

Moreland City Council

COUNCIL AGENDA

PLANNING AND RELATED MATTERS

WEDNESDAY 23 JANUARY 2019

COMMENCING 6.30 PM

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

Language Link

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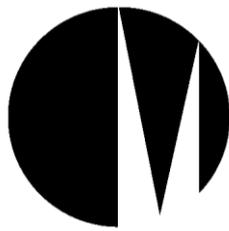
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1. WELCOME

2. APOLOGIES

Leave of absence has been granted to Cr Martin - 14 January 2019 to 11 February 2019.

3. DECLARATION OF INTERESTS AND/OR CONFLICTS OF INTERESTS

4. CONFIRMATION OF MINUTES

The minutes of the Planning and Related Matters Meeting held on 19 December 2018 be confirmed.

5. COMMITTEE REPORTS

CITY FUTURES

DCF1/19	16 BEITH STREET, BRUNSWICK - PLANNING APPLICATION MPS/2018/408 (D18/473141)	3
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6. URGENT BUSINESS REPORTS

DCF1/19 16 BEITH STREET, BRUNSWICK - PLANNING APPLICATION MPS/2018/408 (D18/473141)

Director City Futures

City Development

Executive Summary

The application seeks approval for the development of a 5 storey building accommodating 8 dwellings and a retail space and a reduction in the associated car parking requirement from 13 spaces to 6. The application was advertised and 13 objections were received from 11 different properties. The main issues raised in objections are the height of the proposal, car parking provision and the impact upon an existing window at 33 Lobb Street.

Discussions in relation to the application have been held individually with the applicant and with several objectors, including those adjoining the site. Amended plans have been supplied for discussion purposes which respond to modifications sought by Council's Urban Design and Environmentally Sustainable Design Unit. The applicant has also offered to install a vented skylight to the dwelling at 33 Lobb Street.

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

The key planning considerations are:

- The impact of the proposal upon the adjoining properties;
- The proposed construction adjacent to an existing window at 33 Lobb Street;
- The extent of car parking reduction sought; and
- The level of compliance with the built form outcomes sought by the Design and Development Overlay (DDO18).

The proposal incorporates a high level of compliance with the planning scheme, including full compliance with Clause 58 and a high level of compliance with the DDO18 and Council policies. The number of parking spaces provided is also appropriate given the location of the site and scale of development proposed.

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

Officer Recommendation

That a Notice of Decision to Grant a Planning Permit No. MPS/2018/408 be issued for the development of a 5-storey building accommodating 8 dwellings and a commercial space and a reduction in the associated car parking requirement at 16 Beith Street, Brunswick, subject to the following conditions:

Submission of plans and documentation for endorsement

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans (advertised 18 September 2018) but modified to show:
 - a) Modifications contained within the discussion plans supplied on 20 December 2018, including:
 - Widening the entry to the residential lobby with an associated relocation of the mail boxes to within the lobby;
 - An increase in the size of the light court to Dwelling 401 to an area of 9 square metres with an associated alteration to the internal layout of the dwelling;

- Deletion of the proposed upper level rain garden with alternative measures to be utilised to maintain a STORM rating of at least 100; and
 - Modifications to the materials and finishes and detailing of the façades to improve their presentation to Beith and Lobb Streets.
- b) The area marked as 'Retail Space' to be shown as 'Commercial Floorspace'.
 - c) 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).
 - d) Each bicycle parking device dimensioned with all spaces 500 millimetres wide and the horizontal and vertical bicycle spaces 1800 millimetres and 1200 millimetres long respectively, with every space accessed from a 1500 millimetres wide access aisle as required by the Australian Standard for Parking Facilities – Bicycle Parking (AS2890.3).
 - e) The location of any substation required by the power company for this development. Any substation must be incorporated within the building (i.e. not free standing or pole mounted in the street) to ensure minimal impact on the visual amenity of the public realm.
 - f) Any amendments to the plans required by the amended Waste Management Plan submitted in response to condition 4 of this permit.
 - g) The allocation of parking spaces altered such that dwelling 401 is provided with a single parking space and one parking space is either provided to a one-bedroom dwelling or shared between the one-bedroom dwellings on site.
 - h) A landscape plan in accordance with condition 2 of this permit.
 - i) Initiatives contained within the Sustainable Design Assessment (SDA), including:
 - External sun shading (or alternative measures to restrict solar heat gain) for the west facing living room glazing for dwellings 101, 201, 301 and 401 and for the west facing bedroom glazing for dwellings 101, 201 and 301. Shading is to be designed to be unobtrusive when not in use or to be integrated into the balcony roofing.
 - Stormwater treatments as per the SDA, including the capacity of rainwater tanks (including a written notation that these capacities do not include any detention requirements as part of the Legal Point of Discharge Process) and permeable paving if used (and a permeable paving detail).
 - Any other changes required by the amended SDA required by condition 3 of this permit.
2. 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.

3. Prior to the endorsement of plans, the Sustainable Design Assessment prepared by PassiveEnergy advertised 18 September 2018 must be amended by a suitably qualified environmental engineer or equivalent to the satisfaction of the Responsible Authority to include the following:
 - a) The preliminary retail space glazing calculator amended to retain the minimum 10% improvement, however model all the relevant windows.
 - b) An amended STORM report which deletes the rain garden and provides an altered stormwater management response which maintains a minimum STORM score of 100%.
 - c) A catchment plan showing the STORM report inputs (including square metre roof areas draining to tanks, etc).
 - d) The 'Water' category in the BESS report amended as per the changes to the STORM report (if necessary).

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

4. Prior to the endorsement of plans, an amended Waste Management Plan must be submitted to and approved to the satisfaction by the Responsible Authority. The Waste Management Plan must be generally in accordance with the plan prepared by Peter Brown Architects Pty Ltd advertised 18 September 2018 but modified to include provision for an area of at least 2 cubic metres for the storage of hard waste awaiting collection and detail of how this waste is to be removed from the site to the satisfaction of the Responsible Authority.

Compliance with endorsed plans and documents

5. The development as shown on the endorsed plans and reports 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.
6. All works must be undertaken in accordance with the endorsed Sustainability Management Plan (SMP), Acoustic Report and Landscape Plan to the satisfaction of the Responsible Authority. No alterations may occur without the written consent of the Responsible Authority.
7. The Waste Management Plan approved under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.

Prior to commencement

8. Prior to the commencement of the development, a Reflectivity Assessment of external ground level glazing and any other visibly reflective material must be submitted to the Responsible Authority. The assessment must ensure that materials, including glazing, used on external walls must be of a type that do not reflect more than 15% of visible light when measured at an angle of 90 degrees to the surface. The Assessment must be to the satisfaction of the Responsible Authority and when approved will form part of this permit.
9. Prior to the issue of a Building Permit in relation to the development approved by this permit, a Development Infrastructure Levy and Community Infrastructure Levy must be paid to Moreland City Council in accordance with the approved Development Contributions Plan. The Development Infrastructure Levy is charged per 100 square metres of leasable floor space and the Development and Community Infrastructure Levy is charged per dwelling.

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.

Prior to occupation

10. Prior to the issuing of Statement of Compliance or occupation of the development, whichever occurs first, all visual screening measures shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. All visual screening and measures to prevent overlooking must be maintained to the satisfaction of the Responsible Authority. Any screening measure that is removed or unsatisfactorily maintained must be replaced to the satisfaction of the Responsible Authority.
11. 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).
12. Prior to the occupation of the development, any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority (Moreland City Council, City Infrastructure Department).
13. Prior to the occupation of the development, the car park entry door must be automatic and remote controlled.
14. Before the occupation of the development lighting is to be installed and maintained on the land to automatically illuminate pedestrian access from the building to the car parking spaces on-site between dusk and dawn with no direct light emitted onto adjoining property to the satisfaction of the Responsible Authority.
15. 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.
16. Prior to the occupation of the development, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.

Ongoing requirements

17. All stormwater from the land, where it is not collected in rainwater tanks for re-use, must be collected by an underground pipe drain approved by and to the satisfaction of the Responsible Authority (Note: Please contact Moreland City Council, City Infrastructure Department).
18. Following completion of the development, any stormwater treatment devices (eg raingardens, bio-swales etc) must be maintained to ensure water quality discharged from the site complies with the performance standard in the endorsed Sustainability Management Plan.
19. The car parking spaces provided on the land must be solely associated with the development allowed by this permit and must not be subdivided or sold separate from the development for any reason without the written consent of the Responsible Authority.

Time limit

20. 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 north-eastern corner of Beith Street and Lobb Street. The site is rectangular with a frontage to Beith Street of 13.38 metres and to Lobb Street of 23.04 metres, giving a site area of 306.4 square metres.

The site has been vacant since mid-2016, but previously contained a single storey dwelling. No vehicular access is currently provided to the site. Construction on the site is constrained by the provision of power lines within the Lobb Street nature strip which effectively prevent upper level construction to the street boundary.

