit is required to demolish or remove a building, 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 spaces to 6 spaces. As the site is within the Principal Public Transport Network, visitor car parking is not required.

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

- Clause 45.03: Environment Audit Overlay
- Clause 45.06: Development Contributions Plan Overlay
- Clause 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 signs on the Victoria Street and ROW frontages of the site

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

The key issues raised in objections are:

- Car Parking
- Traffic and use of the ROW
- Heritage

- Building height
- Vegetation removal
- Noise
- Northern boundary wall will attract graffiti

An objector consultation meeting was held on 17 December 2020 and was attended by Council Planning Officers, the applicant and 5 objectors. All objectors who had submitted an objection by 10 December 2020 (9 in total) were invited to attend the meeting. The meeting provided an opportunity to explain the application, for the objectors to elaborate on their concerns, and for the applicant to respond. During the consultation meeting a Green Travel Plan was discussed as a potential strategy to address some of the objector concerns about car parking. The applicant has agreed to a condition requiring the submission of Green Travel Plan. This is discussed in more detail in Section 4. Since the objector consultation meeting was held an additional 4 objections have been received. Each objector has been contacted to discuss their concerns.

Internal/external referrals

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

Internal Branch/Business Unit	Comments
Urban Design Unit	Council's Urban Design Unit supports the proposal and has commented that the proportions of the northern group of dwellings, including the balconies, are appropriately scaled to respond to the streetscape character of the surrounds. The proposed rendered masonry material is also supported.
Sustainable Built Environment - Development Engineering Team	Council's Development Engineer supports the proposal subject to modifications, which are addressed by conditions details in the recommendation. Engineering are supportive of the proposed car parking reduction based on the site's proximity to public transport and provision of bicycle parking spaces.
Sustainable Built Environment - ESD Team	Council's ESD team supports the proposal. The design achieves an 'Excellent' BESS rating, a 117% STORM rating, has an average 8.3 Star NatHERS rating and is informed by passive design principles. Conditions regarding details on plans form part of the recommendation.
Heritage Advisor	Council's Heritage Advisor raised concerns in relation to the proposed street setback, including first floor balconies, and has recommended a 10.5m street setback. No objections were provided to other aspects of the proposal. This is discussed at Section 4 (Issues) of this report.
Open Space Design and Development Unit - Urban Forestry Officer	The Urban Forestry Officer supports the retention of the mature tree onsite and has recommended a tree management plan to ensure the tree can be successfully retained. The Urban Forestry Officer has reviewed the supplied <i>Arboricultural Assessment</i> report and has not objected to the proposed vegetation removal. This is discussed at Section 4 (Issues) of this report.

3. Policy Implications

Planning Policy Framework (PPF)

The following policies are of most relevance to this application:

- Municipal Planning Strategy (Clause 2), including:
 - Vision (Clause 2.02)
 - Settlement (Clause 2.03-1)
 - Environmental and Landscape Values (Clause 2.03-2)
 - Built Environment and Heritage (Clause 2.03-4)
 - Housing (Clause 2.03-5)
 - Transport (Clause 2.03-7)
- Environmental Risks and Amenity (Clause 13):
 - Contaminated and Potentially Contaminated Land (Clause 13.04-1S)
- Built Environment (Clause 15.01), including:
 - Urban Design (Clause 15.01-1S, 15.01-1R & 15.01-1L)
 - Vehicle Access Design in Moreland (Clause 15.01-1L)
 - Building Design (Clause 15.01-2S & 15.01-2L)
 - Healthy Neighbourhoods (Clause 15.01-4S and 15.01-4R)
 - Neighbourhood Character (Clause 15.01-5S)
 - Minimal and Incremental Change Areas (Clause 15.01-5L)
- Sustainable Development (Clause 15.02), including:
 - Energy and resource efficiency (Clause 15.02-1S)
 - Environmentally Sustainable Development (Clause 15.02-1L)
 - Energy efficiency in Moreland (Clause 15.02-1L)
- Heritage (Clause 15.03), including:
 - Heritage conservation (Clause 15.03-1S)
 - Heritage in Moreland (Clause 15.03-1L)
- Residential Development (Clause 16.01), including:
 - Housing Supply (Clause 16.01-1S and 16.01-1R)
 - Homes in Moreland (Clause 16.01-2L)
 - Housing Affordability (Clause 16.01-2S & 16.01-2L)
 - Housing Diversity in Moreland (Clause 16.01-3L)
- Transport (Clause 18), including:
 - Sustainable Personal Transport (Clause 18.02-1S & 18.08-1R)
 - Sustainable Transport in Moreland (Clause 18.02-1L)
 - Car parking (Clause 18.02-4S & 18.02-4L)
- Infrastructure (Clause 19.02), including:
 - Development infrastructure (Clause 19.03)

Human Rights Consideration

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

- Section 12: Freedom of movement - The proposed redevelopment of private land does not present any physical barrier preventing freedom of movement.

- Section 13: Privacy and Reputation - An assessment of whether there is any potential for unreasonable overlooking has been undertaken in Section 4 of this report
- Section 20: Property rights - The right of the landowner to develop and use their land has been considered in accordance with the Moreland Planning Scheme

4. Issues

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

Does the proposal have strategic policy support?

The subject site is located within the Neighbourhood Residential Zone. The purposes of this zone include recognising areas of single and double storey residential development and ensuring that development respects the identified neighbourhood character.

Clause 16.01-1R allows for a range of minimal, incremental and high change residential areas that balance the need to protect valued areas with the need to ensure choice and growth in housing. Council's Housing Framework Plan at Clause 2.04 designates this location for minimal housing growth. In these areas, Clause 16.01-2L encourages a mix of single dwellings and lower density multi-dwelling developments that contribute to a low density, open and landscaped character.

