



Moreland City Council

COUNCIL AGENDA

PLANNING AND RELATED MATTERS

WEDNESDAY 25 SEPTEMBER 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। ਏਜੰਡੇ ਦੀ ਕਿਸੇ ਆਈਟਮ ਬਾਰੇ ਮਦਦ ਲਈ, ਕ੍ਰਿਪਾ ਕਰਕੇ 9280 0751 ਤੇ ਟੈਲੀਫੋਨ ਕਰੋ।



1. WELCOME

2. APOLOGIES

Leave of absence has been granted to Cr Dorney - 15 September 2019 to 24 October 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 28 August 2019 and the Special Council meeting Planning and Related Matters held on 11 September 2019 be confirmed.

5. COUNCIL REPORTS

CITY FUTURES

DCF76/19	80, 82 AND 82A ALBION STREET, BRUNSWICK EAST - PLANNING PERMIT APPLICATION MPS/2018/752 (D19/345105)	3
DCF77/19	19 WILKINSON STREET, BRUNSWICK - PLANNING PERMIT MPS/2018/858 (D19/334162)	86

6. URGENT BUSINESS

**DCF76/19 80, 82 AND 82A ALBION STREET, BRUNSWICK EAST -
PLANNING PERMIT APPLICATION MPS/2018/752
(D19/345105)**

Director City Futures

City Development

Executive Summary



Property:	80, 82 and 82A Albion Street, Brunswick East			
Proposal:	Construction of a building, use of the land as dwellings and a reduction in the car parking requirement.			
Zoning and Overlays:	<ul style="list-style-type: none"> • Neighbourhood Residential Zone Schedule 1 (80 Albion Street) • Commercial 1 Zone (82 and 82A Albion Street) • Design and Development Overlay Schedule 19 (82 and 82A Albion Street) • Parking Overlay Schedule 1 (82 and 82A Albion street) • Development Contributions Plan Overlay Schedule 1 			
Strategic setting:	Minimal housing growth	Incremental housing growth	Increased housing densities encouraged	Significant housing growth
Background:	<ul style="list-style-type: none"> • Applicant lodged an appeal against Council's failure to grant a permit within the prescribed time. • Council officers delegated decision would have been to refuse the application. • This report details assessment of amended plans that have resulted from two compulsory conferences. • All parties must advise the Victorian Civil and Administrative Tribunal (VCAT) by 4 October whether the matter is resolved or if it is proceeding to a hearing. 			
Objections/parties to appeal:	<ul style="list-style-type: none"> • 56 objections • 6 parties to VCAT appeal • Key issues: <ul style="list-style-type: none"> – Building height – Neighbourhood character – Car parking and traffic – Amenity impacts 			

Environmental and sustainable Design (ESD):	<ul style="list-style-type: none"> • Minimum average NatHERS rating of 7.5 stars.
Accessibility:	<ul style="list-style-type: none"> • Adaptable apartments comprise 57% of the proposal.
Key reasons for recommendation	<p>The without prejudice proposal makes a number of positive changes to the advertised proposal, including a reduction in height, increased setbacks, additional landscaping and improved internal amenity. The proposal also would not result in any unreasonable amenity impacts and achieves a high level of Environmentally Sustainable Design.</p> <p>However, the architectural resolution is not considered to adequately address the site context, within this highly visible gateway location.</p>
Recommendation:	<p>It is recommended that:</p> <ul style="list-style-type: none"> • Council not consent to the plans prepared by KUD Revision 7 dated 13 August 2019. • Council authorise officers to continue to negotiate with the applicant to improve the architectural presentation and reach a position of consent prior to the hearing. <p>If a position of consent cannot be reached, Council's position that no permit should be issued will be maintained at VCAT.</p>

Officer Recommendation

That Council:

1. Authorises Council officers to write to the applicant advising that Council does not support the architectural resolution of the without prejudice plans.
2. Authorises Council officers to continue to negotiate with the applicant and reach a position of consent if further without prejudice plans are prepared that improve the architectural resolution to Council officers satisfaction.
3. Notes that if a position of consent cannot be reached before 4 October 2019, Council officers will write to the Victorian Civil and Administrative Tribunal (VCAT) advising that Council does not consent to the application and will maintain its position that a planning permit should not issue, with the advertised plans contested on the following grounds:
 - a) The proposal fails to comply with the following objectives and provisions of Schedule 19 to the Design and Development Overlay of the Moreland Planning Scheme:
 - i. The proposal exceeds the preferred maximum height of 14 metres which results in a highly visible development, and when combined with a failure to meet other built form provisions, results in a development that will not adequately respond to the preferred future built form character for the area.
 - ii. The height and lack of setback of the upper levels fails to ensure that the street wall remains the dominant element and results in unacceptable bulk and lack of recession to upper levels.
 - iii. The proposal fails to respect the form, design and context of buildings of individual heritage significance in particular 513 Lygon Street, Brunswick (the Lyndhurst Hotel) by way of its height, massing and form.
 - iv. The proposal fails to meet the design objectives for key redevelopment sites. In particular, the proposal will dominate the Lyndhurst Hotel.

- v. The proposal fails to provide an appropriate built form transition between the Lygon Street Activity Corridor and the adjoining low-rise residential area by virtue of the height, design response and inconsistency with the 'setbacks to residential land' at sub-Clause 2.0.
- b) The proposal fails to achieve building design outcomes that contribute positively to the local context and enhance the public realm as sought by the objective and strategies at Clause 15.01-2S (Urban Design) and 22.01 (Neighbourhood Character).
 - i. The proposal fails to comply with Clause 58.04-1 (building setback objective) and Clause 22.07 (development of five or more storeys) by failing to provide the setbacks from the southern boundary as specified in table 2 of Clause 22.07-2 and thereby failing:
 - ii. To ensure the setback of a building from a boundary appropriately responds to the existing urban context or contributes to the preferred future development of the area.
 - iii. To ensure the building setbacks provide appropriate internal amenity to meet the needs of its residents.
 - iv. To ensure the amenity of neighbouring dwellings are not compromised.
 - c) The proposal results in unacceptable off-site amenity impacts including:
 - i. Overshadowing impacts by virtue of shadowing impacts to the adjoining residential land and private open spaces of 80 and 78 Glenmorgan Street and 78 Albion Street.
 - ii. The visual bulk of the development as viewed from adjoining residential properties in Glenmorgan Street and Albion Street due to the building height and inadequate setbacks of the upper levels.
 - d) The proposal does not satisfy the following objectives and standards of Clause 58 of the Moreland Planning Scheme by failing:
 - e) To ensure that the design responds to the existing urban context or contribute to the preferred future development of the area pursuant to Clause 58.02-1 Urban context objectives – Standard D1 by virtue of the design of the street wall and overall building height.
 - i. To ensure dwellings achieve adequate thermal efficiency pursuant to Standard D6, Energy Efficiency, Clause 58.03-1.
 - ii. To provide appropriate landscaping by not providing 5% of the site for a deep soil area or an equivalent canopy cover as required by Standard D10, Landscaping Objective, Clause 58.03-5.
 - iii. To provide adequate setbacks from the south boundary to ensure adequate daylight into new habitable room windows, to avoid direct views into habitable room windows and private open space of existing dwellings, to avoid reliance upon screening to reduce views and to provide an outlook for new dwellings to the external environment as required by Standard D14, Building Setback Objective, Clause 58.04-1.
 - iv. To provide adequate private open space for the reasonable recreation and service needs of residents pursuant to Standard D19, Private Open Space Objective, Clause 58.05-3. Nine of the balconies of the 2-bedroom dwellings do not have 10 square metres of private open space.
 - v. To ensure dwellings provide functional areas that meet the needs of residents pursuant to Standard D24. Functional Layout Objective, Clause 58.07-1. The bedrooms and one-bedroom dwelling studies do not meet the minimum dimension requirement.

