



Moreland City Council

COUNCIL MEETING - PLANNING AND RELATED MATTERS AGENDA

WEDNESDAY 27 JUNE 2018

COMMENCING 6.30 PM

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

Language Link

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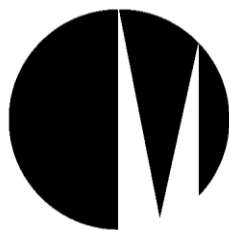
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1. WELCOME

2. APOLOGIES

3. DISCLOSURES OF INTERESTS AND/OR CONFLICT OF INTERESTS

4. CONFIRMATION OF MINUTES

The minutes of the Urban Planning Committee meeting held on 23 May 2018 be confirmed.

5. REPORTS

PLANNING AND ECONOMIC DEVELOPMENT

DED40/18	699 AND 701 PARK STREET, 182, 184-186, 188 AND 190-192 BRUNSWICK ROAD, 2 AND 4 SYDNEY ROAD, BRUNSWICK - MIXED USE DEVELOPMENT (D18/135945)	3
DED41/18	3-5 CENTENNIAL AVENUE, BRUNSWICK WEST - MPS/2013/309/A - MODIFICATIONS TO APPROVED APARTMENT DEVELOPMENT (D18/99194)	99

6. URGENT BUSINESS REPORTS

7. CONFIDENTIAL BUSINESS

**DED40/18 699 AND 701 PARK STREET, 182, 184-186, 188 AND 190-192
BRUNSWICK ROAD, 2 AND 4 SYDNEY ROAD, BRUNSWICK -
MIXED USE DEVELOPMENT (D18/135945)**

**Director Planning and Economic Development
City Development**

Executive Summary

The application seeks approval for the demolition of a heritage building and construction of a development comprising 255 dwellings, use of the land for retail premises and a child care centre, a reduction of the standard car parking requirement and alteration of access to a road in a Road Zone, Category 1. The application was advertised and 220 objections and 2 submissions in support were received. The main issues raised in objections relate to height, traffic and car parking, inconsistency with the character of the locality, amenity impacts and impacts on Princes Park. The applicant has lodged an appeal against Council's failure to grant a permit within the prescribed time.

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

The key planning considerations are:

- Height and setbacks of the building;
- Internal and external amenity impacts;
- Extent of car parking and bicycle provision; and
- The demolition of the heritage building.

Despite delivering on urban consolidation objectives, the proposal results in a scale of development that is not responsive to the context of the locality nor consistent with the preferred future character.

The building separation to side boundaries is inadequate, resulting in unreasonable impacts on the development opportunities of adjacent lots and compromises future occupants' access to acceptable daylight.

The proposal would result in the demolition of an electrical substation building with heritage significance that should be retained given the large size of the site, which provides an opportunity to incorporate it within the design response. The extent of car parking provided does not further the planning policy aims of reducing car dependence given the prioritisation of car parking and the lack of bicycle parking.

This application is being reported to Council at the direction of the Acting Group Manager City Development.

It is recommended that Council's submission to VCAT be one of refusal of the application subject to the grounds outlined in the recommendation.

Officer Recommendation

That a Notice of Refusal to Grant a Planning Permit No. MPS/2016/985 be issued for the demolition of a heritage building and construction of a development comprising 255 dwellings, use of the land for retail premises and a child care centre, a reduction of the standard car parking requirement and alteration of access to a road in a Road Zone, Category 1 at 699 and 701 Park Street, 182, 184-186, 188 and 190-192 Brunswick Road, 2 and 4 Sydney Road, Brunswick, subject to the following grounds of refusal:

1. The height of the central tower and streetwall heights to Sydney Road and Park Street are excessive and not site responsive or compatible with the character of the locality, contrary to the Design and Development Overlay Schedule 18, Clause 21.03-4, Clause 22.01 (Neighbourhood Character) and Clause 22.06 (Heritage).