The proposal for ten dwellings represents a minimal level change within the site's Victoria Street context, which includes a variety of land uses and development forms. The simple, modern design fits within this context. Generous landscaping through the retention of an existing mature tree at the rear of the site and the planting of new canopy trees and vegetation across the site is also included. Tree planting in excess of policy expectations has been facilitated by generous side and rear setbacks and the provision of a large communal open space area.

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

The design response suitably achieves the relevant policy objectives of the Planning Policy Framework regarding neighbourhood character and building design. Key aspects of the design are discussed below:

Landscaping

The landscape response enhances the landscape character of the site and surrounds and exceeds the minimum requirements outlined in the Schedule to the Zone. A mature tree is proposed to be retained in the rear of site and extensive planting is proposed within the street setback, the communal open space area and the western side setback. Although an objection raised concerns about the removal of vegetation, the overall number of trees across the two sites will increase as a result of the proposal. Additionally, the supplied *Arboricultural Assessment* report categorises the health of the 9 trees proposed to be removed from the site as being either "Fair", "Fair-Poor" or "Poor". Based on the health of existing vegetation and the proposed planting the landscape response is supported.

Street integration

The design makes a positive contribution to the public realm and incorporates active frontages to Victoria Street. Passive surveillance to the street is improved with habitable rooms and private open space areas orientated to Victoria Street. An appropriate balance between street integration and privacy objectives for the street facing ground floor private open space areas has been achieved through landscaping and modulated, low, open fencing. A condition of the permit will require the plans to include a dimensioned elevation of the front fence and for the fence to not exceed 1.5 metres in height.

The street setback does not meet Standard B6 of Clause 55.03-1 (Street Setback Objective), because a setback of 5 metres has been proposed, while a setback of 6 metres would be required under the Standard. Despite this, the objectives of ensuring the setback responds to the neighbourhood character while also making efficient use of the site are achieved and a variation is therefore acceptable. The proposed setback is appropriate when the broader context is considered. There are varying street setbacks in the area, including many buildings with small 1 – 3 metre setbacks. This is discussed in more detail in the heritage assessment.

Development in rear yards

Clause 15.01-5L encourages development in rear yards to be designed to be single storey unless the prevailing context is not one of open rear yards, or the development has been sensitively designed to respect that context. In this case, the prevailing context is not one of open rear yards and so double storey development is an appropriate neighbourhood character response. There are three open rear yards of dwellings fronting Hunter Street that abut the site and the visual bulk of the development should respond to these.

The design of the southern building appropriately respects the existing character of open rear yards to dwellings facing Hunter Street. This has been achieved through the sensitive design of the upper level which is well articulated from the lower level and is setback from the rear boundary in excess of the B17 Standard (Side and rear setbacks objectives) requirement as encouraged by Clause 15.01-5L. A rear setback of 5.75 metre is provided from the central section of the southern wall (south facing bedroom walls to first floor dwellings), exceeding the 1.8 metre setback required by Standard B17. The balustrade to 3B is setback 4.65 metre and also exceeds the Standard which requires a 1.42 metre setback. The southern setback to the balcony and parapet of 3C meets Standard B17. While not exceeding the standard, this setback is acceptable because the immediate interface is non-sensitive (an outbuilding).

The retention of the *Grevillea Robusta* and addition of canopy trees and screening planting on the southern boundary also assists in minimising visual bulk impacts as seen from neighbouring rear secluded open spaces.



Southern elevation as viewed from rear yard of 42 Hunter Street

Car parking facilities

Vehicle access is from the ROW on the east side of the site. This response allows the street frontage to prioritise pedestrian movement and safety and contributes to active frontages. Clause 15.01-1L encourages the utilisation of laneways for vehicle access.

Does the proposal respect the heritage significance of the surrounds?

Demolition of the dwelling and shed are acceptable because these buildings are not contributory elements to either HO56 (Daly Street Precinct) or HO186 (Former West Brunswick Primary School).

Clause 15.02-1L (Heritage in Moreland) encourages new buildings that respect the existing scale, massing, form and siting of contributory or significant heritage elements of the surrounds and ensure that new buildings do not obscure important view lines to significant heritage buildings.

In this instance consideration should be given to how the design responds to the Former West Brunswick Primary School and the Progress Association Hall. The Daly Street precinct is of lesser importance given that the site is non-contributory to this precinct and is located between two properties that have their own heritage significance.

Siting

The proposed 5 metre front setback (excluding balconies) matches that of the existing dwelling located on the eastern lot.

Council's Heritage Advisor has stated that as the existing dwelling is non-contributory, it should not be used as a reference for new development. Instead, a setback of 10.5 metres was recommended. This is on the basis that it is the average setback of the principal façade of the former primary school and the Progress Association Hall, as encouraged by Council's Heritage Policy at Clause 15.02-1L.

If adopted, this recommendation would significantly constrain the development potential of the site and would mostly likely result in the loss of positive aspects of the design (e.g. provision of communal open space, passive design features and generous side and rear setbacks).

It is relevant to consider the previous permit on this site (MPS/2011/747), which had a comparable front setback (5.5 metres) but was located much closer to the Former School. The Victorian Civil and Administrative Tribunal found that the development would not impact on the heritage significance of the Former School.

By comparison, the northern group of dwellings are sited to create a separation between the new building and the Former School of approximately 20 metres. Although walls are proposed on the eastern boundary, a break of approximately 25 metres is maintained between the proposed dwellings and the Progress Association Hall building.

Low modulated fencing and quality landscaping to the western boundary also promote views towards the heritage place. The balcony encroachments are a light-weight design element that do not impact on view lines.