- vi. To allow adequate daylight into single aspect habitable rooms pursuant to Standard 25, Room Depth Objective, Clause 58.07-2. The depth of the living areas exceeds 9 metres.
 - vii. To allow adequate daylight into new habitable room windows pursuant to Standard D26, Windows objective, Clause 58.07-3. The studies of the one-bedroom dwellings have no light source.
- f) The proposal does not represent best practice environmentally sustainable design in accordance with the objectives of Clause 58.03-1 (energy efficiency objectives) and Clause 22.08 (Environmentally Sustainable Development) and Sub-Clause 1.0 of the Design and Development Overlay Schedule 19 of the Moreland Planning Scheme by failing to:
- i. Achieve best practice outcomes for the Energy category at Clause 22.08-2 that reduce total operating greenhouse gas emissions, reduce peak demand and improve the efficient use of energy as the dwellings will achieve the minimum energy performance.
 - ii. Achieve best practice outcomes for the Indoor Environmental Quality category at Clause 22.08-2 to provide a healthy indoor environment including fresh air intake and cross ventilation, minimise the need for mechanical ventilation and cooling and provision of natural daylight to reduce reliance on mechanical lighting.
 - iii. Achieve best practice outcomes for the Transport category at Clause 22.08-2 to promote cycling and minimise car dependency as the design response does not provide bicycle parking for visitors to the dwellings or shops, provision of one space for 3-bedroom dwellings is insufficient and no end of trip facilities are provided for the shop employees.

1. Background

Subject site

The subject site is located at 80, 82 and 82A Albion Street, Brunswick East, at the intersection of Albion Street and Eddy Street. The site sits in the south-eastern corner of the intersection of Albion Street, Lygon Street and Holmes Road.

The western lots (82 and 82A Albion Street) are currently occupied by a double storey retail premises and a car park.

80 Albion Street is used as an open lot car park associated with the retail. The applicant submits this site has existing use rights and has been a car park for more than 15 years.

82 and 82A sit within the Brunswick Activity Centre and Commercial 1 Zone. 80 Albion Street sits outside within the Neighbourhood Residential Zone.

The site has a frontage to Albion Street of 35 metres, a frontage to Eddy Street of 31 metres and an overall area of 1085 square metres.

There is a single crossover from Eddy Street in the south west corner and a double crossover from Albion Street.

A restrictive covenant applies to 80 Albion Street (the eastern lot). The covenant limits the development upon this lot to no more than one dwelling and requires that any building must face Albion Street and no other frontage. A drainage easement runs along the southern and western boundaries of 80 Albion Street.

Surrounds

The site straddles the edge of the activity centre. Therefore, the surrounds vary from the commercial environment to the west to a low density residential area to the south and east. Whilst there are some medium to high density developments of 4 to 7-storeys along Lygon Street, the Albion Street area is mostly comprised of low density residential. The site is located at a prominent intersection with tram and bus stops in proximity.

Abutting the site to the east is 78 Albion Street, occupied by a single storey weatherboard dwelling. The site has private open space to the rear and a garage on the common boundary. This dwelling has windows facing the subject site along the western wall.

West of the subject site is Eddy Street, a one-way road with no vehicle access from Albion Street. On the opposite side of Eddy Street are 2 retail tenancies occupied by a tattoo shop and a bar/live music venue which fronts Lygon Street.

Further west is 513 Lygon Street, this site is occupied by a prominent heritage building (formerly The Lyndhurst Hotel). The building is highly visible from the site. The building is 3-storeys and the tallest structure in the immediate precinct.

To the north west, diagonally opposite the site, there is a McDonald's restaurant with access from Holmes Street and Albion Street.

To the immediate south is 80 Glenmorgan Street, which is occupied by a single storey weatherboard dwelling. It shares its rear boundary with the subject site and the immediate interface is a driveway and garage. The dwelling is setback 7.5 metres from the rear boundary with an area of private open space. 78 Glenmorgan is located to the immediate south of 80 Albion street (the car park). There is a mature tree located in the open space of 78 Glenmorgan Street.

A zoning map forms **Attachment 1**.

Background

Planning application MPS/2018/752 was lodged in September 2018 seeking the construction of a building containing a shop and dwellings. Key features of the original proposal included:

- A height of 6-storeys (20.4 metres, excluding the roof deck and lift overrun).
- 24 dwellings comprising 6x1 bedroom, 14x2 bedroom and 4x3 bedroom.
- One ground floor retail space of 437 square metres.
- 32 bicycle parking spaces.
- 42 car parking spaces.
- A communal roof top garden and semi covered area of 265 metres square.
- External finishes comprising dark concrete panelling, coloured perforated metal, timber detailing and cladding.

The application was advertised in December 2018 and attracted 56 objections. The advertised plans form **Attachment 2**.

In April 2019, the permit applicant lodged a Victorian Civil and Administrative (VCAT) review against Council's failure to determine the application within the 60-day statutory timeframe. Six objectors are joined as parties to the VCAT appeal.

Council officer advised the parties that Council was not supportive of the proposal, on grounds including:

- Height.
- Setbacks.
- Appearance.
- Internal amenity.
- Off-site amenity impacts.
- Insufficient landscaping.
- Failure to demonstrate that the restrictive covenant was not breached.

VCAT compulsory conferences

- A compulsory conference was held on 2 July 2019. The plans presented at the compulsory conference made changes to the appearance of the building, but did not address issues of height, setbacks or amenity. At the compulsory conference, a draft consent order was reached amongst all parties in attendance. The agreement required the applicant to prepare a further set of 'without prejudice' plans which included (among other things), the deletion of a level; increased setbacks; and improved amenity outcomes.
- On 18 July 2019, the applicant circulated the further without prejudice plans giving effect to the in principal agreements reached during the first compulsory conference.
- On 6 August 2019, the parties attended a further compulsory conference. The plans circulated on 18 July 2019 did not adequately address the concerns of all parties. As such, further in-principal agreements were reached, and the applicant circulated a further set of without prejudice plans on 14 August 2018.

Without prejudice plans

The changes from the advertised plans to the final set of 'without prejudice' plans can be summarised as follows:

- A revised architectural resolution, utilising predominantly red brick and black metal cladding, with arched and round windows.
- The deletion of 1-storey (i.e. a reduction from 6-storeys to 5-storeys).
- Increased setbacks to the upper-most level.
- A reduction in the number of dwellings from 24 to 21.
- Increased bicycle parking.
- An improved treatment including landscaping to the at-grade car park.
- Modifications to apartment layouts.
- A reduction in the width of the vehicle accessway to Eddy Street.
- Setbacks in the south-west corner of the basement to limit impacts on a mature tree.

The without prejudice plans form **Attachment 3**.

Legal Hearing

A preliminary hearing on a question of law was conducted at VCAT on 26 July to consider whether the proposal would result in a breach of the restrictive covenant affecting 80 Albion Street.

The Tribunal determined that the development of an at grade car park and residential basement car park would not breach the restrictive covenant. Whilst the Tribunal acknowledged that the basement car parking would be used for more than one dwelling, it was determined that the primary purpose of the covenant is to preserve built form presentation. Given there is no visible building proposed to be constructed at 80 Albion Street the proposal would not breach the covenant.

What will happen next?

The Tribunal has directed that by 4 October each party must write to the Tribunal and advise whether the matter is resolved or if it is proceeding to a hearing.

The purpose of this report is to resolve Council's position based on the without prejudice plans.

In summary, the without prejudice proposal makes a number of positive changes to the advertised proposal, including a reduction in height, increased setbacks, additional landscaping and improved internal amenity. The proposal also would not result in any unreasonable amenity impacts and achieves a high level of Environmentally Sustainable Design.

However, the architectural resolution is not considered to adequately address the site context, within this highly visible gateway location. It is therefore recommended that Council not consent to the proposal in its current form on this basis. However, it is recommended that Council authorise officers to continue to negotiate with the applicant to improve the architectural presentation and reach a position of consent prior to the hearing.

If all the parties do not agree to the mediated outcome, the application will proceed to a hearing on 25 November 2019. Unless the applicant formally amends their plans at VCAT, the hearing will consider the advertised set of plans, which Council officers will advocate should be refused.

Statutory Controls – why is a planning permit required?

Control	Permit Requirement
Commercial 1 Zone	Clause 34.01-1 A permit is required to use the land for accommodation (dwellings) as the frontage exceeds 2 metres. Clause 34.01-1 A permit is required to construct a building or construct or carry out works.
Design and Development Overlay Schedule 19	Clause 43.02 A permit is required to construct a building or construct or carry out works.
Neighbourhood Residential Zone	Clause 32.09-6: A permit is required to construct two or more dwellings on the lot (basement car park).
Particular Provisions	Clause 52.29 (Car Parking) A permit is required to reduce the car parking requirement.

The following Overlays and 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 54.09: Parking Overlay (Schedule 1)
- Clause 52.35: Bicycle Parking
- Clause 58: Apartment Developments
- Clause 63.01: Existing Use Rights

2. Internal/External Consultation

Public notification

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

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

Council received 56 objections to the planning application, of which 6 have joined as objector parties to the VCAT review.

A map identifying the location of objectors and parties to the VCAT appeal forms **Attachment 4**.