2. The building setbacks to the west are inadequate and the extent of walls on boundaries to the west are excessive and will unreasonably reduce the future development opportunities of the properties at 6 and 20 Sydney Road, contrary to objectives of Clause 22.07 (Development of five or more storeys).
3. The design response will result in poor visual amenity with regards to the expanse of unbroken building form presented to Brunswick Road at the upper levels and the south west corner of Sydney Road at the upper levels contrary to Clause 22.01 (Neighbourhood Character) and Clause 21.03-4 (Urban Design, Built Form and Landscape Design).
4. The design response will result in poor activation of the ground level for sections of the Brunswick Road frontage given the inclusion of services and a blank wall to the childcare centre, contrary to Clause 21.03-4 (Urban Design, Built Form and Landscape Design) and Clause 58.02 (Urban Context).
5. An inadequate number of bicycle parking spaces is provided to encourage the minimisation of car dependence and encourage people to cycle, contrary to Clause 22.08 (Environmentally Sustainable Development) and Clause 22.03 (Car and Bike Parking and Vehicle access).
6. The development will result in poor energy performance, poor cross ventilation, insufficient greening of the site contributing to the Urban Heat Island Effect and insufficient green waste facilities to reduce waste generation, contrary to Clause 22.08 (Environmentally Sustainable Development) and Clause 58.03 (Site Layout).
7. The demolition of the Former City of Brunswick Electricity Supply Transformer Station will result in removal of heritage fabric adversely affecting the Heritage Place, contrary to Clause 22.06 (Heritage) and the decision guidelines of the Heritage Overlay (Clause 43.01).

1. Background

Subject site

The subject site is located at the intersection of Park Street and Sydney Road on the east side of Sydney Road and south of Brunswick Road. The site is comprised of 9 parcels across 8 property addresses known as 182, 184-186, 188, and 190-192 Brunswick Road, 2 and 4 Sydney Road and 699 and 701 Park Street, Brunswick.

The land is currently occupied by the Prices Park Motor Inn on the southern side of the site. The northern portion of the site has been cleared and levelled with the exception of the former Brunswick Electricity Supply Transformer Station in the North West Corner of the site.

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

Surrounds

The surrounding area is characterised by properties within commercial and residential zones with land generally to the north and west used for commercial purposes. The site immediately to the west is a 7 Eleven store on the corner of Sydney Road and Brunswick Road. The land to the south of this is a 2 storey residential building. To the east is a single storey dwelling at 180 Brunswick Road and land at 697 Park Street contains a 3 storey block of 'walk up' flats. Land to the south on the southern side of Park Street is Princes Park within the municipal boundaries of the City of Melbourne. To the south east is low scale 1 and 2 storey dwellings within the City of Yarra.

A location plan forms **Attachment 1**.

The proposal

The development consists of:

- A 7 storey building at the corner of Park Street and Sydney Road constructed to the boundary up to 6 levels with level 7 setback 2 metres;
- An 8 storey building on Brunswick Road setback 0.8m up to 6 levels and setback 6.5 metres for the top two levels;
- A 14 storey building in the centre of the site, setback 10.5 metres from Brunswick Road and a minimum of 4.3 metres from the western boundary;
- A 6 storey building facing east with the first four levels setback 6 metres from the eastern boundary and the top 2 levels setback 11 metres.
- Three storey townhouses with roof top terraces in the south east corner of the site fronting Park Street, setback 3.5 metres from Park Street.
- A central communal courtyard at level 1 as well as two roof top terraces at level 7, one on the eastern side and one on the south.
- 255 dwellings in the form of 243 apartments and 12 townhouses.

Table 1 outlines the number of apartments and the corresponding number of bedrooms:

Table 1

Dwelling type	Number of bedrooms	Number of dwellings
Apartment	1	126
	2	88
	3	29
Townhouse	3	6
	4	6

- A 1300 square metre childcare centre constructed across part of 4 levels in the north east corner of the site.
- An area of 316 square metre described as 'food and beverage/retail' located at ground level on the south eastern corner of the site in the intersection of Park Street and Sydney Road.
- An area of 56 square metre described as 'community hub' located on the northern side at ground level with access from Brunswick Road. The applicant submits that this space can be leased by Council or a community group for community purposes.
- A 6 metre setback at ground level is proposed from the eastern boundary to accommodate a 'laneway' from Park Street to Brunswick Road. This will provide pedestrian access through the site. The setback area also accommodates small landscaped courtyards on the east side of the east facing townhouses which would form part of the private realm of these dwellings.
- Vehicle access is to be from Park Street in the south eastern corner of the site for the first 30 metres of the proposed laneway. Parking is provided at ground level and within two basement levels below. Each of the 12 townhouses have independent secure garages at ground level.
- A total of 401 car parking spaces are proposed with 364 allocated to the 255 dwellings, 5 to the retail tenancies, 11 to childcare centre staff, 11 for childcare centre drop off and 10 short term spaces to be used by residential visitors and the patrons of the retail tenancy. Additional short term visitor spaces will be available when the 11 childcare drop off spaces are not required for the childcare centre (i.e. outside operating hours). No dedicated spaces are proposed for the community hub.
- 83 bicycle parking spaces are proposed to be located at ground level, near the main residential entry on the northern side of the building. 20 of these spaces are to be floor mounted.