Although maintaining the opinion that a 10.5 metre setback should be provided, Council's Heritage Advisor has commented that the current design is preferable to the previously approved application because it does not draw unnecessary attention to new buildings and does not dominate the heritage place in the same way as the previous design.

On balance, having regard to the Tribunal's previous determination, the improved design of the development (compared to the previously approved development) and the other positive aspects of the design (passive design and substantial open space), the siting of the proposed building to Victoria Street is considered acceptable in its current form.

Scale and massing

The building massing is subservient to the heritage places to the east and west. The overall building height is lower than the significant buildings on either side of the development and incorporates a skillion roof which pitches towards the central communal area on the oblique view. The front parapet of the proposed building is comparable to the eave line of the Progress Association Hall building. As demonstrated in the streetscape elevations that accompany the proposal, the scale and massing of the building does not dominate the two individually significant heritage buildings and is respectfully integrated into the streetscape.

Form and appearance

Design detailing and materials broadly achieve heritage policy strategies. The building does not attempt to replicate historical style and detailing, and the proposed buildings are clearly distinguishable from the individually significant heritage places.

Council's Heritage Advisor supports the proposed roof form, fenestration and materials.



Streetscape presentation with perspective (west) towards Former Brunswick West Primary School from Victoria Street



Streetscape presentation with perspective (east) towards Progress Association Hall from Victoria Street

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

The key sensitive interfaces to this site are to the south. An assessment of the proposal against the 'amenity impacts' standards of Clause 55 reveals that the proposal complies with the relevant standards and does not result in any unreasonable amenity impacts, such as overshadowing or visual bulk.

Overlooking

Clause 55.04-6 (Overlooking) of the Moreland Planning Scheme does not aim to eliminate all overlooking, but rather seeks to prevent unreasonable overlooking. Nine metres is the distance specified by state-wide provisions where screening is required to minimise overlooking into existing open space and windows.

Potential overlooking has been created from the first-floor windows and balconies of Dwellings 3B and 3C to the south. The plans indicate that these outlooks will be treated with a 'metal privacy screen - max 25 per cent open'. To ensure the Standard is met, a condition is included in the recommendation to require detailed section diagrams of the screens.

Does the proposal provide appropriate onsite amenity and facilities?

On balance, the proposal provides a high level of internal amenity and achieves relevant Clause 55 standards. Key considerations are detailed below.

Private open space

The proposal incorporates a mix of ground level private open space, balconies and communal open space for the services and recreational needs of residents.

Standard B28 (Private open space area objective) is sought to be varied in a number of dwellings. Dwellings 2B and 2D have a shortage of 1 square metre and 5 square metres. The street facing private open space areas do not meet the requirement of the Standard because they do not have 25 square metres of the private open located at the side or rear of the dwelling. Additionally, the ground level private open space areas to the two southern dwellings do not meet Standard B29 (Solar access to open space objective).

Balconies are considered against Standard B43 (Private open space above ground floor objective). Two dwellings (3B and 3C) do not meet the Standard. These dwellings (which contain three bedrooms) should be provided with a 12 square metre balcony which has a minimum width dimension of 2.4 metres. The balconies are instead provided as 11 square metres and 15 square metres, with a minimum 2 metre width.

The volume of private open space and variations to Standards B28, B29 and B43 are acceptable because the non-compliances are offset by the central communal open space area. The communal open space is 287 square metres and proposes quality landscaping (including productive trees), incorporates play and gathering spaces and has outlooks from every dwelling and direct access from all ground level dwellings. The development model has an emphasis on communal living and encourages the sharing of onsite site amenities between residents. It is anticipated that the recreation and service needs of residents will primarily be served by the communal open space area with private open space areas acting as complementary spaces.

Although the supplied shadows plans indicate that the communal area will be subject to shadowing on 21 July beyond the requirements of Standard B37, this is acceptable because the north-south lot orientation constrains solar access into the site; the roof of the northern group of dwellings has been designed to maximise solar penetration into the communal area; and the communal area enjoys good solar access at the September equinox.

Storage

The two-bedroom dwellings are provided with a minimum of 14.1 cubic metres of internal storage and three-bedroom dwellings have a minimum of 21.3 cubic metres of internal storage. Storage in each dwelling exceeds the requirements of Standard B44 (Storage objective). A 'Garden Store' is also provided between the garage and communal open space. Individual external storage sheds are not necessary because the requirements of Standard B44 are exceeded and the provision of communal open space means there is less likely to be high demand for individually owned gardening equipment (e.g. lawnmowers) which are typically stored externally.

Has adequate car and bicycle parking been provided?

A total of 16 car spaces are required for the dwellings. The development provides 6 on-site spaces. Council's Development Engineers are satisfied that car parking requirements can be reduced for this application.

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

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

A reduction to the standard car parking rate is supported on the following grounds:

- The subject site is located 250 metres from the Melville Road/Albion Street/Victoria Street Neighbourhood Centre and has excellent access to public transport including trams on Melville Road (260 metres to the west) and bus stops on Victoria Street (30 metres to the east) and Smith Street (500 metres to the south).
- Although Clause 52.34 (Bicycle Facilities) is not triggered in this application, the proposal includes 23 bicycle parking spaces. The site has good access to a number of designated cycling routes including the East and West Brunswick Shimmy, Moonee Ponds Creek Trail and the Upfield Shared Path. Bicycle parking is provided within the garage, beneath the western staircase in the northern group of dwellings and to areas fronting the street and the communal open space.

The bicycle parking locations have an acceptable level of security and weather protection. All spaces are undercover and all, but three spaces are within the site behind lockable doors or are garaged. The remaining three spaces are within the front setback adjacent to living room windows which provide suitable surveillance.