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

Surrounds

The surrounding area is varied in both land use and development, reflective of the Mixed-Use land zoning. Adjoining development to the north and east comprises single storey dwellings from the early 20th century, whilst opposite on Lobb Street is a multi-dwelling development which is approximately ten years old. The property opposite in Beith Street is used and developed for industrial purposes.

It is specifically noted the adjoining dwelling at 33 Lobb Street includes a window along its western elevation which is located on the common boundary, being set immediately behind the existing boundary fence.

The site is located within the Brunswick Activity Centre and is well served by a range of services and facilities. The Sydney Road and Lygon Street shopping strips and tram routes are 350 metres and 750 metres walking distance respectively from the site whilst Randazzo Park is located 115 metres to the south.

A location plan forms **Attachment 1**.

The proposal

The proposal is summarised as follows:

- The construction of a 5-storey building which includes a commercial space of 75 square metres and car parking at the ground level, with eight dwellings above this.
- Dwelling mix includes 3x1-bedroom, 3x2-bedroom and 2x3-bedroom dwellings.
- Dwellings are oriented to face Beith and Lobb Streets.
- Construction is proposed on all property boundaries at the ground floor, with the upper levels set back from the street frontages.
- Materials and finishes comprise blockwork walls with a rendered finish, Stria horizontal cladding, Axon vertical cladding and window shrouds.
- Vehicular and pedestrian access is proposed from Lobb Street, with 6 residential car spaces in a car stacker and 10 bicycle spaces proposed.

The development plans form **Attachment 2**.

Statutory Controls – why is a planning permit required?

Control	Permit Requirement
Mixed Use Zone	Clause 32.04-6: A permit is required for the construction of 2 or more dwellings on a lot. Clause 32.04-1: No planning permit is required to use land as a Shop provided that the leasable floor area does not exceed 150 square metres. Other commercial uses which do not require planning approval for the floor area proposed include Art Gallery, Food and Drink Premises, Office and Medical Centre.
Design and Development Overlay	Clause 43.02-2: A permit is required for buildings and works.
Particular Provisions	Clause 52.06: A permit is required for a reduction in the standard car parking requirement from 14 to 6 spaces.

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

- Clause 45.06: Development Contributions Plan Overlay (Schedule 1). A condition is included in the recommendation requiring the payment of the DCP levy prior to the issue of a Building Permit 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

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 land; and
- Placing 2 signs on site.

Council has received 13 objections from eleven households to date. A map identifying the location of objectors forms **Attachment 1**.

The key issues raised in objections are:

- Height;
- Overshadowing;
- Construction to the boundary on all sides not appropriate;
- Inadequate setbacks to the fourth and fifth floors;
- Loss of views;
- Loss of privacy;
- Increased noise, including from retail premises;
- Insufficient on-site parking;
- Additional cars will create safety hazard;
- Devaluation of surrounding properties;
- Loss of light and ventilation;
- Location is not appropriate for a retail premises; and
- Building is unattractive.

Council officers have spoken to 3 objectors, including both abutting neighbours, as part of the assessment and drafting of this report.

The permit applicant has offered to install a skylight to the neighbouring dwelling however this offer has not been accepted by the adjoining property owner to date and cannot be required as a condition of permit for this application. Any outcome involving works to the neighbouring property would need to occur through a private agreement.

Following completion of public notice the applicant has submitted discussion plans which include some modification to the external materials and fenestration, modifications to the treatment of stormwater (including deletion of the fourth floor rain garden), as well as redesigning dwelling 401 to provide a greater level of future resident amenity. The modifications proposed do not alter the impact of the proposal on surrounding properties. The plans form **Attachment 3** to this report and are formally required through conditions of the recommendation.

Internal/external referrals

The proposal was referred to the following internal business units:

Internal Branch/Business Unit	Comments
Urban Design Unit	No objections were offered to the proposal, with advice indicating that whilst the proposal has largely responded appropriately to pre-application advice, some external materials and fenestration should be reverted to their earlier form. These modifications are reflected in discussion plans supplied by the applicant on 20 December 2018.
Development Advice Engineer	No objections were offered to the proposal subject to modifications to provide a hard waste collection area, which is addressed by conditions of the recommendation.
ESD Unit	No objections were offered to the proposal subject to modification, which are addressed by conditions of the recommendation.

3. Policy Implications

Planning Policy Framework (PPF)

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

- Settlement (Clause 11)
- Metropolitan Melbourne (Clause 11.01-1R1)
- Water Conservation (Clause 14.02-3S)
- Built Environment and Heritage (Clause 15), including:
 - Built Environment (Clause 15.01)
 - Healthy neighbourhoods (Clause 15.01-4S and 15.01-4R)
 - Sustainable Development (Clause 15.02)
- Housing (Clause 16), including:
 - Integrated Housing (Clause 16.01-1S and 16.01-1R)
 - Location of Residential Development (Clause 16.01-2S)
 - Housing Opportunity Areas (Clause 16.01-2R)
- Principal Public Transport Network (Clause 18.02-2R)

Local Planning Policy Framework (LPPF)

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

Municipal Strategic Statement:

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

Local Planning Policies:

- Clause 22.01 Neighbourhood Character
- Clause 22.03 Car and Bike Parking and Vehicle Access
- Clause 22.07 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 Neighbourhood Character Policy supports substantial change and creation of a new character of increased scale associated with increased density, as detailed in the Design and Development Overlay 18 (DDO18) affecting the site. The proposal enjoys strong strategic support at both State and Local level.

The proposal meets the objectives and strategies of the LPPF by:

- Proposing a building envelope which is reflective of the extent of change sought by Council in this area.
- Incorporating increased residential densities on the land as well as a ground level commercial premises which assists in reinforcing an active and pedestrian friendly street environment.
- Incorporating a range of environmentally sustainable design features.
- Orienting dwellings to face the street, reducing the impact of the proposal upon the future development potential of adjoining land and ensuring appropriate levels of light and outlook for the proposed dwellings.
- Providing ten bicycle parking spaces, which is sufficient for at least one space per occupancy. Together with the proximity of the site to a variety of public transport options, the development encourages less reliance on cars as a means of travel.

Planning Scheme Amendments

Planning Scheme Amendment VC149 was gazetted on 31 July 2018. The Amendment introduced a number of modifications to planning schemes across Victoria, with the following being of relevance to this application:

- Modifications to Clause 52.06 which outline that where a property is located within the Principal Public Transport Network the 'column B' parking rates apply. The impact of this amendment is that the Clause no longer requires on-site visitor car parking to be provided for residential development in this area, reducing the standard car parking requirement for the development from 14 spaces to 13.

Planning Scheme Amendment VC149 was gazetted on 26 October 2018. The Amendment introduced a number of modifications to planning schemes across Victoria, with the following being of relevance to this application:

- A requirement that Council consider the impact of proposals on the overshadowing of existing rooftop solar energy facilities on dwellings on adjoining lots for applications within the Mixed-Use Zone.

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 an acceptable response to Clause 22.01 (Neighbourhood Character) of the Moreland Planning Scheme. Schedule 18 to the Design and Development Overlay provides the following built form guidance for the site:

- A 17 metre maximum preferred overall height;
- Street wall heights which match the width of each street (10.95 metre to Beith Street and 12 metre to Lobb Street), with upper levels to be set back at least 5metre from the street frontage;
- No side setbacks are nominated for allotments abutting other land within the Activity Centre; and
- A Residential frontage to Beith Street, with individual entry doors to ground floor dwellings sought. No frontage type is stipulated for Lobb Street.

In this context:

- The proposed mixed use development, including construction to a height of 16.5 metres (below the maximum preferred 17 metre height limit) and construction at ground level on each of the site boundaries is appropriate.
- Whilst the proposal incorporates a slightly lower street wall height to Lobb Street, with levels 2-4 being located 2.1 metres from the frontage both reducing the height of the street wall in this location and generating a step in each street façade this is requisite of the location of powerlines in Lobb Street. This design response is considered to be acceptable by Council's Urban Design Unit.
- A street wall to Beith Street of 10.2 metres, slightly below the height of 10.95 metres sought by the Overlay.
- The corner location of the site and its narrow frontage to Beith Street means that an alternative layout that faces the commercial use to Lobb Street would result in a smaller retail space that is unlikely to be viable. In this context Council's Urban Design Unit has advised that the commercial frontage to Beith Street is acceptable.

Has adequate car parking been provided?

A standard parking requirement of thirteen spaces applies to the development. The development provides 6 on-site 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 bus routes 508, 19 and 506 between 250 metres and 420 metres from the site, tram services in Sydney Road 350 metres from the site and the Brunswick Railway Station approximately 650 metres away. The proposal also provides 10 bicycle parking spaces which is above the 3 spaces specified in Clause 52.34.