The development plans form **Attachment 2**.

Statutory Controls – why is a planning permit required?

Control	Permit Requirement
Mixed Use Zone	<p>Clause 32.04 - Food and Drink premises is a Section 2 use in the zone as the leasable floor area would exceed 150 square metre, meaning that a permit is required for the use.</p> <p>Childcare Centre is also a Section 2 use in the zone, meaning that a permit is required for its use.</p> <p>A permit is required to construct more than one dwelling on a lot. Pursuant to Clause 32.04-2, no permit is required to use the land for a dwelling.</p> <p>A permit is required to construct a building or construct or carry out works for a use in section 2.</p>
Overlays	<p>Clause 43.01 - Heritage Overlay (Schedule 279 and Schedule 149 affect only part of the site) – A permit is required to demolish or remove a building and to construct a building or construct or carry out works.</p> <p>Clause 43.02 - Design and Development Overlay (Schedule 18) – A permit is required to construct a building or construct or carry out works.</p>
Particular Provisions	<p>Clause 52.06 - A permit is required to reduce the visitor car parking spaces.</p> <p>Clause 52.29 - A permit is required to alter the access to a Road in a Road Zone Category 1.</p>

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

- Clause 45.06 Development Contribution Plan Overlay
- Clause 45.03 Environment Audit Overlay (affects only part of the land at 190-192 Brunswick Road)
- Clause 45.09 Parking Overlay (affects only the land at 2 and 4 Sydney Road).
- Clause 58.01.1 Urban context report and design response
- Clause 52.36 Integrated public transport planning

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 as well as more broadly in the locality.
- Sending notices to residents on the south side of Park Street in the City of Yarra.
- Sending a notice to the City of Melbourne as the owner of Princes Park.
- By placing 5 signs on the site including two signs on the Park Street frontage, two signs on the Brunswick Road frontage and one sign on the Sydney Road frontage.
- By placing a copy of the public notice in the *Moreland Leader* and *Northern Leader*.

Council has received 220 objections to date. A map identifying the location of objectors forms **Attachment 1**.

The key issues raised in objections are:

Character and excessive height

- Incompatible with and dominate views to Princes Park.
- The height and scale of the building is excessive and will set an inappropriate precedent.

Traffic

- Will result in unacceptable traffic congestion.
- Dangerous traffic impacts at the intersection of Sydney Road and Park Street.
- Loss of available parking.
- The childcare centre will generate excessive parking.
- Increased risk to cyclists.
- Insufficient bicycle parking provided on site.
- Single vehicle access point is insufficient.
- Vehicle access from Brunswick Road should also be provided.

Amenity

- Loss of privacy due to overlooking.
- Loss of daylight, impact on health and garden.
- Overshadowing of Princes Park.
- Loss of views.
- Concern about where bins will be stored and collected from.
- Population density is too great.
- Overshadowing of solar panels.
- Impacts on wind flows.

Heritage

- Demolition of the heritage substation is unacceptable.
- Impact of the proposal on the heritage character of the area.

Pollution

- Traffic exhaust.
- Site contamination resulting in health impacts including air-borne pollution.

Infrastructure

- Impact on infrastructure and facilities.
- Public transport insufficient to cater for increased population.
- A bridge linking the development and the north side of Princes Park is inappropriate.

Other

- The retail component will detract from existing commercial strip of Sydney Road.
- Need greater number of larger apartments including 3 bedrooms.
- Insufficient open space incorporated into the design.
- The proposed footpath does not add significant benefit to public access in the area and there is no clear objective or guarantee regarding the 'community amenities' as, with no provision for transfer of title, they could be repurposed at a later stage.