The proposed car parking reduction was raised in a number of objections. 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. Objectors raised concerns about the ongoing management of the car spaces at the consultation meeting. Following this, the applicant has agreed to develop a Green Travel Plan which outlines the management of carparking spaces and strategies to encourage active and public transport usage from future residents. This is included as a condition in the recommendation.

Furthermore, 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.

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

Objections have raised concerns about the functionality of the ROW and potential interface issues with the childcare centre. A Traffic Engineer's report with swept path diagrams has been supplied with the application demonstrating the functionality of vehicle movements to the site. Council Engineers have accepted the conclusions of this report. Permit conditions will require the existing crossover on the Victoria Street frontage to be reinstated. The reinstatement of the crossover will increase on street parking opportunities to Victoria Street.

In relation to traffic impacts, Council's Development Engineers have assessed the proposal and consider that the development will result in 40 additional vehicle movements per day on Victoria Street, which is a major Council road. This remains within the road's design capacity and is not expected to cause traffic problems.

Objectors have recommended the installation of traffic calming devices or the closing of the ROW at Hunter Street. These matters are not within the scope of the planning permit application, because the use of the ROW is supported by planning policy and the addition of six vehicles is not considered a significant change to the operation of the ROW. Council's Engineers have not recommended the need for traffic calming in the right of way as a result of this proposal.

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

ESD features of the development exceed the 'excellence' BESS rating, and include:

- BESS Score of 83 per cent, including the installation of double glazed windows to all habitable rooms
- STORM Score of 117 per cent, including a 15,000L underground rainwater tank connected to toilets, laundries and a garden irrigation system.
- NatHERS average rating of 8.3 Stars
- Design is informed by passive design principles
- Photovoltaic solar system with a peak capacity of 19kW

Is the proposal accessible to people with limited mobility?

Clause 16.01-3L (Housing diversity in Moreland) encourages the provision of housing that can be lived in by people with limited mobility (or easily adapted to be lived in).

The plans (TP11) are annotated to state that all ground level dwellings (50% of the development) meet the requirements of Standard B41 from Clause 55.07-7 (Accessibility Objective). Dwelling and bedroom entries and pathways linking these rooms meet the requirements of the Standard. The bathrooms on this level also show compliant circulation areas. However, the plans are notated that all bathrooms at ground level will have outwards opening doors. This does not appear to match what is drawn. A condition is included in the recommendation that bathroom doors be designed in accordance with the Standard. Subject to this condition the proposal meets the requirements of the Standard and Clause 16.01-3L.

Is the site potentially contaminated?

The western lot is affected by an Environmental Audit Overlay. A Certificate of Environmental Audit completed by Anthony P. Lane of Lane Consulting Pty Ltd has been submitted for land at 490-492 Victoria Street, Brunswick West in response to conditions of a past permit. The advice outlines that the assessor has had regard Part IXD of the Environment Protection Act and completed an environmental audit in accordance with Section 53X of the Act and certifies that in the opinion of the assessor the condition of the site is neither detrimental nor potentially detrimental to any beneficial use of the site. This satisfies the requirements of the Environmental Audit Overlay and no further conditions are necessary.

5. Response to Objector Concerns

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

- Car Parking
- Traffic and use of the ROW
- Heritage
- Building height
- Vegetation removal

Other issues raised by objectors are addressed below.

Noise

The proposed residential use will have noise impacts consistent with those normal to a residential zone. The use of the land for a residential purpose does not require a planning permit and so potential noise from the dwellings is not a valid reason to refuse the application.

Northern boundary wall attracting graffiti

Matters concerning graffiti have been taken into account in the assessment of the application and a condition will be required that the boundary walls be cleaned, finished and subsequently maintained by the owner and to the satisfaction of the Responsible Authority. The boundary wall also features windows and metal doors with 50 per cent openings to the ROW. These elements activate this space and provide a sense of passive surveillance potentially deterring vandals.

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 at 488-490 Victoria Street, Brunswick West is consistent with the purpose of the Neighbourhood Residential Zone and successfully responds to the policy objectives of the Planning Policy Framework and the Heritage Overlay.

The proposed development will result in a built form outcome that is respectful of the heritage setting, improve the site's integration with the street, make a positive contribution to an enhanced landscaped character and deliver ESD outcomes in excess of policy expectations.

On the balance of policies and controls within the Moreland Planning Scheme and objections received, it is considered that Notice of Decision to Grant a Planning Permit No MPS/2020/340 should be issued subject to the conditions included in the recommendation of this report.

Attachment/s

1	Development Plans - 488-490 Victoria Street, Brunswick West	D21/40146
2	Previously Approved Endorsed Plans - 488-490 Victoria Street, Brunswick West	D21/40140
3	Objector Location Map - 488-490 Victoria Street, Brunswick West	D21/40133

5.2 8 LILY STREET, COBURG NORTH - PLANNING PERMIT APPLICATION (MPS/2020/367)

Director City Futures, Kirsten Coster

City Development

Executive Summary



Property:	8 Lily Street, Coburg North
Proposal:	Use of land for a recording studio
Zoning and Overlay/s:	<ul style="list-style-type: none"> • Mixed Use Zone (MUZ) • Special Building Overlay (SBO) • Environmental Significance Overlay (ESO) • Parking Overlay (PO1) • Environmental Audit Overlay (EAO) • Development Contributions Plan Overlay (DCPO1)
Objections:	<ul style="list-style-type: none"> • 17 Objections (including 7 pro forma objections) • Key issues: <ul style="list-style-type: none"> ○ Noise Impacts ○ Hours of Operation ○ Car Parking ○ • Interface with Residential Properties
Planning Information and Discussion (PID) Meeting:	<ul style="list-style-type: none"> • Date: 8 February 2021 • Attendees: 2 objectors, the applicant, 2 Council officers, and Cr Sue Bolton and Cr Adam Pulford. • The following agreements were reached at the PID meeting: <ul style="list-style-type: none"> ○ The recording of music will only operate between 10:00 am and 8:00 pm Monday to Sunday.
Key reasons for support	<ul style="list-style-type: none"> • The use of the land for a recording studio of the scale proposed is acceptable given the Mixed Use zoning of the site and the immediate context. • Subject to conditions, noise will not unreasonably impact the amenity of the adjoining residential properties.
Recommendation:	A Notice of Decision to Grant a Planning Permit be issued.