Council's Development Advice Engineer is satisfied that the car parking requirement can be reduced for this application. A parking survey was undertaken by the applicant, which demonstrates adequate car parking is available within 100 metres of the site to cater for any overflow parking demand from the site.

Vehicles, whether related to this or other developments in the street, can only park on the street in accordance with any parking regulations, and the dwellings will not be eligible for parking permits in the event that parking restrictions are imposed by Council on the street. It is expected that the level of parking provided will cater for car ownership levels of the occupiers.

Whilst the amount of parking provided on site is acceptable, it is noted that the application documentation indicates that the parking allocation proposed does not align with anticipated demand based on ABS census statistics for Brunswick, as follows:

Dwelling type	Anticipated total demand	Total parking allocation
1 bedroom (3 dwellings)	2 spaces	Nil
2 Bedroom (3 dwellings)	3 spaces	3 spaces
3 Bedroom (2 dwellings)	2 spaces	3 spaces

It is considered inappropriate to provide 2 parking spaces for dwelling 401 and no parking for dwellings 101-103 where empirical evidence suggests that allocation of the second space for the larger dwelling to the smaller dwellings is less likely to result in its utilisation. The officer recommendation includes a requirement for the provision of one space for dwelling 401 and the residual space to either be allocated to one of the single bedroom dwellings.

Are adequate loading/unloading facilities provided?

Council's Development Advice Engineer has advised that it is considered acceptable that loading and unloading of vehicles associated with the small retail premises proposed be conducted on street.

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

In relation to traffic impacts, Council's Development Advice Engineer has assessed the proposal and consider that the development will result in four additional vehicle movements in the surrounding local access streets during each peak hour. This remains within the design capacity of these streets and is not expected to cause traffic problems.

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

The proposal provides an acceptable response to Council's Local Planning Policy Clause 22.03 (Car and Bike Parking and Vehicle Access) as it provides ten bicycle spaces, limits the number of vehicle crossings to one, and in so doing limits the removal of on-street public parking spaces.

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

ESD features of the development are adequate and include:

- Good natural light for the commercial premises;
- Ten bicycle parking spaces;
- A rainwater tank;
- Good cross ventilation;
- Appropriate energy efficiency to the dwellings;
- Energy smart meters; and
- Solar photovoltaic panels.

Council's ESD Unit has advised that the proposal responds well to Council policies, and have suggested further improvement through minor changes, most notably increased shading to west facing windows. This shading could be provided by retractable awnings or relatively unobtrusive roller blinds fitted close to the glazing externally for living room windows. Shading to the bedroom windows is partially provided by the proposed window shrouds and could be supplemented with double glazing. These modifications are required by conditions in the recommendation.

The fourth floor rain garden is recommended to be deleted because of the concerns in relation to the practicality of providing and maintaining this facility in an elevated location.

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, whilst the provisions of Clause 58 seek to ensure that a range of dwelling sizes are provided and that at least half be adaptable to those with limited mobility. The proposal fully meets these requirements, including the provision of accessible entries to all the dwellings and four adaptable dwellings. Dwellings vary from one to three bedrooms in size.

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. Subject to a condition requiring the provision of space for the storage of hard waste for collection, which is included in the officer recommendation, 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.

Urban context

The proposal incorporates an appropriate response to Council policies with respect to built form, however Council's Urban Design Unit has suggested that the Lobb Street presentation could be improved by relocating the mail boxes from the façade to an internal location and by some modification to the materials and fenestration facing the street. The modified mail box location increases the ground level glazing facing Lobb Street, which increases activation and passive surveillance of the entry area. These changes are shown on the December 2018 discussion plans and are formalised by the officer recommendation.

Amenity impacts

Boundary setbacks

Clause 58 refers to the provision of setbacks that respond to the context and contribute to the preferred future development of the area. The DDO applying to the land does not anticipate boundary setbacks within the Mixed-Use Zone area, stipulating setbacks only for interfaces with land outside of the Activity Centre which does not apply in this instance. The most apparent impact of this construction is the proposed location of a wall adjoining an existing window located on the boundary at 33 Lobb Street.

A review of relevant legislation and Tribunal decisions relating to the matter indicates that unless the window can be found to have been installed prior to either 1924 or 1907 (which may create rights to ventilation and light respectively), the rights of an adjoining property owner to maintain a window on the property boundary are limited. In *Medopt PL v Hobsons Bay CC* [2007] VCAT 416 (19 March 2007) the Tribunal was considering a similar matter and found that windows on boundaries are discouraged and should not be provided with the same amenity protection that would apply to windows which are located off the boundary:

In particular I consider legality is an important issue. There are many examples of windows and other structures and alterations to buildings before the tribunal where it may be difficult to establish legal authenticity, and it would be counterproductive to encourage investigations into legality of existing structures as a significant planning issue in all cases. However, windows in boundary walls are a particular case in that, as indicated above, the Property Law Act denies them easements of light and air and appear intended to discourage them. Also it is this tribunal's experience that they are a cause of significant dispute. As a result in planning decisions, a boundary wall window should not be accorded the same level of amenity protection under ResCode as windows set back from the boundary. They are a prime example of amenity borrowed by means not encouraged by the law.

It is unclear when the window in question was installed, although its dimensions and aluminium frame indicate that this is in recent decades. It is unclear if the window replaced an earlier window in the room it serves, however it is apparent that the window was not installed prior to 1925. The applicant has supplied legal advice which confirms this and advises that the window does not have rights to light and ventilation over the neighbouring property.

In this instance, whilst consideration of the planning application does not allow Council to require maintenance of light or ventilation to the adjoining dwelling the permit applicant has offered to install a vented skylight to the neighbouring property to assist in ameliorating the impact of the proposal upon them. This must be achieved by agreement between the parties and cannot be sought by conditions on any permit issued for the proposal as there is no planning mechanism under legislation to impose such a requirement.

Overlooking

The proposal has been designed to restrict overlooking of the adjoining dwellings, as sought by Clause 58.04-1, with a screen provided to restrict oblique views over 18 Beith Street from the fourth floor balcony. As a result, the proposal maintains appropriate levels of privacy to adjoining properties. Overlooking of front yards or to properties further afield meets the objectives and standards of the Clause.

On-site amenity and facilities

The proposal meets and exceeds the requirements of the scheme in relation to on-site amenity and facilities, including the provision of balconies and storage areas which exceed Clause 58 requirements. No more than three dwellings are provided at each level, which assists in providing a sense of personal address, whilst the plans incorporate natural light access (by means of skylight) to the entry corridors for levels 3 and 4.

Detailed design

Subject to minor modifications to provide less prominent mail boxes and to include an area for the storage of hard waste, both of which are required by condition, the proposal responds appropriately to the provisions of Clause 58 relating to detailed design.

Internal amenity

The proposal meets and exceeds the Standard requirements in relation to room dimensions and ensures that all rooms are provided with windows in external walls. More than 60% of dwellings are provided with breeze paths which meet the requirements of the Clause 58.

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

The proposal, which orients dwellings to face the street, responds appropriately to the objectives of Clause 22.07, with discussion only required with respect to dwelling 401. This 3-bedroom dwelling includes 2-bedrooms which face a 2 metre x 2 metre light court adjacent to the northern boundary. At present the property to the north is occupied by a single storey dwelling, although a double storey addition has previously been approved and the Design and Development Overlay seeks future construction to 17 metre (5-storey).

Clause 22.07 would seek that the light well, located on the fourth residential level, have a minimum area of 9 square metres, rather than the 4 square metres proposed. This matter has been raised with the permit applicant who has provided discussion plans which increase the size of the light court to 9 square metres, ensuring that appropriate levels of light and outlook are provided to the bedrooms. This change is formalised through a condition in the recommendation.

Does the proposal impact upon existing solar panels?

Shadows at the equinox do not extend to the southern kerb in Lobb Street at any point between 9 am and 3 pm. It is considered that any impact upon the existing solar panels on properties on the southern side of Lobb Street (located more than 20 metres south of the site) and at 37 Lobb Street (located more than 16 metres east of the site) will be negligible based on the separation of the proposed building from the existing facilities.

5. Response to Objector Concerns

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

- Proposal is too tall;
- Construction to the boundary on all sides not appropriate;
- Inadequate setbacks to the fourth and fifth floors;
- Loss of privacy;
- Insufficient on-site parking;
- Additional cars will create safety hazard;
- Loss of light and ventilation; and
- Building is unattractive.

Other issues raised by objectors are addressed below.

Overshadowing

The location of the site on the north-eastern corner of Beith and Lobb Streets results in minimal shadow impact to the adjoining properties, with shadow cast to the front yards of Lobb Street properties at 3 pm on the equinox. The adjoining dwellings will not, except for the window discussed above, experience a loss of sunlight to habitable room windows or secluded private open space areas.