The key issues raised by objectors are:

- Building height
- Traffic and congestion
- Neighbourhood character and appearance
- Overlooking
- Overshadowing
- Overdevelopment
- Construction management issues
- Property values
- Impact upon the heritage building - Lyndhurst Hotel
- Insufficient notice
- Potential impact upon trees in Glenmorgan Avenue
- Agent of change issue to neighbouring music venue not addressed
- Insufficient landscaping
- Breach of covenant

The mediated proposal would not require further public notice as it represents an overall smaller building envelope and does not result in additional material detriment to any surrounding property.

Internal/external referrals

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

External Agency	Objection/No objection
VicRoads	No objection subject to conditions included in the recommendation.

Internal Branch/Business Unit	Comments
City Strategy and Design Branch – Urban Design Unit	The advertised proposal was not supported by Council’s Urban Design Unit. The without prejudice plans were reviewed and while some changes were considered positive, Urban Design advised that four storeys, in line with the DDO, would still be considered the preferred approach for this site. Furthermore, the overall architectural resolution was not supported, as detailed in section 4 of this report.
City Change – ESD Unit	The advertised proposal was not supported by Council’s ESD Unit, on the basis that the SMP required details to demonstrate compliance with Clause 22.08. This is discussed further in section 4 of this report.
City Change Branch – Development Advice	No objections were offered to the proposal subject to modifications which could be addressed by conditions of any permit that may issue.

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 22.02 Discretionary Uses in Residential Zones
- 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 and density on the land at 82 and 82A Albion Street, which falls within the designated Activity Centre boundaries. However, 80 Albion Street is located within the Neighbourhood Residential Zone Schedule 1, where policy seeks to recognise areas of predominantly single and double storey residential development and manage development that respects the neighbourhood character, heritage or landscape characteristics. The proposal relies on existing uses rights to reconstruct a car park on this land. The height and setbacks of the without prejudice plans therefore strike an acceptable balance between the competing policy objectives for density. However, the architectural detail is not considered to provide an acceptable response to urban design policy objectives, as detailed further in section 4 of this report.

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 is considered against Clause 22.01 (Neighbourhood Character) of the Moreland Planning Scheme. The site is partly within an area the policy marks for substantial change and has the following objective for the Brunswick Activity Centre (82 and 82A Albion):

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 DDO19 applies to the Brunswick Activity Centre – Lygon Street Local Area and has the following relevant objectives:

- To create a new midrise built form character that accommodates buildings generally ranging from 3 to 9 storeys.
- To ensure highly visible development is limited to identified key redevelopment sites and responds to specific design objectives.
- To provide a built form transition between the Lygon Street Activity Corridor and adjoining low-rise residential areas.

The Overlay establishes that the site is a key development site (Lygon Street Northern Gateway) and includes the following relevant precinct design objectives:

- To ensure new development contributes to the overall legibility of the Lygon Street Local Area and Brunswick Activity Centre as a whole by defining a high-quality gateway at the northern end of Lygon Street.
- To enhance the view corridor from Holmes Street on approach from the north.
- To enhance the view corridor from Lygon Street on approach from the south.
- To ensure new development does not dominate the Lyndhurst Hotel.

The DDO19 also sets out a building envelope with preferred built-form outcomes including:

- A preferred building height of 14 metres.
- A maximum building height of 5 metres on the common boundary adjoining residential land graduating to a 10-metre setback where the height increases to 10 metres.

The variations sought to the DDO are assessed below.

Building height and form

The without prejudice proposal has a maximum height of 16.2 metres above natural ground level (excluding the roof top garden and services, which are exempt from the height calculation in DDO19). This is one storey lower than the advertised proposal but is still 2.2 metres above the preferred height specified in DDO19.

The upper level is setback 2 metres from the east and west boundaries and 3 metres from the north boundary.

Because DDO19 anticipates a maximum height of 14 metres on the subject site, a preferred street wall height or upper level setback requirement is not specified.

However, the following built form requirements for upper level setbacks in the broader precinct are relevant:

- Development above the street wall height or behind an existing parapet should be: Designed to differentiate it from the building's street wall component through façade articulation and materials.
- Material at the upper levels of buildings should be distinct from materials of the levels of the building.
- The architectural expression of the upper levels and lower level building components should be complementary and upper levels should be visually recessive.

The proposed 2.2 metre variation to the preferred building height is considered to be acceptable for the following reasons:

- The upper level is setback from all side boundaries, creating a recessed upper form.
- The material at the upper level is visually distinct from the lower levels.
- The lower levels meet the preferred height of the DDO19 and are of a scale and form that responds well to the Lyndhurst Hotel.

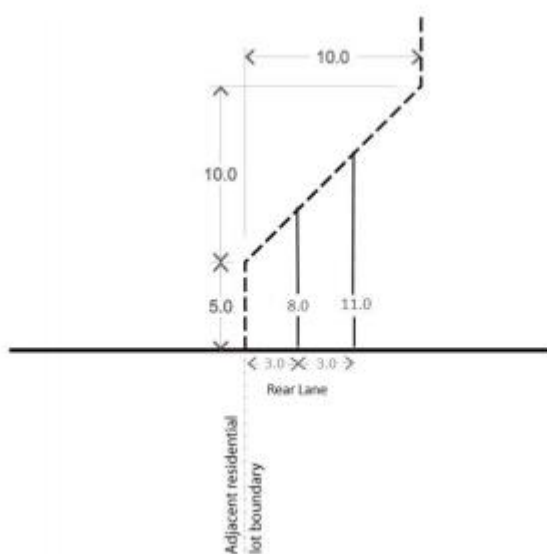
It is acknowledged that the upper level will not be invisible, particularly given the long-range views available on the approach along Holmes Street and Albion Street. Urban design have recommended that the upper level be of a lighter grey, to reduce its visual impact. Subject to this change, it is considered possible that the upper level could present as visually recessive, as sought by the DDO19.

Setbacks to residential land

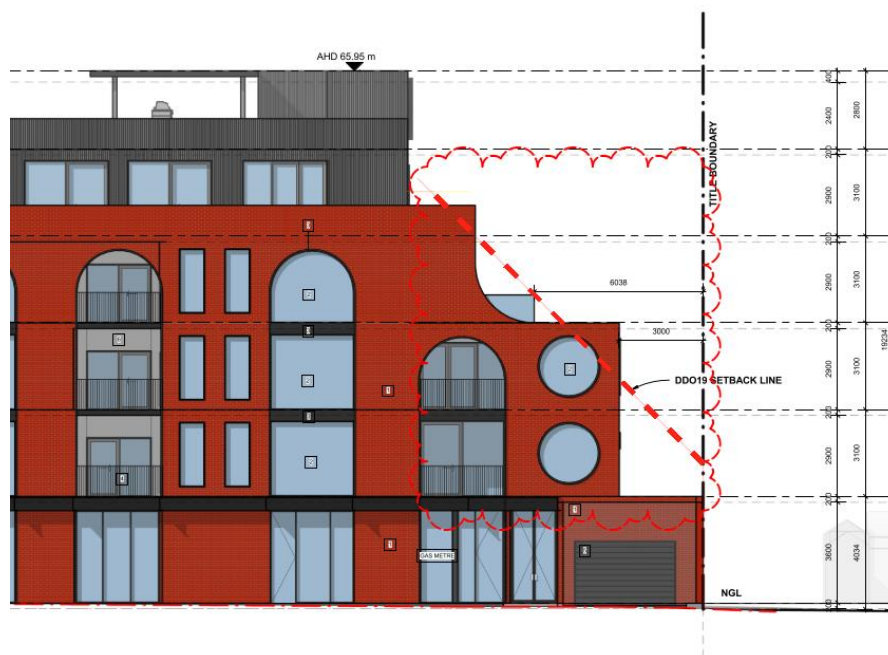
The DDO19 has the following relevant objective:

To provide a built form transition between the Lygon Street Activity Corridor and adjoining low-rise residential areas.

The DDO states that any part of a building adjacent to residentially zoned land outside the activity centre should be set back from the residential boundary at that interface by a dimension equivalent to its height above 5 metres, up to a maximum setback of 10 metres, as depicted in the following diagram:



The without prejudice plans result in some minor encroachments into preferred setback, at level 2 and level 4, as depicted in the excerpt from the plans below:



This was a key issue through the application and at the compulsory conferences. At the first compulsory conference compliance with the rear setback was agreed to in principal. However, compliance with the setback resulted in a poorly resolved architectural form.