Officer Recommendation

Recommendation A:

That a Notice of Decision to Grant a Planning Permit No. MPS/2020/367 be issued for the use of the land for a recording studio at 8 Lily Street, Coburg North, subject to the following conditions:

Amended Plans

1. Before the use 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 23 September 2020) but modified to show:
 - a) Two car parking spaces in a tandem arrangement, within the parking area between the building and the street boundary (i.e. a total on 2 car spaces on site).
 - b) The provision of low-level landscaping along the western boundary of the car parking area.
 - c) A sign inside the building that reminds people to leave the building in a way that is respectful of their residential neighbours.
 - d) Any changes required by the Waste Management Plan in accordance with Condition 17 of this permit.
 - e) Any changes to the Acoustic Report prepared by Enfield Acoustic dated 31 August 2020, including any response to any other condition of this permit that may impact on the recommendations of the Acoustic Report.

Compliance with Endorsed Plans

2. The use of land 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 62.01 of the Moreland Planning Scheme unless specifically noted as a permit condition.

Hours of Operation

3. The use allowed by this permit must operate only between the following hours:
 - a) Monday to Sunday 9 am to 9 pm
4. The playing and recording of live music must occur only between the following hours:
 - a) Monday to Sunday 10 am to 8 pm

Maximum Number of People

5. The maximum number of people permitted on the premises must not exceed 10 at any one time.

Acoustic Attenuation

6. Prior to the endorsement of plans, the Acoustic Report prepared by Enfield Acoustics dated 31 August 2020, or any amended version of the report as required by Condition 1(e), must be submitted and endorsed to form part of the permit. The recommended changes/additions to the building must be undertaken and maintained in accordance with the requirements and recommendations of the approved Acoustic Report to the satisfaction of the Responsible Authority. No alterations may occur to the building or the acoustic report without the prior written consent of the Responsible Authority.

7. Prior to the commencement of the use permitted by 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.
8. Within 2 months of the commencement of the use, acoustic testing is to be carried out to ascertain whether the use complies with the maximum noise levels prescribed by SEPP N-2. The testing is to be carried out by an independent acoustician approved by the Responsible Authority. If the testing reveals that the use does not meet the specified maximum noise levels the buildings and works must be modified to make the use compliant with those levels. After any modifications have been made further acoustic testing must be carried out to ascertain whether the use complies with the prescribed noise levels. All acoustic testing is to be carried out during a busy period. For the purpose of this condition 'busy period' means when multiple studios are in operation at the same time. The results of testing are to be provided to the Responsible Authority and made available to the public.
9. Noise levels associated with the use must at all times comply with the State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2. Should the Responsible Authority deem it necessary, the owner and/or occupier of the land must submit an Acoustic Report to the satisfaction of the Responsible Authority to demonstrate compliance, or which outlines any measures considered necessary to achieve compliance. The recommendations of the Acoustic Report must be implemented to the satisfaction of the Responsible Authority. The endorsed plans must be amended to accord with the recommendations contained in the Acoustic Report to the satisfaction of the Responsible Authority.

Environmental Assessment

10. Prior to the commencement of the permitted use, an Environmental Assessment Report must be submitted to and be to the satisfaction of the Responsible Authority. The Responsible Authority may require the applicant to contribute financially to an independent review of the environmental site assessment information by a suitably qualified environmental professional. The Environmental Assessment Report is to be conducted by a competent professional practitioner with relevant experience in the field. The owner must comply with the findings of the site assessment to the satisfaction of the Responsible Authority. The Environmental Assessment Report must:
 - a) Specify the name and qualifications of the person who has conducted the Report;
 - b) Provide comment on the potential for offsite contamination to have migrated to the subject land from neighbouring land. Soil sampling and analysis of the subject site may be required where access to definitive information regarding neighbouring land is not obtainable or is inconclusive;
 - c) Specify the industrial process or activity, waste or substance in respect of which the Report was conducted;
 - d) Specify the segment of the environment in respect of which the Report was conducted;
 - e) Include an evaluation of the environmental quality of the relevant segment of the environment;
 - f) Include an assessment of any clean up that is necessary, including recommendations relating to the carrying out of the clean-up, and any compliance requirements to enable the land owner to ensure that the land is suitable for the proposal;