In addition, the EPA were notified of the proposal and made a submission. The EPA recommended that conditions be included on any approval granted by Council. The recommended conditions include the requirement to provide an environmental audit prior to the commencement of development.

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. VicRoads also notes the high number of cyclists that use both Park Street and Royal Parade and that the proposed development needs to consider safe operation of cyclists and other road users.
Transport for Victoria	No objection subject to conditions included in the recommendation.

Internal Branch/Business Unit	Comments
City Strategy and Design Branches	<p>Not supported in its current form.</p> <p>The proposed seventh storey of the apartment building on the south-west corner is considered excessive and should be removed.</p> <p>The proposed height of the 14 storey tower towards the centre of the site presents excessive visual bulk, dominating the neighbourhood and surrounds, and should be reduced to meet the preferred height of 25 metres.</p> <p>The Brunswick Road frontage would result in a continuous monolithic built edge and requires permeability and views into the courtyard.</p>
Strategic Transport and Compliance Branch	The proposal provides more car parking spaces than required and insufficient bicycle parking. Additional bicycle parking is required and could easily be provided if less car parking spaces are provided.
ESD Unit	The proposal does not appropriately respond to best practice ESD as per Clause 22.08 of the Moreland Planning Scheme, nor does it illustrate an 'excellent' ESD response.
Heritage Advisor	<p>Demolition of the Former City of Brunswick Electricity Supply Transformer Station is contrary to Council's heritage policy on demolition of significant heritage fabric.</p> <p>The seven-storey scale of the proposed new development's podium fronting Sydney Road will not be respectful of and will result in a dramatic change of scale from the traditional scale of Sydney Road, both north and opposite the development site.</p>

3. Policy Implications

State Planning Policy Framework (SPPF)

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

- Clause 9 Plan Melbourne
- Clause 11.01 Activity Centres
- Clause 11.02 Urban Growth
- Clause 11.03 Activity Centres
- Clause 11.04 Open Space
- Clause 13.04 Noise and Air
- Clause 15.01 Urban Environment
- Clause 15.02 Sustainable Development
- Clause 15.03 Heritage
- Clause 16.01 Residential development
- Clause 17.01 Commercial

Local Planning Policy Framework (LPPF)

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

Municipal Strategic Statement:

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

Local Planning Policies:

- Clause 22.01 Neighbourhood Character
- Clause 22.03 Car and Bike Parking and Vehicle Access
- Clause 22.06 Heritage
- 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 proposal meets the objectives and strategies of the LPPF by incorporating a range of uses including increased housing and active spaces at ground level, to create and reinforce an active and pedestrian friendly street environment. The proximity of the site to a variety of public transport options provides an opportunity to encourage modal shift away from cars. However, the proposal fails to capitalise on this opportunity by failing to deliver sufficient bicycle parking, instead providing an excess of onsite car parking spaces for dwellings.

Council's Neighbourhood Character Policy supports substantial change and creation of a new character of increased scale associated with increased density in this designated Major Activity Centre. The proposal's provision of increased housing density enjoys strong strategic support at both State and local level. However, the policy also directs that the level of change is defined in the relevant overlay or Structure Plan. In this case the DDO18 sets out the expected scale of built form for this site, which the proposal exceeds.

Council's Development of 5 or more storey's policy seeks to achieve appropriate building separation and light courts to ensure adequate amenity for future occupants, while protecting the future development potential of adjoining sites. The proposal fails to provide an appropriate response to this policy on the western side of the building.

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.

The proposal fails to achieve an acceptable built form outcome and will result in a building that is excessive in height and will be dominating in its appearance, in this important location at the southern entrance to the municipality. It will also result in unreasonable impacts to the immediately surrounding context including Princes Park to the south of the site.

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

Height

The proposal includes the construction of 5 building forms across the site, ranging in height from three storeys up to 14 storeys (figure 1 below). The applicable DDO specifies a range of preferred maximum heights including 10.5 metres for the lots along Park Street and along the eastern residential interface, 19 metres along Sydney Road, consistent with the Sydney Road corridor and 25 metres for the lots facing Brunswick Road. Each of these components are discussed below.