Noise

Concerns have been raised regarding the potential noise generated from the commercial premises and dwellings after occupancy. The consideration of this planning application is confined only to the construction of the building. The shop and residential use of the building does not require a planning permit. Residential noise associated with a dwelling is considered normal and reasonable in an urban setting, whilst any background music provided to a commercial premises is also unlikely to generate unreasonable impact to surrounding properties. Live music venues are separately controlled by the planning scheme. Any future issues of noise disturbance as a result of the dwellings or pre-recorded music, if they arise, should be pursued as a civil matter.

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 impact of this proposal.

Use concerns

Under the provisions of the Moreland Planning Scheme, a planning permit is not required to use the land as a shop in a Mixed Use Zone provided that, as in this case, the leasable floor area does not exceed 150 square metres. Similarly, a planning permit would not be required for use of the proposed commercial space as an office or food and drink premises. Therefore, issues resulting from the use of the land are beyond the scope of this application.

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 implication.

8. Conclusion

It is considered that the proposed development is an appropriate response to the provisions of the Moreland Planning Scheme, including policies which seek to increase residential density in this location and those which seek to provide environmentally sustainable design outcomes, reduce reliance upon the private motor vehicle and ensure appropriate levels of amenity to future residents.

On the balance of policies and controls within the Moreland Planning Scheme and objections received, it is considered that Notice of Decision to Grant a Planning Permit No MPS/2018/408 should be issued for the development of a 5-storey building accommodating 8 dwellings and a commercial space and a reduction in the associated car parking requirement subject to the conditions included in the recommendation of this report.

Attachment/s

- | | | |
|-------------------|-----------------------|-----------|
| 1 | Objector Location Map | D19/10073 |
| 2 | Advertised Plans | D19/10074 |
| 3 | Discussion Plans | D19/10075 |

**DCF2/19 844-846 SYDNEY ROAD, COBURG NORTH - PLANNING
APPLICATION MPS/2018/83 (D18/488951)**

Director City Futures

City Development

Executive Summary

The application seeks approval for the use and development of the land at 844-846 Sydney Road, Coburg North for the purpose of a motel and construction of dwellings within a 2 to 4 storey building above basement car parking, a reduction in the associated car parking requirement, alteration of access to a Road Zone Category 1 and works (including vegetation removal) within a Public Acquisition Overlay. The application was advertised and 11 objections were received from 10 households. The main issues raised in objections are concerns in relation to the potential continuation of the current management practices at the motel, the appearance of the building facing Goleen Street and parking provision.

A Planning Information and Discussion meeting was held on 20 November 2018. Following the meeting officers circulated a proposed guest management plan condition to the applicant and objectors for consideration as a means of resolving concerns about motel guest behaviour.

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

The key planning considerations are:

- Response to previous Victorian Civil and Administrative Tribunal (the Tribunal) determination;
- Shadow impacts to 3/34 Bakers Road; and
- Amenity for future residents.

The proposal responds appropriately to Council and the Tribunal concerns in relation to the previous application for this site and can be altered by permit condition to ensure that appropriate levels of amenity are provided to adjoining residents as well as future residents of the apartment buildings.

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

Officer Recommendation

That a Notice of Decision to Grant a Planning Permit No. MPS/2018/83 be issued for the use and development of the land at 844-846 Sydney Road, Coburg North for the purpose of a motel and construction of dwellings within a 2 to 4-storey building above basement car parking, a reduction in the associated car parking requirement, alteration of access to a Road Zone Category 1 and works (including vegetation removal) within a Public Acquisition Overlay at 844-846 Sydney Road, Coburg North, subject to the following conditions:

Submission of plans and documentation for endorsement

1. Before the use or development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans (advertised 12 September 2018) but modified to show:

Building layout

- a) Internal elevations of the courtyard to the Bakers Road building.
- b) A correct section A-A through the Bakers Road building.
- c) The doorways connecting the motel with the common property of the Bakers Road building deleted. A doorway may be provided from the motel directly into the Caretakers Dwelling or its open space.
- d) The allocation of the ground floor courtyard to the north of apartment G.08, inclusive of the space directly to the south of the bathroom to apartment G.01 to apartment G.01 and G.08, increasing the amount of private open space provided to these dwellings and reducing areas of potential entrapment.
- e) The entry door to apartment G.01 within the Bakers Road building realigned to provide the entry through the area currently marked as a laundry, with an associated increase in the usable area of the living room. Alternatively, this dwelling may be redesigned to incorporate space directly to its south with bedroom and living room dimensions to comply with Standard B46 to Clause 55.07-12 of the Moreland Planning Scheme.
- f) The entry door to apartments G.02, 1.01 and 1.02 within the Bakers Road building realigned to provide the entry through the area currently marked as a laundry, with an associated increase in the usable area of the living room.
- g) A redesign of apartments G.04, 1.04 and 2.03 within the Bakers Road building to increase the usable area of the living room. This shall include a relocation of the doorway to bedroom 2 to minimise the impact of circulation space on the living area.
- h) The Study to apartment G.05 in the Bakers Road building deleted, with this space to be utilised as part of the living room.
- i) A redesign of apartments G.07 and G.08 in the Bakers Road building to include a single bedroom each with bedroom and living room dimensions to comply with Standard B46 to Clause 55.07-12 of the Moreland Planning Scheme.
- j) Relocation of the bedroom 1 door to apartment 2.01 in the Bakers Road building by the north by approximately 1 metre with an associated increase in the usable area of the living room.
- k) Apartment 2.04 in the Bakers Road building redesigned to delete the Study and provide access to the dwelling from the south rather than the east, increasing the usable area of the living room.
- l) A redesign of apartment 6 in the Goleen Street building to increase the setback of the dwelling and its balcony from the south by 3.0 metres and to incorporate bedroom and living room dimensions which comply with Standard B46 to Clause 55.07-12 of the Moreland Planning Scheme.

Privacy screening

- m) The provision of screening in accordance with Standard B22 of Clause 55.04-6 of the Moreland Planning Scheme to restrict overlooking from:
 - The balconies to apartment 3 on the ground and first floors of the Bakers Road building into 3/34 Bakers Road;
 - The shared stairwell on the eastern side of the Bakers Road building into 2/34 Bakers Road;
 - The kitchen window and balcony of apartment 1 on each level of the Bakers Road building into Units 7 and 9 of 848 Sydney Road;
 - Bedroom 1 and the study of apartment 6 of the Goleen Street building into 33 Goleen Street;

- Bedrooms 1 and 2 to apartment 2 of the Goleen Street building into the habitable room windows and balcony of the first floor unit 11 at 848 Sydney Road.
 - Apartment 6 of the Goleen Street building into the open space of apartment 3 below.
- n) An increase in the height of the screen provided to the first floor terrace to the north of the dining room in the Sydney Road building to restrict overlooking to the adjoining dwellings at 848 Sydney Road.
- o) The use of directional fins or similar which orient views toward the west to restrict overlooking between the balconies and habitable room windows of apartments 2 and 3 at the ground and first floor level of the Bakers Road building and those of apartments 2, 3 and 6 of the Goleen Street building.
- p) A screen diagram drawn at a scale of 1:50 which details the screens proposed. Screens are to be designed to restrict overlooking whilst maintaining light and outlook for future residents. This diagram must include:
- All dimensions, including the width of slats and the gap between slats;
 - All side screens; and
 - How compliance is achieved with the standard of Clause 55.04-6 (overlooking) of the Moreland Planning Scheme.
- q) The provision of transparent glazing to the habitable room windows facing the internal courtyard within the Bakers Road building to maintain surveillance and activation of the courtyard.
- r) Deletion of the privacy screening proposed to the internal courtyard within the Bakers Road building at the first and second floor level. The wing walls provided to the balconies to apartments 6 and 7 on the first floor may be increased in height to increase the privacy afforded to these areas.
- s) Apartment 5 within the Goleen Street building to be provided with a skylight to the kitchen.

Car and bicycle parking and access

- t) A reduction in the extent of driveway paving within the Sydney Road forecourt to the minimum required for access to the proposed car parking spaces, with an associated increase in landscaping space.
- u) The provision of a 5.5 metres x 7.0 metres passing bay within the vicinity of parking space 1 to the Bakers Road building.
- v) Parking spaces 1 and 2 in the Bakers Road building relocated a minimum of 1 metre to the east to allow improved egress from parking spaces 4 and 5.
- w) Parking space 5 in the Bakers Road building relocated to the west to abut the storage/substation wall to allow improved egress from parking spaces 2 and 3.
- x) Replacement of parking spaces 18-21 beneath the Bakers Road building with a minimum of 6 angled parking spaces.
- y) Parking space 12 or 15 within the Sydney Road building basement car park to be deleted with this space to be utilised as a turning area.