- g) Include a further recommendation to the Responsible Authority as to whether the condition of the land is such that an Environmental Audit should be conducted taking into consideration the proposed use.
11. If pursuant to Condition 10 of this planning permit an environmental audit is required then prior to the commencement of the permitted use either:
 - a) A Certificate of Environmental Audit for the land must be issued in accordance with Section 53Y of the *Environment Protection Act 1970* and provided to the Responsible Authority; or,
 - b) An Environmental Auditor appointed under Section 53S of the *Environment Protection Act 1970* must make a Statement in accordance with Section 53Z of that Act that the environmental conditions of the land are suitable for the use and development that are the subject of this permit and that statement must be provided to the Responsible Authority.
 12. 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).
 13. Prior to any remediation works (if required) being undertaken in association with the Environmental Audit, a 'remediation works' plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must detail all excavation works as well as any proposed structures such as retaining walls required to facilitate the remediation works. Only those works detailed in the approved remediation works plan are permitted to be carried out prior to the issue of a Certificate or Statement of Environmental Audit.
 14. No works to the building approved shall be carried out on the land and no contract to undertake works to the building hereby approved may be entered into, other than in accordance with a contract that stipulates that works must not be commenced until such time as Conditions 11, 12 and 13 are satisfied.
 15. 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.
 16. Where a Statement of Environmental Audit is issued for the land, prior to the commencement of the use, and prior to the issue of a Statement of Compliance under the *Subdivision Act 1988*, and prior to the issue of an Occupancy Permit under the *Building Act 1993*, a letter prepared by an Environmental Auditor appointed under Section 53S of the *Environment Protection Act 1970* must be submitted to the Responsible Authority to verify that the directions and conditions contained within the Statement have been satisfied.

Waste Management Plan

17. 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 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, recycling, glass and green waste (including food waste) expected to be generated;
- d) A statement of whether the garbage, 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 building;
- 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; and
- 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 (e.g. 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.

General Conditions

- 18. Prior to the commencement of the use permitted by this permit, a new kerb is to be constructed within the property boundary where it meets the footpath. The kerb is to start from the western property boundary and finish perpendicular to the western edge of the existing vehicle crossing (measured at the footpath). The kerb is to be 110 millimeters high, and be constructed to Council standards using construction plans approved by Council and the works supervised by Council.
- 19. The area set aside for the parking of vehicles and access lanes shown on the endorsed plan must to the satisfaction of the Responsible Authority:
 - a) Be completed prior to the commencement of the use.
 - b) Be maintained.
 - c) Have the boundaries of all vehicle parking spaces clearly marked on the ground to accord with the endorsed plan.
 - d) Not be used for any other purpose other than the parking of vehicles.
- 20. Prior to the use commencing, 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 with no direct light emitted onto adjoining property to the satisfaction of the Responsible Authority.

Permit Expiry

- 21. This permit will expire if the use is not commenced within two years from the date of issue of this permit.

The Responsible Authority may extend the period referred to if a request is made in writing before the permit expires or within six months afterwards.

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

Note 1:

Council charges supervision (2.50%) and plan checking (0.75%) fees on the cost of constructing the laneway as permitted by Sections 5 and 6 of the Subdivision (Permit and Certification Fees) Regulations 2000.

At the subdivision stage public realms works for the laneway must be completed prior to the occupation and use of the development.

Note 2:

Notes about environmental audits:

- i. A copy of the Certificate or Statement of Environmental Audit, including the complete Environmental Audit Report must be submitted to the Responsible Authority within 7 days of issue, in accordance with Section 53ZB of the *Environment Protection Act 1970*.
- ii. Where a Statement of Environmental Audit is issued for the land a copy of that Statement must be provided to any person who proposes to become an occupier of the land, pursuant to Section 53ZE of the *Environment Protection Act 1970*.
- iii. The land owner and all its successors in title or transferees must, upon release for private sale of any part of the land, include in the Vendor's Statement pursuant to Section 32 of the *Sale of Land Act 1962*, a copy of the Certificate or Statement of Environmental Audit including a copy of any cover letter.
- iv. Where a Statement of Environmental Audit issued for the land contains conditions that the Responsible Authority considers to be unreasonable in the circumstances, the Responsible Authority may seek cancellation or amendment of the planning permit in accordance with Section 87 of the *Planning and Environment Act 1987*.

Recommendation B:

Pursuant to Clause 52.06-6 (car parking) of the Moreland Planning Scheme, the two (2) on site car parking spaces for a recording studio at 8 Lily Street, Coburg North is to the satisfaction of the Responsible Authority (Council).

1. Background

Subject site

The subject site is located on the northern side of Lily Street, Coburg North, approximately 570 metres south of Boundary Road. The site is rectangular with a frontage of 15.24 metres to Lily Street, a depth of 41.76 metres and a total area of 636 square metres. The site is developed with a single storey warehouse with a mezzanine that is currently vacant.

The title contains Restrictive Covenant 1421145, which prohibits the removal of soil, stone, sand or gravel except for the erection of buildings and fences and prohibits the use of the land for any noxious or unpleasant trade or business or the deposit of night-soil or offensive rubbish on the land. The proposal would not breach the Restrictive Covenant, as the recording studio only requires the internal rearrangement of the building. Having regard to the ordinary meaning of the words, a recording studio is not deemed to be a 'noxious or unpleasant business'. Additionally, the proposed use can be appropriately regulated through conditions of permit so that it does not unreasonably impact the amenity of the adjoining residential properties.

Surrounds

The surrounding area is characterised by a mix of residential and industrial premises.

Sites to the immediate north and east of the site (within the Neighbourhood Residential Zone) contain single and double storey dwellings. To the south and west of the site is Sanger Reserve. To the west of the site, beyond Sanger Reserve, the sites (within the Industrial 1 and 3 Zones) comprise mainly of single and double storey warehouses that are typically built to both side boundaries and used for industrial or commercial purposes.

To the immediate north of the site at 91 Shorts Road, Coburg North is a double storey dwelling.

To the immediate east of the site at 33 and 35 Guilfoyle Avenue, Coburg North are two single storey dwellings.

A location plan forms **Attachment 1**.