The encroachments into the setback will not result in unreasonable amenity to the adjoining residential land and would be acceptable for the following reasons:

- The proposal would comply with the overshadowing standard from Clause 55.
- The proposal does not impact the solar panels of 78 Glenmorgan Street.
- The immediate interface to the south is a driveway and garage. The objector from this property elected not to become a party to the VCAT appeal.

Building design, architectural detail and materials

DDO19 has the following relevant objectives relating to building appearance:

- To ensure new development contributes to the overall legibility of the Lygon Street Local Area and Brunswick Activity Centre as a whole by defining a high-quality gateway at the northern end of Lygon Street.
- To enhance the view corridor from Holmes Street on approach from the north.
- To ensure development is designed to respect the form, design and context of buildings of individual heritage significance.

The advertised proposal by way of its materials, height and form failed to respect the form and design of the nearby Lyndhurst Hotel (heritage building) and was not considered to positively contribute to the Lygon Street gateway.

The without prejudice plans significantly change the appearance of the building. However, Urban Design remain concerned with the architectural expression, in particular the over-scaled proportions, which are more institutional than residential in form. Urban design also advises that:

The proposed composition, primarily composed of large areas of plain flat brick and concrete façade with large scale glazed arch forms and circular windows, results in a visually dominant expression, which does not transition or integrate with the Lyndhurst Hotel or Glenmorgan Street precinct.

Given that the site is located within a gateway to the Activity Centre and will be highly visible on the approach down Holmes Street, a successful architectural resolution is critical. This is the key remaining issue for this proposal. As such, it is recommended that the without prejudice proposal not be supported on this basis. However, it is also recommended that Council authorise officers to work with the applicant to revise the architectural presentation to try to reach a position of consent prior to the VCAT hearing.

Does the proposal provide adequate landscaping?

Clause 58.03-5 (Landscaping) has the following relevant objectives:

- To encourage development that respects the landscape character of the area.
- To provide appropriate landscaping.
- To promote climate responsive landscape design and water management in developments that support thermal comfort and reduces the urban heat island effect.

Standard D10 specifies a number of things that the landscape design should achieve. This includes a requirement for deep soil planting or an equivalent canopy cover. Based on the site area of 1,092 square metres, 7.5% (or 82 square metres) with a minimum dimension of 3 metres of the site should achieve deep soil planting.

The without prejudice proposal provides only 18 square metres of deep soil planting with a minimum dimension of 3 metres. However, there are also garden beds of between 1.2 and 1.7 metres along the edge of the at-grade car park at 80 Albion Street. This is an improvement from the advertised proposal.

In addition, there are large planter beds on the roof terrace and a planter box running along the southern edge of level 4.

Subject to submission of a detailed landscape plan, the proposal is considered to achieve an equivalent canopy cover despite not meeting the deep soil requirements.

In addition, the without prejudice plans set back the basement from the south-east corner of the site in order to protect a mature tree in the backyard of 78 Glenmorgan. This is specifically to address the concerns of a party to the VCAT appeal. A condition of any permit that may issue should require provision of a Tree Management Plan, to ensure that the tree is appropriately protected during construction.

Does the proposal result in any unreasonable impacts on neighbouring properties?

Clause 34.01-8 has the following decision guideline:

- Consideration of the overlooking and overshadowing as a result of building or works affecting adjoining land in a General Residential Zone, Neighbourhood Residential Zone, Residential Growth Zone or Township Zone.

Clause 55.04-6 (overshadowing objective), while not strictly applicable, provides a useful tool for measuring overshadowing. The standard states that secluded private open space should receive at least 40 square metres of solar access for 5 hours between 9 am and 3 pm at the equinox.

The without prejudice plans have been assessed and meet this requirement.

In relation to overlooking, south facing windows at levels 1 and 2 are designed to limit overlooking of dwellings to the south. Third floor balconies are not screened, nor are they required to be. Downwards views are limited by the floor below and there will be no view within 9 metres of any secluded private open space or habitable room windows. This would ensure that future occupants will have an outlook, without unreasonably impacting the amenity of adjoining dwellings.

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

The dwellings proposed are a mix of 1, 2, and 3-bedroom dwellings. While the advertised proposal failed a number of Clause 58 internal amenity standards, the without prejudice proposal now offers an acceptable level of on-site amenity. The notable positive features include:

- All rooms have direct access to natural light, with no provision for borrowed light or saddleback arrangements.
- A landscaped communal rooftop garden is provided.
- The entry lobby is visible and clearly identifiable from Eddy Street and has been treated in a manner that will provide an attractive interface to the street. The entry to the retail premise and to the apartments are clearly defined and separate from each other.
- All the dwellings have adequate floor to ceiling heights of 2.7 metres.
- Adequate internal storage has been provided.
- Each room has a direct light source and adequate daylight.
- The proposal meets the requirements of Clause 22.07 (building separation).

The proposal has excellent ability to provide for cross-flow ventilation, with 66% of dwellings being dual aspect. However, it is unclear from the plans whether many of the windows are openable. Conditions of any permit that may issue should require windows to be clearly shown as openable to achieve cross flow ventilation.

One dwelling (apartment 401) has a living area depth of 8.6 metres, with the dining area at the back of the room. This does not meet the requirements of Standard D25, which states that the depth should not exceed 6.7 metres. A variation is appropriate for this dwelling, because it is a 125 square metre 3-bedroom dwelling. The living area has a very wide window with a northern aspect and is likely to still achieve a high level of daylight.

Three dwellings fall short of the living room minimum dimension specified in Standard D24, by 300 millimetres. This variation is accepted on the basis that it affects only 3 dwellings; the minimum dimension in the other direction is either met or exceeded; and overall the layout is functional.

Has adequate car parking been provided?

Clause 52.06 requires 24 car spaces for the dwellings. There is provision for 31 residential car spaces within the basement.

Clause 52.06 requires 15 car spaces to be provided for the shop. Nine spaces are provided, located in the at-grade car park at 80 Albion Street.

A reduction of 6 spaces associated with the shop are therefore sought, while there are 7 surplus spaces associated with the residential use.

A reduction of car parking associated with the shop is supported on the basis that the site is located within an Activity Centre, where multi-purpose trips are likely and there is excellent access to public transport.

If a permit were to issue, it is recommended that parking spaces labelled 28 to 31 in the basement be deleted, with the size of the basement reduced. These spaces are not required for the dwellings and this change will reduce potential impacts on the mature tree located at 78 Glenmorgan Street and improve deep soil areas on the subject site.

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

The applicant's Traffic Engineering Assessment calculates that given the proximity to alternate modes of transport, this site will generate about 82 additional vehicle movements per day than was generated from the site previously and will travel along Eddy Street (a local access street). The additional vehicles will not result in this street exceeding the maximum volumes permitted under the Moreland Integrated Transport Strategy. The proposal will therefore not have an unreasonable impact upon traffic and the road network.

Objections were received regarding safety for pedestrians and cyclists. The without prejudice plans reduce the width of the vehicle accessway off Eddy Street and Council's Development Advice Engineer supports this revised design. A mirror will also be provided to enhance visibility of pedestrians and cyclists for cars exiting the site. A condition of any permit that may issue should require the crossover to be reduced to match the width of the vehicle accessway.

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 existing vehicle access points to the subject site; and
- Provides more than one bicycle space per dwelling. The without prejudice plans provide 36 bicycle parking spaces for the 21 dwellings (containing 38 bedrooms). Six bicycle parking spaces are provided for staff of the retail tenancy. This is an excellent provision of bicycle parking that is well in excess of the 6 spaces required under Clause 52.34 (bicycle parking).

Does the proposal incorporate adequate ESD features?

The proposal is required to achieve best practise ESD in accordance with Clause 22.08 of the Moreland Planning Scheme.

The positive aspects of the proposal include:

- 7.5-star NatHERS average.
- 5kW solar PV system.
- Rainwater harvesting and fire test water reuse.
- On-site bicycle parking in the basement and ground floor.
- Greening along facades.
- 70% construction waste recycling.

Council's ESD officer identified a number of outstanding matters in relation to the advertised Sustainable Management Plan (SMP).

A revised SMP was not submitted as part of the without prejudice plans. As such, a condition of any permit that may issue would require submission of a revised SMP, to achieve best practice ESD in accordance with Clause 22.08.

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. All the proposed dwellings are visitable. 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. A total of 57% of dwellings would meet the requirements of Standard D17 (subject to relocation of the toilet to the corner of the bathroom in some 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 should therefore be included on any permit that may issue 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.