- z) The allocation of car parking spaces to be indicated on the plans. This is to include:
- 29 parking spaces, including four parking spaces within the setback to Sydney Road and the parking within the Sydney Road building basement to be allocated to the Motel;
 - The provision of no more than one parking space to each apartment;
 - The provision of one parking space to each commercial tenancy;
 - The accessible parking space to remain unallocated.
- aa) The basement car park of the Bakers Road building, with the exception of the angled parking spaces at its northern end to be securely enclosed with a grille or similar and associated doors. Alternatively, the entire basement area may be enclosed by the provision of gates and fencing at the southern end of the required passing bay.
- bb) The provision of at least 21 bicycle parking spaces in the enclosed and secure section of the Bakers Road building car park, of which 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).
- cc) The provision of at least 2 bicycle parking spaces accessible from Sydney Road in close proximity to the food and drink premises. The spaces are to be designed to park bicycles horizontally (i.e. 1.8 metres long) in accordance with the Australian Standard for Bicycle Parking (AS2890.3).
- dd) Each bicycle parking device dimensioned with all spaces 500 millimetres wide and the horizontal and vertical bicycle spaces 1800 millimetres and 1200 millimetres long respectively, with every space accessed from a 1500 millimetres wide access aisle as required by the Australian Standard for Parking Facilities – Bicycle Parking (AS2890.3).
- ee) The columns in the Sydney Road Building basement car park placed outside the 'clearance required' areas of each car parking space in accordance with diagram 1 of Clause 52.06 of the Planning Scheme.
- ff) The southern vehicle crossing in Sydney Road, including the splay of the crossing, to be located at least 1 metre from the existing power pole.
- gg) The proposed vehicle crossing in Bakers Road with 1 metre straight splays on both sides commencing where the footpath meets the nature strip and finishing at the kerb in accordance with Council's Standard Vehicle Crossing design.

Service provision

- hh) The provision of mail boxes either integrated into the façade without a loss of glazing or within the entry foyer of the Bakers Road building.
- ii) The location of service meters for each of the apartment buildings. These should be integrated into the building where possible and are to be located and designed to minimise their visual impact upon the street.
- jj) The provision of storage which meets the requirements of Standard B44 to Clause 55.07-10 for apartments G.07, 1.07 and 2.04 within the Bakers Road building.
- kk) The location of any additional substation required by the power company for this development. Any substation must be incorporated within the building (i.e. not free standing or pole mounted in the street) to ensure minimal impact on the visual amenity of the public realm.

Specialist reports and plans

- ll) An amended sustainability management plan in accordance with condition 2 of this permit.
- mm) Any modifications to the proposal required by the Acoustic Report submitted in accordance with condition 3 of this permit.
- nn) A landscape plan in accordance with Condition 4 of this permit.

Environmentally Sustainable Design

- oo) Initiatives contained within the amended Sustainability Management Plan (SMP), including:
 - Section detail of raingarden and additional raingarden details including:
 - Confirmation of the raingarden feasibility including surface level (RL) at the top of the raingarden, the invert level of the outlet which connects to the stormwater system, the level of the overflow pipe, and depths of the raingarden as per Melbourne Water or Moreland raingarden guidelines.
 - A section detail demonstrating the above details.
 - The raingarden location demonstrated that it will not create unreasonable impact on adjoining properties during a blockage or storm event.
 - Confirmation that the raingarden is realistically able to connect back into the Council LPOD (including the RL of the invert of this drainage connection).
 - Solar PV system and capacity shown on rooftop plans;
 - Plans to be updated to provide a 32 amp single phase electric vehicle charging station within the Sydney Road building basement car park and electrical infrastructure for electric vehicle charging in the Bakers Road and Goleen Street car parks;
 - Plans to be updated to provide electrical infrastructure for future electric vehicle charging in the car parks of the Bakers Road and Goleen Street buildings;
 - Fixed or operable shading devices for North facing habitable room glazing;
 - Operable shading devices specified for East and West facing habitable room glazing and detail shown on plans outlining product style and operation; and
 - Any other changes required by the amended SMP as per condition 2 below.
2. Prior to the endorsement of plans, the Sustainability Management Plan (SMP) must be amended by a suitably qualified environmental engineer or equivalent to the satisfaction of the Responsible Authority to address the following:
- a) The modifications made to the plans in response to condition 1 of this permit;
 - b) The provision of one bicycle space per dwelling within the Bakers Road building;
 - c) The provision of a 32 amp single phase electric vehicle charging station within the Sydney Road building car park;
 - d) The provision of electrical infrastructure for future electric vehicle charging in the Bakers Road and Goleen Street car parks;
 - e) Provide marked up plan and section for each typical section used to demonstrate compliance with BESS IEQ inbuilt calculation tools; and
 - f) An amended BESS report which includes the changes to the overall SMP within this condition.

3. 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 the adjoining arterial road upon occupants of the Sydney Road building.
 - b) Recommendations of acoustic attenuation measure/s to be incorporated into the proposed development to minimise the impact of noise from the proposed internal electricity substation on occupants of the dwellings above.

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

4. 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) Landscaping within the central courtyard to the Bakers Road building to better integrate communal planting with the proposed courtyard fencing, to soften views of the fencing from within the courtyard.
 - b) The provision of facilities, including seating, to encourage active and passive use of the central courtyard to the Bakers Road building.
 - c) Identification of any existing tree(s) and vegetation on site and adjoining land proposed to be removed and retained, including the tree protection zone(s). Vegetation retainment must include strategies for the retainment (i.e. barriers and signage during the construction process).
 - d) A schedule of all proposed trees, shrubs and ground covers (including numbers, size at planting, size at maturity and botanical names), as well as sealed and paved surfaces. The flora selection and landscape design should be drought tolerant and based on species selection recommended in the Moreland Landscape Guidelines 2009.
 - e) The provision of at least two trees within the front setbacks to Sydney Road and Goleen Street to assist in the integration of the development within the existing streetscape, with the tree species selected according to the available space, in accordance with the Moreland Tree Planting Manual for Residential Zones, 2014. Trees within the Sydney Road frontage are to be located outside the area affected by the Public Acquisition Overlay.
 - f) Details of the location and type of all paved and sealed areas. Extensive hard surfaces are not supported. The adoption of porous/permeable paving, rain gardens and other water sensitive urban design features is encouraged.
 - g) Illumination of the ground floor landscape, driveway and drop off/parking areas to enhance visibility and safety of pedestrians and cyclists.

Compliance with endorsed plans and documents

5. The use and development as shown on the endorsed plans and reports must not be altered without the written consent of the Responsible Authority. This does not apply to any exemption specified in Clauses 62.01, 62.02-1 and 62.02-2 of the Moreland Planning Scheme unless specifically noted as a permit condition.
6. All works must be undertaken in accordance with the endorsed Sustainability Management Plan (SMP), Acoustic Report and Landscape Plan to the satisfaction of the Responsible Authority. No alterations may occur without the written consent of the Responsible Authority.

7. The Waste Management Plan prepared by Sustainable Development Consultants, dated April 2018 and approved under this permit, or any alternative Plan which may be approved by the Responsible Authority, 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.

Prior to commencement of works

8. Prior to the commencement of the development, a Reflectivity Assessment of external ground level glazing and any other visibly reflective material must be submitted to the Responsible Authority. The assessment must ensure that materials, including glazing, used on external walls must be of a type that do not reflect more than 15% of visible light when measured at an angle of 90 degrees to the surface. The Assessment must be to the satisfaction of the Responsible Authority and when approved will form part of this permit.
9. Before the development commences (other than demolition of existing buildings and structures, removal of vegetation and site investigation works to determine the level of contamination on the land) pursuant to this permit either:
 - a) A Certificate of Environmental Audit for the land must be issued in accordance with Section 53Y of the *Environment Protection Act 1970* and provided to the Responsible Authority; or,
 - b) An Environmental Auditor appointed under Section 53S of the *Environment Protection Act 1970* must make a Statement in accordance with Section 53Z of that Act that the environmental conditions of the land are suitable for the use and development that are the subject of this permit and that statement must be provided to the Responsible Authority.

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

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

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

Remediation Works plan required

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.

10. 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.

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

Prior to occupation

12. Prior to the commencement of the use hereby permitted, a Motel Guest Management Plan (MGMP) must be submitted to and approved by the Responsible Authority. When approved, the MGMP must be endorsed to form part of this planning permit. The MGMP must include the following information to the satisfaction of the Responsible Authority:
- a) Hours of operation of all parts of the premises where persons are to be accommodated away from their usual place of residence or in a short-term capacity.
 - b) Staffing hours, including the hours during which check-in is to be allowed.
 - c) The measures to be taken by management and staff to ensure that patrons and their guests do not cause nuisance or annoyance to persons beyond the site.
 - d) Practices to be employed to ensure that any person/s who have previously been identified as causing a nuisance or annoyance to persons beyond the site are not permitted to remain on, or return to, the site. This shall include the keeping of a register of complaints and parties identified as causing a nuisance or annoyance.
 - e) A plan of the venue showing the location of:
 - Lighting within the boundaries of the premises.
 - Security lighting outside the buildings.
 - CCTV cameras installed within and outside the buildings as appropriate.
 - f) A complaint handling processes which shall include a 24-hour telephone contact for management of the premises.
 - g) Staff training for patron management and implementation of the MGMP.
 - h) The means by which management expectations of patron behaviour are to be communicated to patrons.