The proposal

The proposal for use of the land as a recording studio is summarised as follows:

- Hours of operation: Monday to Sunday 9:00 am to 9:00 pm.
- A maximum of 5 staff members and 5 visitors on site at any one time.
- The internal rearrangement of the building (no permit required) to facilitate the use, including the creation of three studios, a control room, office and storage areas as well as numerous acoustic engineering measures.
- Retention of the 4 existing tandem car parking spaces within the front setback of the existing building.
- Provision of 10 bicycle parking spaces.

The development plans form **Attachment 2**.

Statutory Controls – why is a planning permit required?

Control	Permit Requirement
Mixed Use Zone	Clause 32.04-2: A permit is required to use the land for a recording studio <i>Note: A recording studio is an 'innominate use', meaning it is not a land use listed in Clause 73.03 of the Planning Scheme. It is therefore a permit required use.</i>

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

- Clause 45.03: Environment Audit Overlay. Conditions are contained in the recommendation, requiring further investigation of the site to confirm that there is no contamination issue which needs to be addressed prior to the use commencing.
- Clause 45.06: Development Contributions Plan Overlay. A Development Contribution is not required to be paid in this instance as there is no increase in floor area proposed.
- Clause 52.06: Car Parking. Pursuant to Clause 52.06-6 car parking must be to the satisfaction of the Responsible Authority when the land use is not specified in Table 1. This means that approval from Council is needed, however the provision of car parking is not a planning permit trigger. Whilst Council officers have had regard to objections related to car parking, car parking issues are not subject to third party (objector) appeal rights.
- Clause 53.06: Live Music and Entertainment Noise. Pursuant to Clause 53.06-2 a rehearsal studio constitutes a live music entertainment venue, therefore the requirements of Clause 53.06-3 apply to the application.

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 Lily Street frontage of the site

Council has received 17 objections including 7 proforma objections to date. A map identifying the location of objectors forms **Attachment 1**.

The key issues raised in objections are:

- Noise Impacts
- Interface with Residential Properties
- Enforcement of/Accuracy of Number of Clients
- Car Parking
- Traffic Impacts
- Loading and Unloading
- Hours of Operation
- Devaluation of Property
- Impact on Sanger Reserve

A Planning Information and Discussion meeting was held on 8 February 2021 and attended by Cr Sue Bolton, Cr Adam Pulford, two Council Planning Officers, the applicant and two objectors. The meeting provided an opportunity to explain the application, for the objectors to elaborate on their concerns, and for the applicant to respond.

Following the meeting, the applicant has agreed to a condition of permit which limits the playing and recording of live music to 10:00 am – 8:00 pm.

Internal Referrals

The proposal was referred to the following internal business units:

Internal Branch/Business Unit	Comments
Development Advice Engineer	<p>No objections were offered to the proposal subject to modifications, which are addressed by conditions detailed in the recommendation. In particular, Council's Development Engineers noted:</p> <ul style="list-style-type: none"> • The front setback area is not large enough to accommodate four car parking spaces. • The provision of two car parking spaces on-site is adequate for the proposed use and there is adequate on-street car parking to accommodate any additional vehicles visiting the site. • The car parking spaces provided on site are sufficient for the loading and unloading of equipment. <p>The use will not generate an unreasonable number of additional vehicles from this site, compared to the previous use.</p>
Property	No objections were offered to the proposal.

3. Policy Implications

Planning Policy Framework (PPF)

- Municipal Planning Strategy (Clause 2), including:
 - Vision (Clause 2.02)
 - Environmental Risks and Amenity (Clause 2.03-3)
 - Economic Development (Clause 2.03-6)
- Environmental Risks and Amenity (Clause 13):
 - Contaminated and Potentially Contaminated Land (Clause 13.04-1S)
 - Noise Abatement (Clause 13.05-1S)
 - Discretionary Uses in Residential Zones (Clause 13.07-1L)
 - Live music (Clause 13.07-3S)
- Economic Development (Clause 17), including:
 - Diversified economy (Clause 17.01-1S & 17.01-1R)
 - Business (Clause 17.02-1S)
- Transport (Clause 18), including:
 - Sustainable Personal Transport (Clause 18.02-1S & 18.08-1R)
 - Sustainable Transport in Moreland (Clause 18.02-1L)
 - Car parking (Clause 18.02-4S & 18.02-4L)

Amendment VC183

Amendment VC183 was approved by the Minister for Planning on 28 September 2020 and introduces a new state planning policy, Clause 13.07-3S (Live Music) and makes changes to Clause 53.06 (Live Music Entertainment Venues) in all planning schemes. The amendment seeks to recognise the social, economic and cultural benefits of live music and aims to encourage, create and protect opportunities for the enjoyment of live music.

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*. In particular, regard was given to:

- Section 12: Freedom of movement - The proposed use of private land does not present any physical barrier preventing freedom of movement.
- Section 20: Property rights - The right of the landowner to develop and use their land has been considered in accordance with the Moreland Planning Scheme.

This application does not limit human rights but rather provides opportunities for employment in the area.

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.

Is the proposed use appropriate for the location?

The subject site is located within the Mixed Use Zone, which seeks *'to provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.'*

Clause 13.07-1L (Discretionary uses in Residential Zones) has the following objective:

'To locate, design and manage discretionary uses in residential areas to be compatible with the surrounding area.'

This policy has the following location strategies:

'Encourage discretionary uses in residential areas to locate on sites that:

- *Have frontage to a road in a Road Zone or a Collector Road to reduce generation of extra traffic on the local street network.*
- *Abut land used for non-residential (commercial or industrial) purpose.*
- *Will have minimal impact on the residential amenity of the surrounding area.*

Encourage discretionary uses that serve catchments beyond the local level to locate within the defined boundaries of Activity Centres, or within areas designated as Core Industry and Employment or Employment'

The proposed use of the land for a recording studio responds to the purpose of the Mixed Use Zone and the relevant objectives of the PPF in the following ways:

- The recording studio would contribute to the diversity of uses within the area, which is consistent with the purpose of the zone.
- The recording studio would contribute to the growth of the creative industry in Moreland, which is supported by Clauses 2.03-6 and 13.07-3S.