Does the proposal mitigate against potential noise sources?

Clause 53.06 (Live Music and Entertainment Noise) requires that noise sensitive residential uses must be designed and constructed to include noise attenuation measures that will reduce noise levels from indoor live music venues to below the noise limits specified in the State Environment Protection Policy Control of Music Noise from Public Premises No N-2.

An acoustic report was submitted with the advertised application. The report refers to potential noise sources including tram and traffic noise and noise from the neighbouring bar. It's noted that there is no known plant or mechanical noise from adjoining commercial or retail tenancies. The report includes a number of acoustic design requirements including glazing types and roof design. Conditions of any permit that may issue will be required to give effect to the acoustic report and will ensure that the proposal is constructed to adequately attenuate noise impacts.

Does 80 Albion Street benefit from existing use rights?

The land at 80 Albion Street is proposed to be used for at grade parking associated with the shop and basement car parking associated with the dwellings below. Car parking associated with dwellings would be permitted in the Neighbourhood Residential Zone, whereas car parking associated with a shop would be prohibited.

Nevertheless, the Planning Scheme allows existing uses to continue, if they are established to have existing use rights.

Council officers have obtained legal advice, addressing the question of whether the at-grade car park benefits from existing use rights. In summary, the legal advice determined that the 'real and substantial' purpose of the car park land was a 'shop', given that the car parking was associated with the existing shop on the adjoining land.

On the balance of probabilities, the land was determined to have existing use rights and would continue to benefit from those through the redevelopment of the land. As a result of this advice, a condition of any permit that issues should be included requiring that those car parking spaces must be solely associated with the shop use as shown on the endorsed plans and must not be subdivided or sold separate from the development for any reason without the written consent of the Responsible Authority.

5. Response to Objector Concerns

The objections received during the application process were responded to in Council's delegate report, a copy of which can be provided to any person upon request.

Those objectors who became party to the VCAT appeal have the ability to determine whether or not the without prejudice plans adequately address their concerns and consent to the issue of a permit or whether they wish to proceed to a hearing.

The following issues raised by objectors are addressed in the consideration at section 4:

- Building Height;
- Traffic and congestion;
- Neighbourhood character and appearance;
- Overlooking;
- Overshadowing;
- Impact upon the heritage building - Lyndhurst Hotel;
- Agent of change issue to neighbouring music venue not addressed;
- Insufficient landscaping; and
- Breach of covenant.

Other issues raised by objectors are addressed below.

Overdevelopment

The site is partly within an Activity Centre with proximity to public transport, where increased density is supported by the State and Local planning policy frameworks. As detailed in section 4 of this report, the height and setbacks of the proposal are considered to respond to key policy objectives. Subject to appropriate architectural resolution, it is not considered that the proposal is an overdevelopment of the site.

Impact on infrastructure

An objector concern was the impact of the dwellings on infrastructure, particularly sewer, drainage and rubbish collection. 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. Private garbage collection where loading occurs on site is also proposed.

Property values

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 impacts of this proposal.

Construction issues

Noise and amenity impacts during the construction process are not generally a planning matter. The *Environmental Protection Act 1970* (s.48A(3)), provides noise control guidelines for commercial construction sites which set working hours and noise management expectations. 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.

Impact upon trees in Glenmorgan Street

Glenmorgan Street has a series of large street trees along both sides of the street. The shadows cast by the proposal will not reach as far as the trees. It is therefore unlikely that the proposed building will have any impact upon the trees. The impacts of the proposal on the tree within the backyard of 78 Glenmorgan Street is assessed in section 4 of this report.

Insufficient notice

The proposal was advertised for a period of 14 days as required by the *Planning and Environment Act 1987*. Notice was given to the owners and occupiers of adjoining and nearby properties and signs were erected on site.

6. Officer Declaration of Conflict of Interest

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

7. Financial and Resources Implications

There are no financial or resource implications.

8. Conclusion

The without prejudice proposal makes a number of positive changes to the advertised proposal, including a reduction in height, increased setbacks, additional landscaping and improved internal amenity. The proposal also would not result in any unreasonable amenity impacts and achieves a high level of Environmentally Sustainable Design.

However, the architectural resolution is not considered to adequately address the site context, within this highly visible gateway location. It is therefore recommended that Council not consent to the proposal in its current form on this basis. However, it is recommended that Council authorise officers to continue to negotiate with the applicant and reach a position of consent if further without prejudice plans are prepared that improve the architectural resolution to Council officers satisfaction.

If a position of consent cannot be reached, Council's position at VCAT will continue to be that a planning permit should not issue. The advertised plans are contested on the grounds outlined in the recommendation of this report.

Attachment/s

1	Zoning Map - 80-82 Albion Street, Brunswick East	D19/358869
2	Advertised Plans - 80 - 82 Albion Street, Brunswick East	D19/348667
3	Without Prejudice Plans - 80-82 Albion Street, Brunswick East	D19/348668
4	Location Plan - 80 - 82 Albion Street, Brunswick East	D19/348666

**DCF77/19 19 WILKINSON STREET, BRUNSWICK - PLANNING PERMIT
MPS/2018/858 (D19/334162)**

Director City Futures

City Development

Executive Summary



Property:	19 Wilkinson Street, Brunswick				
Proposal:	Construction of a 6-storey building with office and dwellings, use of the land for dwellings and a reduction in car parking requirements.				
Zoning and Overlays:	<ul style="list-style-type: none"> • Commercial 1 Zone • Design and Development Overlay 18 • Environmental Audit Overlay • Parking Overlay • Development Contributions Plan Overlay 				
Strategic setting:	<table border="1"> <tr> <td>Minimal housing growth</td> <td>Incremental housing growth</td> <td>Increased housing densities encouraged</td> <td>Significant housing growth</td> </tr> </table>	Minimal housing growth	Incremental housing growth	Increased housing densities encouraged	Significant housing growth
Minimal housing growth	Incremental housing growth	Increased housing densities encouraged	Significant housing growth		
VCAT Appeal:	<ul style="list-style-type: none"> • Applicant has lodged an appeal against Council’s failure to grant a permit within the prescribed time. • Council officers’ delegated decision would have been to refuse the application. • This report details assessment of amended plans and an agreement reached as a result of 2 compulsory conferences. • The amended plans increase the setback of level 5 to a minimum of 9 metres to reduce the encroachment into the 1:1 ratio and increase the office floor space from 260 metres squared to 326 metres squared. • Settlement of the matter is now subject to the approval of the Planning and Related Matters Committee and no new parties arising from amended plans. 				
Objections:	<ul style="list-style-type: none"> • Three objections • Key issues: <ul style="list-style-type: none"> – Overdevelopment – Amenity impacts – Car parking and traffic <p>One objector became a party to the Victorian Civil and Administrative Tribunal (VCAT) appeal.</p>				

Environmental and Sustainable Design (ESD):	<ul style="list-style-type: none"> • Minimum average NatHERS rating of 7.3 stars.
Accessibility:	<ul style="list-style-type: none"> • Adaptable apartments comprise 60% of the proposal.
Key reasons for support	<ul style="list-style-type: none"> • Appropriate internal amenity • Minimal off-site amenity impacts • Responds to preferred built form and neighbourhood character (subject to conditions). • Positive ESD and accessibility outcomes.
Recommendation:	It is recommended that Council consents to the agreement reached, based on the conditions of this recommendation.

Officer Recommendation

That Council consents to the granting of Planning Permit No. MPS/2018/858 in accordance with the terms of settlement reached at the Compulsory Conference on 14 August 2019 for the construction of a 6-storey building with office and dwellings, use of the land for dwellings and a reduction in car parking requirements at 19 Wilkinson Street, Brunswick, 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 prepared by Telha Clarke Revision 03 dated 9 August 2019 (TP099, TP100-107, TP201-203, TP220-222 and TP3.0 materials) but modified to show:
 - a) Deletion of the east and west wing walls to the balcony of level 5, to achieve a minimum setback of 9 metres from the front property boundary.
 - b) The balcony area opposite bedroom 2 of apartment 202 (level 2) deleted to create a void to the floor below.
 - c) Level 03 and level 04 balconies modified to reduce the visual dominance of these levels. This should be achieved by creating a frame to the balconies rather than a solid structure, through:
 - i. Providing cut-outs to the east and west wing walls (generally in accordance with the levels below); and
 - ii. Providing a cut-out to the ceiling over the level 04 balcony;

Where an alternative design response is proposed to that specified in this condition, the responsible authority may vary the requirements of this condition provided that it achieves a lightweight appearance to these levels.
 - d) At least 20% of the bicycle parking devices designed to park bicycles horizontally (ie 1.8 metres long) in accordance with the Australian Standard for Bicycle Parking (AS2890.3). A landscape plan in accordance with condition 3 of this permit.
 - e) An amended Waste Management Plan in accordance with condition
 - f) Any modifications as recommended by the Acoustic Report required by condition 11 of this permit.