The endorsed MPMP must be implemented and complied with at all times to the satisfaction of the Responsible Authority. No alterations to the MGMP may occur without the written consent of the Responsible Authority.

13. Prior to the issuing of Statement of Compliance or occupation of the development, whichever occurs first, all visual screening measures shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. All visual screening and measures to prevent overlooking must be maintained to the satisfaction of the Responsible Authority. Any screening measure that is removed or unsatisfactorily maintained must be replaced to the satisfaction of the Responsible Authority.
14. Prior to the occupation of either the dwellings or commercial premises which forms part of the development 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. Specific details confirming the Environmentally Sustainable Development ESD measures have been implemented must be included, not limited to:
 - a) Evidence that the dwellings achieved the committed and modelled NatHERS ratings or higher with final NatHERS certificates to be provided.
 - b) Evidence that the hotel portion achieved an improvement of 10% or greater above minimum Section J requirements for building fabric and 20% for lighting.
 - c) Lighting controls have been implemented, including sensor lighting within buildings and outside the buildings.
 - d) Water efficient fixtures, fitting and appliances have been installed.
 - e) Evidence that sustainable building materials targets were met (specification extracts and installation evidence to be provided) as per the SMP.
 - f) Evidence that internal materials, including paints, adhesives, sealants and flooring, adhered to the maximum levels of volatile organic compounds (specification extracts and installation evidence to be provided) as per the SMP.
 - g) Evidence from the recycling contractor detailing how the construction and demolition waste targets have been met as per the SMP.
 - h) Sub-metering provisions installed.
 - i) The stormwater harvesting tank(s) installed and connected to uses and fittings as committed.
 - j) And any other ESD initiatives committed to or referenced in the SMP occurred and were installed or constructed.
15. Prior to the issuing of a Statement of Compliance or occupation of the development, whichever occurs first, all landscaping works and lighting detailed on the endorsed landscape plan must be completed and maintained in accordance with the approved and endorsed landscape drawing to the satisfaction of the Responsible Authority.
16. 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).
17. 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).
18. Prior to the occupation of the development all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land must be underground to the satisfaction of the Responsible Authority.
19. Prior to the occupation of the development the bicycle parking indicated on the endorsed plans is to be installed to the satisfaction of the Responsible Authority.

20. Prior to the occupation of the development, the car park entry gate(s) and/or garage roller door(s) must be automatic and remote controlled.
21. Prior to the occupation of the development, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.

Ongoing requirements

22. The Sydney Road shopfront window may only be used for promotion and display of goods to the satisfaction of the Responsible Authority and must not be painted or blocked out in any way.
23. 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).
24. The car parking spaces provided on the land must be solely associated with the development allowed by this permit and must not be subdivided or sold separate from the development for any reason without the written consent of the Responsible Authority.

Vic Roads requirements

25. Prior to the endorsement of plans, an amended plan must be submitted to and approved by VicRoads. When approved by VicRoads, the plans may be endorsed by the Responsible Authority and will then form part of the permit. The plans must be generally in accordance with the plans (Bill Jacobs Pty Ltd, Job No.171104, Rev B, dated 03/08/2018) but modified to show:
 - a) Construction of 2 crossovers with appropriate signs to restrict left-in and left-out movements in and out of the property for the purposes for dropping off only. There shall be 1.0 metre clearance from any fixed object to the proposed crossover.
26. Prior to the commencement of the use hereby approved the proposed crossovers and driveways must be constructed at no cost to VicRoads and to the satisfaction of the Responsible Authority.

Time limit

27. 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;
 - c) The use is not commenced 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 eastern side of Sydney Road, between Bakers Road and Goleen Street. The property is irregular in shape with a frontage of 38.1 metres to Sydney Road, 16.0 metres to Bakers Road and 18.28 metres to Goleen Street, and an overall area of 2,789 square metres.

The land has a maximum slope of approximately 3 metres, with the highest point being at the north end of the Sydney Road frontage and the lowest point being on the eastern boundary of the site, adjacent to the rear boundary of 33 Goleen Street.

The site is currently occupied by a 30 room motel which faces Sydney Road and presents as single storey to Sydney Road and double storey to Bakers Road. A restaurant which forms part of the building and previously faced Sydney Road is no longer utilised. The section of the site fronting Goleen Street is vacant and disused.

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

Surrounds

The surrounding area comprises commercial uses fronting Sydney Road at a predominantly single and double storey scale, with residential properties beyond. Both Goleen Street and Bakers Road (east of Sydney Road) are predominantly occupied by single storey detached dwellings, with some examples of 2-storey dwellings and multi-dwelling infill development.

East of the subject site at 34 Bakers Road are 3-double storey dwellings. The immediate interface with the subject site comprises a combination of walls on boundary and small areas of secluded open space.

In Goleen Street, the land adjoining the subject site to the east (33 Goleen Street) is a detached single storey dwelling. The immediate boundary interface is a driveway and outbuilding, however there are habitable room windows that face the subject site and secluded private open space to the rear.

In Sydney Road, the immediate interfaces with the subject site are eleven three storey attached dwellings to the north and a single storey commercial building to the south.

The site is located within proximity to public transport, with trams in Sydney Road terminating on the southern side of Bakers Road, and Merlynston Railway Station located approximately 750 metres from the site.

A location plan forms **Attachment 1**.

The proposal

The proposal is summarised as follows:

- Demolition of the existing disused restaurant facing Sydney Road and the construction of a 4-storey motel building with commercial premises at the ground floor facing Sydney Road in its place. The motel would incorporate a total of 29 rooms, plus a dining room and associated kitchen.
- The construction of a 4-storey apartment building to the rear of the motel, with access from Bakers Road. A total of 21 apartments would be provided, with direct access available into the motel at both the foyer and dining room level. The layout of the proposal would allow these dwellings to either function independently or be utilised as serviced apartments in association with the motel, however the application identifies that they are to be utilised as dwellings.
- The construction of a 2-storey building over a basement car park facing Goleen Street. This building would accommodate 6 apartments.
- Pedestrian access to the buildings would be available from the streets they face however primary vehicular access and parking would be from Bakers Road where 49 parking spaces are provided within separate parking areas for each component of the proposed use and development. A secondary parking area housing 5 parking spaces, including one accessible space, would be provided within the front setback to Sydney Road.
- Modification of the access to Sydney Road to provide 2x4 metre wide crossovers in place of the existing 8-metre wide crossover.

The development plans form **Attachment 2**.

Planning Permit and site history

Planning Permit MPS/2016/319 sought approval for a proposal which also included development of the site for a residential hotel and apartments in 3 and 4-storey buildings with part basement car parking and a reduction of the standard car parking requirement and the alteration of access to a road in a Road Zone Category 1. The application was refused by Council officers on 6 March 2017, and the Victorian Civil and Administrative Tribunal (the Tribunal) subsequently upheld that refusal. The Tribunal decision outlined that:

- The use of the site for the continuation of the motel use combined with residential apartments is considered appropriate and was not in dispute.
- It shared Council's concern with the height and lack of articulation to the proposed building as it presented to Sydney Road.
- The proposed three storey contemporary form to Goleen Street does not reflect the character of existing development in Goleen Street.
- Any future application should indicate how the frontage setback to Sydney Road is to be softened with landscaping.
- A setback of 6.4 metres to Goleen Street is appropriate.
- Adequate areas for landscaping are provided within the setbacks to Sydney Road and Goleen Street.
- The proposed built form to Bakers Road is acceptable.

The proposal responds appropriately to the findings of the Tribunal, as detailed in section 4 of this report.

Statutory Controls – why is a planning permit required?

Control	Permit Requirement
General Residential Zone (portion of site fronting Goleen Street)	Clause 32.08-5: A permit is required to construct more than one dwelling on a lot. Clause 32.08-1: No permit is required to use land as a dwelling.
Mixed Use Zone	Clause 32.04-1: 'Motel' is a section 2 use in the zone, meaning that a permit is required for the use. Clause 32.04-6: A permit is required to construct more than one dwelling on a lot. Clause 32.04-2: No permit is required to use land as a dwelling. No permit is required to use land for shop or food and drink premises where the floor area of these does not exceed 150 square metres for each use.
Public Acquisition Overlay (portion of site adjacent to Sydney Road)	Clause 45.01-1: A permit is required to carry out works.
Particular Provisions	Clause 52.06-3: A permit is required to reduce the car parking requirement from 60 spaces to 54 spaces. Clause 52.29-2: A permit is required to alter access to a Road in a Road Zone Category 1.