- While the site does not have a frontage to a Road Zone or a Collector Road, Council's Development Engineers have estimated that because of its small scale, no unreasonable additional traffic will be generated from the site onto the local street network by the new use.
- While the site is not within a Core Industry and Employment Area, it abuts one to the south and will contribute to the diversity of employment opportunities within the area.
- Although the site abuts residential land, subject to conditions, the proposed use will not adversely impact the amenity of the surrounding residential properties. This is discussed in more detail below in this report.

For the above reasons, the proposed use is considered consistent with the key strategic policy framework.

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

The subject site is in a Mixed Use Zone with dwellings to the immediate north and east of the subject site. The key off-site amenity impacts for these dwellings associated with the proposed use would be noise impacts, hours of operation and visitor behaviour. These are discussed in turn below.

Noise Impacts

An acoustic report prepared by Enfield Acoustics was submitted with the application. The acoustic report details the modifications required to the existing building to effectively attenuate the building. In particular, the Acoustic Report states that a 'box-within-box' will be constructed within the existing building shell to mitigate internal and external noise sources. Subject to conditions, the residential properties would be satisfactorily protected from unreasonable levels of noise from the site. The operator will be required to meet relevant State Environmental Protection Policies (SEPP N-2), which aims to protect residents from levels of music noise that may impact them. The nature of a recording studio means that the building will need to be attenuated to a higher standard than a typical building, as noise coming in and out of the studios must be mitigated to not impact the quality of the recordings. Subject to conditions included in the recommendation, the noise from the site could be satisfactorily controlled to ensure ongoing compliance with SEPP N-2 noise limits and effectively mitigate the noise impacts on nearby dwellings.

Hours of Operation

The proposed hours of operation are 9.00 am to 9.00 pm Monday to Sunday. Following the PID, the Applicant has agreed to restrict the recording of live music to 10.00 am to 8.00 pm Monday to Sunday.

Subject to the site's ongoing compliance with SEPP N-2, it is reasonable in this location to allow the proposed hours of operation. The hours of operation do not encroach into sensitive sleep times (i.e. not after 10pm), which is appropriate given the site has a direct interface with dwellings. Subject to conditions, were a permit to issue, the proposed hours of operation are not considered to have unreasonable impacts on the nearby residential properties.

Visitor Behaviour

Concern was raised in objections that the amenity will be adversely impacted by visitors to the recording studio arriving and departing. Whilst noise impacts can occur when visitors are outside the studio (i.e. unloading equipment), these impacts are not considered unreasonable. To further reduce any impact visitors may have on the nearby dwellings, a condition will require a sign to be installed inside the building to remind people to leave the building in a way that is respectful of their residential neighbours. The maximum of 10 people on site at any one time and the limited operating hours will ensure impacts are mitigated.

Based on the above assessment and the ability for the use to be appropriately regulated through permit conditions, it is considered that the requirement of Clause 53.06 (Live Music and Entertainment Noise) has been met.

Has adequate car parking been provided?

As a recording studio is not defined in the planning scheme, car parking is to be provided to the satisfaction of the Responsible Authority. While four tandem car parking spaces have been shown on the plans, Council's Development Engineers have found that it is not possible to have cars parked side by side within the car park. A condition is included in the recommendation to require the plans to show two tandem car parking spaces on-site. Council's Development Engineers support the provision of two car parking spaces on-site and consider there is adequate on-street car parking to accommodate any additional vehicles visiting the site. The provision of 10 bicycle parking spaces will also provide an alternative transport option, which is considered acceptable.

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.

Part B of the recommendation is to confirm that car parking has been provided to Council's satisfaction, as required by Clause 52.06-6.

Are adequate loading/unloading facilities provided?

Clause 65.01 requires consideration of the adequacy of loading and unloading facilities. Council's Development Engineers accept that the two car parking spaces and the existing roller door to the loading bay area provided on site are sufficient for the loading and unloading of equipment required for the operation of the recording studio.

5. Response to Objector Concerns

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

- Noise impacts
- Interface with residential properties
- Visitor behaviour
- Car parking
- Traffic impacts
- Loading and unloading
- Hours of operation

Other issues raised by objectors are addressed below.

Enforcement of/Accuracy of Number of Clients

A condition of the recommendation limits the maximum number of people on the site to 10 at any one time. While this will give the permit holder some flexibility over the ratio of staff and visitors on the site at any one time, the total number of people permitted on site remains limited to 10. This enables Council to pursue enforcement action against the operator of the recording studio were there to be a breach of the number of people on site.

Devaluation of Property

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

Impact on Sanger Reserve

It is not considered that the proposed recording studio would unreasonably impact the amenity or useability of Sanger Reserve. Subject to conditions, the noise generated from the recording studio will be effectively controlled to ensure that the use does not adversely impact Sanger Reserve or the nearby dwellings.

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, subject to the conditions of approval, the proposal provides an appropriate use to respond to the mixed-use character of the area, while limiting the off-site amenity impacts of the proposal.

On the balance of policies and controls within the Moreland Planning Scheme and objections received, it is considered that Notice of Decision to Grant a Planning Permit No MPS/2020/367 should be issued subject to the conditions included in the recommendation of this report.

Attachment/s

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|---|---|-----------|
| 1 | Objector Location Map - 8 Lily Street, Coburg North | D21/20884 |
| 2 | Advertised Plans - 8 Lily Street, Coburg North | D21/20883 |