- g) Initiatives contained within the Sustainable Management Plan required by condition 14 of this permit, including:
- i. On-site stormwater treatments as per the STORM report (including rainwater harvesting tanks, raingardens, etc).
 - ii. Rainwater harvesting tanks specified as being the capacities within the STORM report. The tanks must also be noted to be used only for reuse within the development, and that such systems are completely independent of any detention requirements (through the Legal Point of Discharge process).
 - iii. External shading for the exposed north-facing habitable room windows (such as eaves which extend for approximately 45% of the window heights or adjustable louvres) which demonstrates the window will be protected from sun during peak heat temperatures whilst not detracting from desired winter heat gain.
 - iv. Double glazing (or better) provided for all living room windows (including sliding door glazing) and bedrooms, as well as, office areas indicated on each individual window on the floor plans and elevations.
 - v. Secure bicycle parking spaces to accord with the SMP.
 - vi. Appropriately sized waste collection services including provision for multiple waste streams such as residential and office waste to landfill, recycling and organic.
- h) The verandah dimensioned as being setback at least 750 millimetres from the kerb, and at least 3 metres above ground level.

Secondary consent

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

Landscaping

3. Prior to the 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) Details of proposed planter boxes confirming sufficient soil volume for the proposed planting, appropriate drainage design and provision of an automatic irrigation system.
 - b) A planting schedule including numbers, size at planting, size at maturity and botanical names. The flora selection and landscape design should be suited to the location and planter box sizes proposed, drought tolerant and based on species selection recommended in the Moreland Landscape Guidelines 2009.
 - c) Any stormwater management details on the STORM report, including raingardens and raingarden section details, rainwater harvesting tanks locations, etc.
4. Prior to the issuing of a Statement of Compliance or occupation of the development, whichever occurs first, all landscaping works must be completed and maintained in accordance with the approved and endorsed landscape drawing to the satisfaction of the Responsible Authority.

Development Contributions

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

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

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

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

Environmental Auditing

6. Prior to the commencement of construction or carrying out works pursuant to this permit, or any works associated with a sensitive use, or where no works are proposed, prior to the commencement of the permitted use, either:
7. 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,
8. An Environmental Auditor appointed under Section 53S of the *Environment Protection Act 1970* must make a Statement in accordance with Section 53Z of that Act that the environmental conditions of the land are suitable for the use and development that are the subject of this permit and that statement must be provided to the Responsible Authority.

Where a Statement of Environmental Audit is issued for the land, the buildings and works and the use(s) of the land that are the subject of this permit must comply with all directions and conditions contained within the Statement.

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

Where a Statement of Environmental Audit is issued for the land, and any condition of that Statement requires any maintenance or monitoring of an ongoing nature, the Owner(s) must enter into an Agreement with Council pursuant to Section 173 of the *Planning and Environment Act 1987*. Where a Section 173 Agreement is required, the Agreement must be executed prior to the commencement of the permitted use, and prior to the certification of the plan of subdivision under the *Subdivision Act 1988*. All expenses involved in the drafting, negotiating, lodging, registering and execution of the Agreement, including those incurred by the Responsible Authority, must be met by the Owner(s).

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

Waste Management Plan

10. 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 (eg 6 am-midday, Wednesday).

Noise Attenuation

11. 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 include, but not be limited to the following:
- a) Recommendations of acoustic attenuation measure/s to be incorporated into the proposed development to minimise the impact of noise from industrial uses.
- When submitted and approved to the satisfaction of the Responsible Authority, the Acoustic Report will be endorsed to form part of this permit.
12. Construction and maintenance of the buildings must be 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.

13. 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.

Environmentally Sustainable Management

14. Prior to the endorsement of plans, a Sustainability Management Plan (SMP) must be submitted to and approved to the satisfaction by the Responsible Authority. The Sustainability Management Plan must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the SMP by Rudds Consulting Engineers, received including BESS report (Project Number 16247) and STORM (Transaction ID: 666483) but modified to include the following changes:
 - a) Any modifications required to align with the plans for endorsement as referenced in condition 1 of this permit.
 - b) 'Publish' the BESS report and submit to Council in its entirety.
 - c) Preliminary First Rate 5 Certificates for the apartments modelled.
 - d) Preliminary Section J report specifying indicative R-values, U-values, SHGC for materials that constitute a part of the development. A percentage (%) committal regarding improved performance against a base/reference case office layout must be specified, as well as, the supply of a NCC 2016 BCA Glazing Calculator for a reference/base case and the proposed development to gauge performance.
 - e) Rainwater tanks for re-use/retention purposes must be connected to all toilet flushing systems on all levels, as well as, service irrigation areas to ensure that volume reduction, management of peak flow, and stormwater quality with respect to managing overflow are addressed.
 - f) Provide alternative transport facilities including secure bicycle spaces for residents, visitors and employees.
 - g) Provide water efficient fixtures and fittings including baths, urinals, washing machines and dishwashers denoted by a commitment to requisite WELS star ratings or equivalent specifications congruent with BESS.

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.

Where alternative ESD initiatives are proposed to those specified in conditions outlined 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 SMP and associated notated plans will serve as a joinder of documentation and be endorsed to form part of this permit.

Prior to the commencement of occupation or issue of Statement of Compliance, whichever comes first, of any dwelling approved under this permit, a report from the author of the Sustainability Management Plan (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.

General conditions

15. Prior to the occupation of the development, a vehicle crossing must be constructed in every location shown on the endorsed plans to a standard satisfactory to the Responsible Authority (Moreland City Council, City Infrastructure Department).
16. 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).
17. 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.
18. 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.
19. All stormwater from the land, where it is not collected in rainwater tanks for re-use, must be collected by an underground pipe drain approved by and to the satisfaction of the Responsible Authority (Note: Please contact Moreland City Council, City Infrastructure Department).
20. Prior to the occupation of the development, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.

Expiry

21. 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.

1. Background

Subject site

The subject site is located on the south side of Wilkinson Street, east of the intersection with Rosser Street. It enjoys proximity to a range of services and facilities, including the Brunswick Train Station, which is located approximately 90 metres west of the site. The site is rectangular in shape and has a frontage of 16 metres to Wilkinson Street and an average depth of 25.71 metres. The total site area is 412 square metres. The site is currently occupied by a single storey brick building with a corrugated iron roof, built to the side and rear boundaries. Car parking is located within the front setback of the site with vehicle access provided via a vehicle crossing from Wilkinson Street. The site is also known as Lot 1 on title plan 685978K.

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

Surrounds

The surrounding area is varied in character. To the north is a large open lot carpark. Immediately to the east at 15 Wilkinson Street is a single storey brick building, which is currently used for the manufacture of men's shoes.

To the west is a single storey weatherboard dwelling, with secluded private open space to the rear. Vehicle access is provided to the east of the site.

Immediately to the rear, the site abuts two commercial properties, which have frontage to Albert Street. 281 Albert Street is a large warehouse building which contains a restaurant. 283 Albert Street comprises a single storey brick building. A 9-11 storey building located at 342-348 Victoria Street has been approved.

Public transport options include Brunswick Train Station (Upfield line) located approximately 75 metres west of the site and the tram route along Sydney Road (100 metres east). Bus route 508 is 130 metres north of the site, along Victoria Street.

A location plan forms **Attachment 1**.

The proposal

The amended plans circulated to Council and the owners and occupiers of all adjoining properties on 15 August 2018 are summarised as follows:

- Development of a 6-storey 19.7 metre building with a basement car park.
- Two offices, totalling 326 square metres in area located at ground and first floor.
- Ten dwellings comprising the following mix:
 - 2 x 1 bedroom dwellings
 - 4 x 2 bedroom dwellings
 - 4x 3 bedroom dwellings
- The areas of the dwellings range from 51 square metres to 165 square metres.
- All dwellings except one have north facing living areas and balconies.
- There are 15 car parking spaces provided (14 in a mechanical car stacker system and 1 in an accessible bay).
- 16 bicycle spaces are provided, located in the basement and at ground floor.
- External finishes include timber, metal cladding, and blockwork.

The development plans form **Attachment 2**.