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

- Clause 45.03 Environment Audit Overlay;
- Clause 53.18: Stormwater management in Urban Development; and
- Clause 55: Two or more dwellings on a lot.

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
- By placing one sign on each frontage of the site.

Council has received 11 objections from 10 households to date. A map identifying the location of objectors forms **Attachment 1**.

The key issues raised in objections are:

- Object to the potential expansion of the existing halfway house use, which negatively affects the amenity and safety of the area;
- The proposal does not respect the character of Goleen Street;
- Insufficient car parking;
- The proposed Sydney Road and Goleen Street buildings are too tall;
- Does not meet planning scheme requirements;
- Building materials used are inappropriate;
- Disruption during the construction process;
- Increased car usage and on-street parking results in hazard for pedestrians and cyclists/Bakers Road/Sydney Road intersection is dangerous;
- Overlooking to 33 Goleen Street; and
- Increased sewerage load.

A Planning Information and Discussion meeting was held on 20 November 2018 and attended by Cr Abboud, Council Planning Officers, the applicant and 4 objector parties. The meeting provided an opportunity to explain the application, for the objectors to elaborate on their concerns, and for the applicant to respond. Extensive discussion at the meeting focused on the existing operation of the motel and as a result officers circulated a proposed MGMP to parties. The applicant has advised that they are able to meet the requirements of the condition, although objectors have not indicated that it is sufficient to satisfy their concerns. The condition is included in the officer recommendation.

Internal/external referrals

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

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

Internal Branch/Business Unit	Comments
Urban Design Unit	<p>No objections were offered to the proposal. The following was noted:</p> <ul style="list-style-type: none"> • The development appears as an articulated 3-storey podium from Sydney road, with the stepping back of the fourth storey minimising bulk appropriately. • The density and nature of the development in the Mixed-Use Zone is supported. • Pedestrian access from each frontage is supported, as is the proposed landscaping. • The internal layout of the dwellings, whilst compact, is generally acceptable.
Development Advice Engineers	No objections were offered to the proposal subject to modifications, which are addressed by conditions detailed in the recommendation.
ESD Unit	No objections were offered to the proposal subject to modification, which are addressed in the conditions detailed in the recommendation.

3. Policy Implications

Planning Policy Framework (PPF)

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

- Settlement (Clause 11)
- Metropolitan Melbourne (Clause 11.01-1R1)
- Contaminated and potentially contaminated land (Clause 13.04-1S)
- Built Environment and Heritage (Clause 15), including:
 - Built Environment (Clause 15.01)
 - Healthy neighbourhoods (Clause 15.01-4S and 15.01-4R)
 - Sustainable Development (Clause 15.02)
- Housing (Clause 16), including:
 - Integrated Housing (Clause 16.01-1S and 16.01-1R)
 - Location of Residential Development (Clause 16.01-2S)
 - Housing Opportunity Areas (Clause 16.01-2R)
- Economic Development (Clause 17), including:
 - Commercial (Clause 17.01)
 - Tourism (Clause 17.03)
- Principal Public Transport Network (Clause 18.02-2R)

Local Planning Policy Framework (LPPF)

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

Municipal Strategic Statement:

- Clause 21.01 Municipal Profile
- Clause 21.02 Vision
- Clause 21.03-2 Land for Industry and Economic Regeneration
- 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 22.08 Environmentally Sustainable Design

While not located within an Activity Centre, the subject land is in an established urban area with good access to a range of infrastructure and services. In these areas, the MSS envisages incremental change to accommodate a mix of single dwellings and infill multi-dwelling developments, whilst the state-wide Planning Policy Framework seeks to encourage investment that meets demand and supports growth in tourism, including the provision of a range of facilities that have access to public transport.

In areas outside of Activity Centres, it is Council's policy objective that any proposal respects the existing character of the area. The proposal is an acceptable response to the existing character of the area, as detailed 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 provides an acceptable response to Clause 22.01 (Neighbourhood Character) and Clause 55.02 (Neighbourhood Character and Infrastructure) of the Moreland Planning Scheme.

The double storey presentation to Goleen Street, with a mixture of hipped and flat roof forms and of face brick and render construction is an appropriate response to the predominantly single storey brick and weatherboard dwellings in that street. The 6.4 metre to 7.1 metre front setback proposed meets and exceeds the setback of 6.4 metres concluded by the Tribunal as an appropriate outcome, with landscaping maximised by the provision of car parking within a basement accessed from the rear.

The proposal also incorporates an appropriate level of articulation to the Sydney Road frontage, with the third floor set back to minimise its visibility from the street. This is in contrast with the flat four storey façade previously refused and criticised by Council and the Tribunal as being too bulky. Whilst car parking occupies the Sydney Road forecourt, the upper levels cantilever over the car parking to create a dominant built form that activates the public realm.

The height and presentation to Bakers Road remains similar to that previously sought, however this aspect of the development has previously been identified by both Council and the Tribunal as being acceptable. Council's Urban Design Unit have advised that they are supportive of the proposal.

Are the proposed land uses appropriate?

It is considered that the ongoing use of the section of the site abutting Sydney Road as a Motel, shop and food and drink premises is appropriate to the mixed use zoning of the land. Objectors have raised concerns in relation to the amenity impacts arising from the existing clientele, including the impacts that those clientele have whilst not on the premises. It is not possible or appropriate to dictate the demographic profile of customers, or to seek to control their behaviour outside the site, as part of the planning process.

However, the introduction of a motel guest management plan, which would seek more active management of clientele by the motel operator is appropriate. Such a plan should seek to ensure that guests are made aware of management expectations of behaviour and to ensure that those who create a nuisance to surrounding properties will be removed from the property and not permitted to return.

A condition of this nature is not ordinarily imposed upon motel developments, but has been agreed to by the permit applicant as part of negotiations following public notification of the application, and is included as a condition of the recommendation.

The application has not sought use of any of the apartments in association with the motel. This would require planning approval, and on the basis of the lack of connection of the uses of the land the proposed doorways between the Bakers Road and Sydney Road buildings should be deleted to avoid confusion in relation to this matter and to improve amenity of the central courtyard to the Bakers Road building for occupiers of that building. Apartment G.08 to the Bakers Road building is marked as a Caretaker's Dwelling and a direct link between this dwelling and the motel could be provided if desired. This is included as a condition of the recommendation.

Has adequate car parking been provided?

A total of 60 spaces are required for the proposed uses. The development provides 54 on-site spaces. The layout of these spaces results in a single space over-provision for the apartments within the Goleen Street building, with a shortfall of seven spaces for the Sydney Road building.

The dwellings will not be eligible for parking permits in the event that parking restrictions are imposed by Council on the street.

Council's Development Advice Engineer is satisfied that the car parking requirement can be reduced for this application. It is noted however that the parking demand assessment justifies a lower parking rate for the motel based upon the existing clientele, which the applicant has separately advised would not be the target market of the motel once redeveloped. As a result this component of the development should be provided with the full statutory car parking requirement. It is considered that the following is appropriate:

- The provision of one parking space (rather than two as sought by the standard requirement) to each commercial tenancy, based on advice that this accords with the car parking demand associated with these premises;
- The accessible parking space to be made available to the motel and commercial tenancies, rather than allocated to a single occupier;
- The provision of 29 parking spaces for the proposed 29 motel rooms, with the car parking modified to increase the number of spaces provided and to provide a turning space within the Sydney Road building basement; and
- To allocate 24 parking spaces to the proposed 27 dwellings, with three dwellings to be provided with no car parking. This modest parking reduction is considered to be acceptable given the availability of public transport in the area.

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

In relation to traffic impacts, Council's Development Advice Engineer has assessed the proposal and considers that the uses will result in 20 additional vehicle movements during each peak hour, the majority of which would be on Bakers Road. This remains within the road's design capacity and is not expected to cause traffic problems. Impacts to Goleen Street would be significantly lower, whilst the impact upon Sydney Road would also be within this roadway's capacity.

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:

- Does not incorporate any vehicular crossing to Goleen Street, with a single vehicular access in Bakers Road to allow the residential street frontages to prioritise pedestrian movement and safety and to allow retention of the mature eucalypt within the Goleen street road reserve.
- Proposes an active interface to Sydney Road.
- Limits the removal of on-street public parking spaces, removal of street trees, and encroachment into landscaped front setbacks.
- Can be amended to increase the number of bicycle spaces from thirteen to 21 to allow the provision of one space per dwelling within the Bakers Road building, as well as to provide parking adjacent to the food and drink premises.

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

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

- The provision of photo voltaic panels;
- Use of rain gardens and water tanks, with use of tank water for irrigation and toilet flushing;
- Re-use of fire test water;
- Extensive use of double glazing and external shading of windows; and
- High levels of natural ventilation.

Further improvement by means of the provision of an electric vehicle charging point within the Sydney Road basement is included within the officer recommendation.