Planning Permit and site history

Planning application MPS/2018/858 was lodged on 23 September 2018 for the construction of a 6-storey building containing offices and dwellings. Key features of the original proposal included:

- A maximum building height of 19.6 metres (excluding rooftop terraces, lift over-run and services) and basement car park.
- Two offices, totalling 260 square metres in area located at ground and first floors.
- Twelve dwellings comprising the following mix:
 - 2x1-bedroom dwellings
 - 6x2-bedroom dwellings
 - 4x3-bedroom dwellings
- The areas of the dwellings range from 50 square metres to 111 square metres.
- All dwellings except one have north living areas and balconies.
- 15 car parking spaces.
- 10 bicycle spaces.
- External finishes include timber, metal finish, render and glazing.

The applicant lodged an appeal against Council's failure to determine the application on 6 May 2019.

Council notified the Victorian Civil and Administrative Tribunal (VCAT) on 26 July 2019 that had the applicant not lodged an appeal with the Tribunal, Council would have issued a Notice of Refusal to Grant a Planning Permit.

VCAT compulsory conference

- A mediated agreement was supported in principal by all parties in attendance at a VCAT compulsory conference held on 7 August 2019.
- The 'without prejudice' plans and conditions contained within the recommendation were agreed to at a further compulsory conference held on 14 August 2019.
- Amended plans were circulated to Council and affected properties on 15 August 2019.

The purpose of this report is to determine whether or not Council supports the proposed changes agreed to by the parties. If the changes are supported, a consent order may be reached.

If consent cannot be reached, the matter will proceed to a full hearing on 15 and 16 October 2019.

Statutory Controls – why is a planning permit required?

Control	Permit Requirement
Commercial 1 Zone	Clause 34.01-4: A permit is required to construct a building or construct or carry out works. Clause 34.01-1: A permit is required for the use of the land for 'dwelling' because the frontage at ground level exceeds two metres. 'Office' is a Section 1 use in the zone, meaning that a permit is not required for this use.
Design and Development Overlay- DDO18	Clause 43.02-2: 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 25 to 15 spaces (i.e. a reduction of 10 spaces).

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

- Clause 45.03: Environment Audit Overlay
- Clause 45.06: Development Contributions Plan Overlay
- Clause 45.09: Parking Overlay (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.
- Clause 52.34: Bicycle Parking. The requirements of this Clause have been met.
- Clause 58: Apartment Development.

2. Internal/External Consultation

Public notification

Original application

Notification of the application was undertaken pursuant to Section 52 of the *Planning and Environment Act 1987* in January 2019 by:

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

Council received 3 objections. A map identifying the location of objectors forms **Attachment 1**.

The key issues raised in objections are:

- Non-compliance with DDO18
- Overdevelopment
- Visual bulk
- Noise from car stackers
- Inadequate car parking
- Increase in traffic
- Height
- Overshadowing
- Overshadowing of solar panels
- Street setback

Parties to the VCAT appeal

Only one objector became a party to the VCAT appeal. The party subsequently reached a private agreement with the applicant and did not attend the VCAT Compulsory Conferences.

A second party who did not lodge an objection sought to be joined as a party to the VCAT appeal but has since also reached a private agreement with the applicant.

Amended plans

VCAT have directed that amended plans be circulated to affected parties. If any objections are received they will have the opportunity to become a party to the appeal, and the matter will proceed to a hearing unless agreement with that new party can be reached.

Internal/external referrals

The amended plans were referred to the following external agencies or internal branches/business units:

Internal Branch/Business Unit	Comments
Urban Design Unit	No objections were offered to the proposal.
Development Advice Engineer	No objections were offered to the proposal subject to modifications, which are addressed by conditions detailed in the recommendation.
ESD Unit	Amended plans were not referred to ESD. However conditions have been included in the recommendation from the advertised plans.

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 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)
- Clause 21.03-6 Open Space Network

Local Planning Policies:

- Clause 22.01 Neighbourhood Character
- Clause 22.03 Car and Bike Parking and Vehicle Access
- Clause 22.07 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 mix 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 Brunswick Activity Centre. The proposal enjoys strong strategic support at both State and Local level.

Planning Scheme Amendments

Amendment C167 proposes to make changes to the Brunswick and Coburg Activity centres and general corrections to the Planning Scheme. It includes several amendments to DDO18 including changes to the frontage types for some properties.

The amendment proposes to change the frontage types for MILS Area 62 (Category 2 – Employment) from Residential Type to Commercial Type consistent with the MILS.

Amendment C167 is with the Minister for Planning waiting a decision.

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?

Neighbourhood Character outcomes are informed by the Council's Neighbourhood Character policy (Clause 22.01). Policy from Clause 22.01-3 that applies to the proposed development includes to:

Ensure new development is designed to meet the relevant built form provisions set out in any relevant zone, overlay, Structure Plan and/or Place Framework.

The DDO18 applies to the Brunswick Activity Centre – Sydney Road and Upfield Corridor and has the following relevant objectives:

- 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.
- 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.

The DDO18 establishes a building envelope with preferred built-form outcomes for the subject site including:

- A preferred building height of 15 metres.
- A preferred streetwall height of between 7-10 metres.
- Preferred upper level setbacks:
 - A ratio of 1:1 of building height to distance from the opposite street boundary.
 - A minimum of 5 metres. Balconies and other architectural features may protrude into the setback by a maximum of 2 metres.
 - Adopt the same street setback for at least 75% of the height of the upper levels to avoid ‘wedding cake’ built form outcomes.

The variations sought to the DDO are summarised below:

Height	DDO requirement	Proposal	Variation Sought
Building height	15 metres	19.7 metres	4.7 metres
Streetwall height	7-10 metres	11 metres	1 metre
Upper level setbacks	5 metres and 1:1 ratio	5.0 – 9.0 metres	Complies with minimum setbacks; 1:1 variation highlighted in figure 1

Streetwall height

The streetwall height is 11 metres, which varies the preferred height by 1 metre. This minor variation is supported as it is a result of the ground and floor ceiling heights being 3.6 metres associated with two levels of office floor space requiring higher floor to ceiling heights to accord with the requirements of the Moreland Industrial Land Strategy.

Building height and setbacks

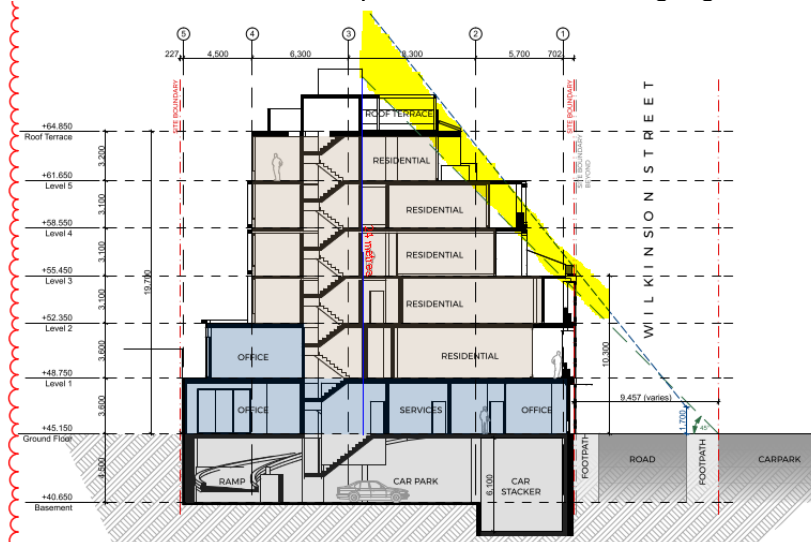
The proposal provides a maximum building height of 23.7 metres. However, the DDO specifies that a lift overrun, plant and structures associated with green roofs are an allowable encroachment into the height control. Excluding structures associated with the roof terrace, the height is 19.7 metres; 4.7 metres above the preferred building height.

Whilst the building is higher than the preferred height of 15 metres, it will fit comfortably within the surrounding area as it continues to develop, recognising that a planning permit has been approved for buildings of between 9 and 11 storeys at 342-348 Victoria Street diagonally north-west of the site. While the preferred heights on the south side of Wilkinson Street are lower than adjacent parts of the precinct, it is considered that a 4.7 metre variation will not result in any adverse impacts, if upper levels are appropriately designed.

The advertised plans did not strike the right balance, as the extent of encroachments into the preferred 1:1 ratio for upper level setbacks were significant and failed to achieve an appropriate balance between a sense of enclosure and openness in Wilkinson Street.

The mediated outcome addresses this by increasing the setback of level 5 to a minimum of 9 metres from the front title boundary, not including balconies and sun shading devices.

The encroachment into the preferred 1:1 ratio is highlighted in figure 1 below:



The increased setback to level 5 means that the proposal does not adopt the same setback for 75% of the upper levels, however the design response successfully manages to avoid a ‘wedding cake’ appearance. Conditions 1 (a) and (b) included in the recommendation will also require modification to the balcony frames at levels 3, 4 and 5 to further reduce the dominance of these levels. Providing a frame to the balconies, instead of a solid structure will give the upper levels a light-weight appearance.

While some variations to the 1:1 ratio still occur, on balance, the mediated proposal is considered to provide for an acceptable outcome between a sense of enclosure and openness in Wilkinson Street, which is identified as a key pedestrian street. The proposal will also not result in overshadowing to the street given the orientation of the site.

Building layout and detailed design

The proposal has responded appropriately to the building layout and detailed design objectives of DDO18 by:

- Providing a commercial frontage to Wilkinson Street
- Providing windows to all upper levels facing Wilkinson Street
- Providing a canopy over the footpath
- Providing a floor to ceiling height of 3.6 metres to offices at ground and first floors.

Does the proposal comply with the requirements of the Moreland Industrial Land Strategy?

The Moreland Industrial Land Strategy (MILS) classifies the subject site as a Category 2 (Employment) Area. Council’s MSS, at Clause 21.03-2, includes the following objective for Category 2 areas:

To support transition from traditional industrial uses to a broader range of employment uses and prioritise employment uses over residential uses.

Strategies to achieve this objective include:

- Ensure employment uses are prioritised over residential uses in Employment areas. Where multi-use development including a residential component is proposed, the amount of employment floorspace should be at least equivalent to the amount of all proposed ground and first floor building floorspace (inclusive of car parking, other services and circulation space).
- Encourage flexible floor plate layouts and increased floor to ceiling heights at ground and first floor to facilitate a variety of employment uses over time.
- Require new residential and multi-use development in Employment Areas to adopt the agent of change principle, by incorporating design and noise attenuation measures to protect residents from noise from nearby business, such as locating bedrooms away from noise sources and using appropriate acoustic measures.

The proposal responds positively to the strategies in the following ways:

- A condition of the recommendation requires provision of an acoustic report to ensure the proposal will not unreasonably impact the operation of existing employment uses nearby.
- The provision of active frontages at ground level will improve the amenity of the area.
- The ground and first floors have 3.6 metre floor to ceiling heights.
- The proposal will provide for offices over two levels totalling 326 metre squared.

The advertised plans had a total of 259 square metres office floor area over the 2 levels which was considered inadequate and a ground of refusal. Through mediation, the amended plans have increased the size of the office area at first floor from 81 metre squared to 156m². While not 2 full levels as sought by the policy, this is considered adequate for a small site. The revised layout allows flexible floor layouts for a variety of uses.

Does the proposal satisfy the requirements of Clause 58?

A detailed assessment of the proposal against the objectives and standards at Clause 58 has been undertaken. The proposed development complies with the standards and objectives of Clause 58. Key issues from the Clause 58 assessment are discussed under the headings below.

Internal Amenity

Standard D24: Functional layout objective

The objective of Clause 58.07-1 is to ensure dwellings provide functional areas that meet the needs of residents.

The living area of apartment 301 has a minimum dimension of 3.1 metres width which is less than the 3.6 metres minimum width required. A variation can be supported given that this only affects one dwelling and the maximum width is 3.9 metres in the other direction. Furthermore, the adjacent dining space is large enough to allow the space to be used flexibly, depending on the individual occupants needs. This allows for efficient use and functionality of the living areas.

Standard D26: Windows objective

The objective of Clause 58.07-3 is to allow adequate daylight into new habitable room windows. The window to the master bedroom of the 2 bedroom apartment located at level 1, is not clear to the sky and will not receive adequate daylight. A condition included in the recommendation requires the balcony area opposite bedroom 2 of apartment 202 (level 2) deleted to create a void to the floor below.

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

Boundary setbacks

Clause 22.07 outlines appropriate setbacks to ensure adequate outlook and daylight for new apartments and to ensure reasonable development opportunities for neighbouring properties. The required setbacks are based upon both the height of the building and the nature of any windows facing the side and rear boundaries.

The proposal meets the setbacks specified in Clause 22.07, with the exception of the main outlook to Apartment 203.

Apartment 203 proposes a setback of 4.5 metres from the edge of the balcony to the south, where a setback of 6 metres is required under the policy. Recent VCAT decisions have highlighted the need to apply the 22.07 setbacks with care, having regard to the objectives and without blind adherence.

The advertised plans had the main bedroom setback at 3.0 metres which encroached into the rear setback and therefore limited the direction of views from the balcony. The amended plans have increased the setback to 4.75 metres. This will provide for a wider outlook to the occupants of the dwelling and provide for improved amenity.

Furthermore, if the adjoining property to the south were to be redeveloped, it could be assumed that balconies would be orientated to the north which would also require at least a 4.5 metre setback. Therefore, the separation would be at least 9 metres, which will ensure that the adjacent site's future development potential will not be unreasonably affected, and adequate internal amenity can be achieved. On balance, the 1.5 metre variation to the setback standard for one dwelling is accepted.

Light wells

The objective of this policy is to ensure adequate daylight is provided to bedrooms serviced by a lightwell and to protect the privacy of occupants without relying on screening. The proposal provides for a lightwell for bedrooms at levels 1, 2, and 3 at the north-east corner of the site. The lightwell measures 1.5 metres in width and 5 metres in length (total area 7.3 metres square). This is less than the minimum width of 2.0 metres. A variation can be supported given that it is open to the north rather than an enclosed lightcourt and therefore will allow adequate light into the bedrooms.

Has adequate car and bicycle parking been provided?

A total of 14 spaces are required for the dwellings and 11 spaces for the offices. The development provides 15 on-site spaces. The car parking reduction sought is therefore 10 spaces.

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 Brunswick Activity Centre and has excellent access to public transport, including Brunswick Train Station located 75 metres away, and provides 16 bicycle parking spaces which is above the three spaces required by Clause 52.34.

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

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

The applicant's Traffic Impact Assessment calculates that the resident portion of the development will generate about 46 vehicle movements per day, which will travel along Wilkinson Street (a local access street). The additional vehicles will not result in this street exceeding the maximum volumes permitted under the Moreland Integrated Transport Strategy.

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

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

- Limits the width of the vehicle crossing.
- Limits the removal of on-street public parking spaces.
- Provides 16 bicycle spaces.

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

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

- An average NatHERS of 7.3 stars.
- Provision of a green roof and landscaped areas, including a green façade through planter boxes.
- Double glazing to appropriate windows.
- 80% construction and demolition waste recycled.
- 16 bicycle spaces.

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. The proposal meets this with 66% of the dwellings that are accessible.

Is the site potentially contaminated?

The site is affected by an Environmental Audit Overlay. The applicant has submitted an environmental site assessment report detailing the extent of site contamination and confirming that the site would be appropriate for the intended uses subject to the completion of an Environmental Audit. 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 is safe for future residents.

5. Response to Objector Concerns

The objections received during the application process were responded to in Council's delegate report, a copy of which can be provided to any person upon request. At this point no objectors are parties to this VCAT proceeding.

VCAT have directed that amended plans be circulated to adjoining properties. If any objections are received, they will have the opportunity to become a party to the appeal, and the matter will proceed to a hearing unless agreement with that new party can be reached.

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 mediated proposal provides good internal amenity and does not unreasonably impact on the amenity of surrounding properties. Elements of the proposal comply with Clause 22.07, and where non-compliances remain these do not have a detrimental impact upon the amenity of either the proposed dwellings or the surrounding properties. The proposal is considered to deliver an acceptable planning outcome when balancing the levels of non-compliance with DDO18, particularly the 1:1 ratio against other positive aspects of the development including the high ESD response, accessibility and quality architecture.

As such, it is considered that Council should consent to the agreement allowing VCAT to direct that planning permit MPS/2018/858 be issued for the construction of a 6-storey building with office and dwellings, use of the land for dwellings and a reduction in parking requirements subject to the conditions contained within this recommendation.

Attachment/s

- | | | |
|-------------------|--|------------|
| 1 | Locality and Objectors Plan - 19 Wilkinson Street, Brunswick | D19/348177 |
| 2 | Plans - 19 Wilkinson Street, Brunswick | D19/348176 |