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, whilst Clause 55.07 requires at least half of the dwellings to be adaptable to those with limited mobility. The proposal meets these requirements, with the entrances to all dwellings also accessible.

Does the proposal meet the mandatory requirements of the General Residential Zone?

It is proposed that 30% of the Goleen Street property would be maintained as Garden Area, complying with the Garden Area requirement of the General Residential Zone. Similarly, the maximum building height of 9.5 metres on the Goleen Street property is lower than the maximum of 12 metres outlined in the Zone. Neither provision applies to the Mixed-Use Zone which affects the remainder of the site.

Does the proposal satisfy the requirements of Clause 55?

A detailed assessment of the proposal against the objectives at Clause 55 has been undertaken. Subject to modifications detailed in the officer recommendation the proposed development complies with the standards and objectives of Clause 55. Key issues from the Clause 55 assessment are discussed under the headings below.

Site layout and building massing

The proposal meets the majority of the provisions of Clause 55.03, however it is noted that:

- The proposal incorporates a setback of 3.25 metres to Bakers Road, rather than the Standard setback of 4.5 metres. Given the extent of side wall constructed on the street frontage to the west this setback is considered to be acceptable. It is also noted that this setback was previously considered to be acceptable by the Tribunal.
- The proposal incorporates a setback of between 6.4 metres and 7.1 metres to Goleen Street, compared with a Standard of 7.2 metres and the Tribunal's previous advice that a setback of 6.4 metres would be appropriate.
- An overall site coverage of 63% with 18% permeable space is proposed, compared with Standards of 60% and 20% respectively, however this is reflective of the existing buildings on the Sydney Road/Bakers Road section of the site and of the previous proposal for the site. The Tribunal has previously indicated that the extent of landscaping space provided is appropriate on this site and it is noted that notwithstanding the site coverage and impervious surface cover proposed, the proposal provides a level of deep soil planting which exceeds the requirements of Clause 55.07-4.

Privacy, light and shadow

An assessment of the proposal against the provisions of Clauses 55.04, 55.05 and 55.07 indicate that the following modifications are required in order to ensure that overshadowing and overlooking to the adjoining properties and within the development are appropriately minimised:

- An increase in the southern boundary setback of apartment 6 within the Goleen Street building by 3 metres, addressing concerns in relation to shadowing and overlooking to 3/34 Bakers Road and internal overlooking within the site.
- The provision of screening to restrict overlooking to the adjoining properties at 33 Goleen Street, 3/34 Bakers Road and units 7 and 9 at 848 Sydney Road from selected new windows, stairs and balconies within the development.
- An increase in the height of the screening provided to the proposed first floor terrace for the motel to reduce overlooking to the adjoining dwellings at 848 Sydney Road.
- The use of directional fins or similar which orient views toward the west to restrict overlooking between apartments 2, 3 and 6 within the Goleen Street building and adjacent apartments within the Bakers Road building. This will ensure appropriate levels of amenity to future residents whilst restricting internal overlooking and also addressing some of the overlooking outlined above.
- The use of transparent glazing to windows facing the internal common walkway within the Bakers Road building and a reduction in the extent of screening of the communal walkway to increase the light available to dwellings and allow views from the communal walkway to the courtyard below.

The amenity of future residents as well as guests of the motel may be impacted by traffic noise associated with Sydney Road and the submission of a report by an acoustic engineer on construction materials to be utilised to reduce noise infiltration is appropriate. This is required by the officer recommendation.

Side and rear boundary setbacks

The proposal incorporates minor modifications to the Standards relating to boundary setbacks and walls on boundaries which are acceptable, as follows:

- The proposed third floor addition to the Bakers Road building meets the standard setbacks to the adjoining residential property. Some construction at the lower levels does not comply, however portion of the building is existing.
- Setbacks of the Sydney Road and Bakers Road buildings to the adjoining commercial premises do not meet Standard B17, however it is considered that a more robust built form is appropriate in this location.
- Small sections of the upper level of the Goleen Street building do not meet the standard setback to the western boundary. This is a result of the angled boundary and use of a stepped built form adjacent to it. Setbacks range between 1.2 metres and 3.2 metres, compared with a standard setback of 1.8 metres. The areas of non-compliance are limited in extent and will not result in a loss of amenity to the adjoining property.
- The living room wall of apartment 3 of the Goleen Street building on the eastern boundary has an average height of 3.3 metres rather than 3.2 metres. This wall is largely located directly adjacent to the neighbouring garage and the minor increase in wall height will not result in an increase in detriment to that property.

Open space provision

The dwellings are provided with open space areas which exceed the requirements of Clause 55, save that Apartment 1 in the Goleen Street building is provided with a 12.1 square metre open space area within the front setback to Goleen Street. This is a ground level space, but has the dimensions expected of a balcony. Given the apartment form of the development and the provision of a landscape space within the front setback to soften view of the proposed fencing, which extends across less than half of the frontage and is located 4.9 metres from the street, this provision is considered to be acceptable.

Site services

The plans indicate that separate parking areas are to be provided for each of the buildings, with access to these being from the Bakers Road vehicular crossing. Whilst this is appropriate, it is considered that there needs to be greater clarity in relation to the extent of common property vs private car parking given the use of the Motel car park by patrons unfamiliar with the site and the potential for these parties to park within the parking provided for the dwellings (and in particular those within the Bakers Road building). This could be achieved through line marking and clear labelling of parking spaces, given the physical constraints of providing doors to the basement of the existing building.

It is also noted that:

- Mail boxes have not been indicated for the Bakers Road building and should be provided within the entry foyer or integrated into the building's façade without reducing the extent of glazing. Those provided for the Goleen Street building require further detailing.
- The plans indicate a substation within the car park. This location ensures that it will not be visible from outside the site, however some noise attenuation may be required to ensure that there are not excessive impacts to Apartments G.07 and G.08 of the Bakers Road building.
- Service meter locations have not been shown and should be located within the buildings to minimise their visual impact upon the street.

Each of these modifications are relatively minor in nature and are required by the officer recommendation.

Functional layout

The proposal has largely been designed to ensure that appropriate bedroom sizes are proposed, however there are two rooms marked as studies that do not meet the minimum dimensions outlined for bedrooms. A re-design of the associated dwellings is required to address this issue.

In addition, a number of dwellings, particularly within the Bakers Road building, do not meet the minimum dimensions outlined for living areas. Modifications required range from minor changes to door locations to more substantial internal layout modifications. It would appear however, that compliance can be readily achieved in each instance.

Finally, apartment 5 within the Goleen Street building should be provided with a skylight to the kitchen to ensure that it is provided with appropriate levels of daylight.

Each of these modifications are required within the officer recommendation.

Minor variations to the standard dimensions for apartment 1 within the Goleen Street building are not considered to impact upon the usability of these spaces and are acceptable.

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.

Are the works adjacent to Sydney Road appropriate?

The portion of the site abutting Sydney Road is contained within a Public Acquisition Overlay to allow for a potential future widening to Sydney Road. VicRoads is the acquiring authority. The application was referred to VicRoads which advised that it had no objection to either the proposed vehicular crossing modifications or the proposed driveway and landscaping works within the acquisition overlay.

5. Response to Objector Concerns

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

- Object to the potential expansion of the existing halfway house use, which negatively affects the amenity and safety of the area;
- The proposal does not respect the character of Goleen Street;
- Insufficient car parking;
- The proposed Sydney Road and Goleen Street buildings are too tall;
- Does not meet planning scheme requirements;
- Building materials used are inappropriate;
- Increased car usage and on-street parking results in hazard for pedestrians and cyclists;
- Overlooking to 33 Goleen Street; and
- Bakers Road/Sydney Road intersection is dangerous.

Other issues raised by objectors are addressed below.

Construction issues

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

Impact on infrastructure

An objector concern was the impact of the dwellings on infrastructure, particularly increased pressure on sewerage infrastructure. 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 authority's requirements to contribute to the cost of upgrading trunk infrastructure.

6. Officer Declaration of Conflict of Interest

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

7. Financial and Resources Implications

There are no financial or resource implications.

8. Conclusion

It is considered that, subject to relatively minor modifications, the proposed development is an appropriate response to the site and surroundings, as well as the findings of the Tribunal in relation to planning application MPS/2016/319.

On the balance of policies and controls within the Moreland Planning Scheme and objections received, it is considered that Notice of Decision to Grant a Planning Permit No MPS/2018/83 should be issued for the purpose of a motel and construction of dwellings within a two to four storey building above basement car parking, a reduction in the associated car parking requirement, alteration of access to a Road Zone Category 1 and works (including vegetation removal) within a Public Acquisition Overlay subject to the conditions included in the recommendation of this report.

sAttachment/s

- | | | |
|-------------------|-----------------------|----------|
| 1 | Objector Location map | D19/9988 |
| 2 | Plans | D19/9987 |