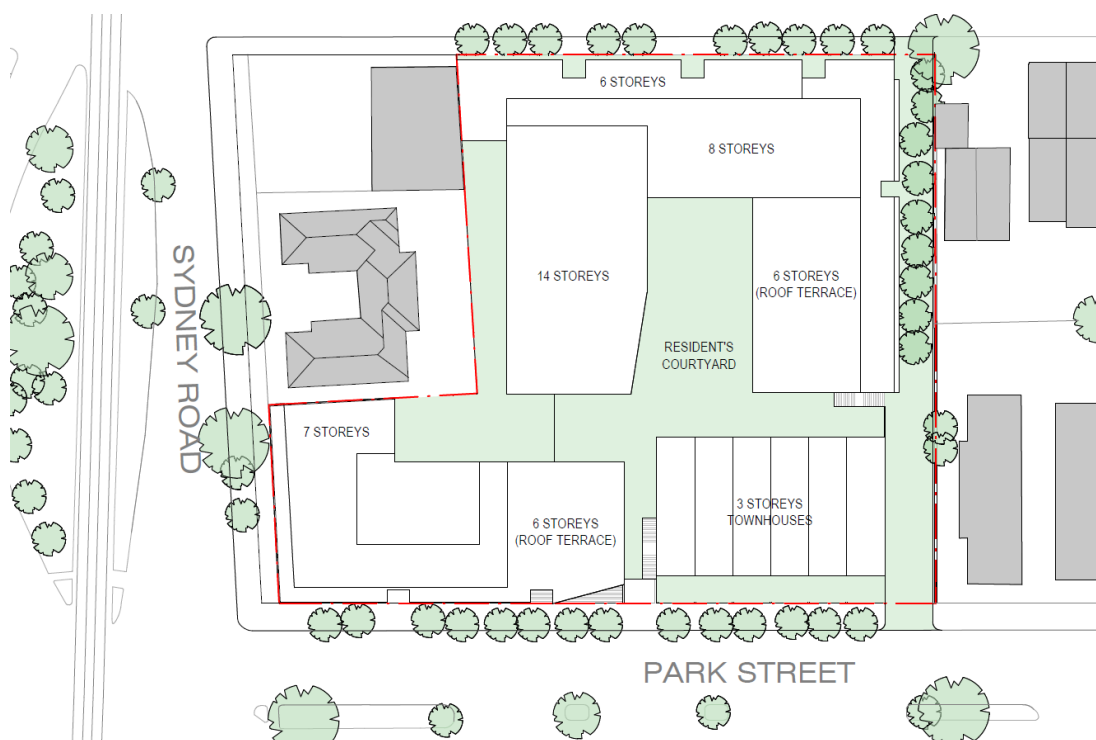


Figure 1

Brunswick Road

For the Brunswick Road portion of the development, a maximum height of 25.75 metres (8 storeys) is proposed, exceeding the preferred height of 25 metres by 750mm.

Sydney Road/Park Street Corner

A 23.7 metre (7 storey) height is proposed to the intersection of Sydney Road and Park Street, exceeding the preferred height of 19 metres by 4.7 metres. Along the eastern end of Park Street the height is proposed at 11.25 metres, marginally exceeding the preferred height of 10.5 metres by 750 millimetres.

The height of the building in the intersection of Sydney Road and Park Street will be dominating when viewed from the south by people entering the municipality from this direction and when viewed from Princes Park. This height also fails to provide an acceptable transition from the landscaped character of Princes Park resulting in a visually jarring contrast. The height should be reduced to no more than 19 metres, setting an appropriate height for the entry to the Sydney Road streetscape context to the North, providing respect for its heritage context.

Eastern boundary

Along the eastern residential interface the height is proposed at 14.15 metres, exceeding the preferred 10.5 metre height by 3.65 metres. The visual impact of the built form along this boundary is reduced through the provision of a generous 6 metre setback which accommodates some landscaping that will soften the appearance of the building. This is considered an acceptable response. The three storey town houses fronting Park Street exceed the preferred height by 1.71 metres. This is considered acceptable as it provides a transition in height from higher built form in the corner of Park Street and Sydney Road and the lower scale built form to the east of the site.

Site centre

In the site centre site is the tallest building element, rising to 45.25 metres (14 storeys), exceeding the preferred height of 25 metres by 20.25 metres (approximately 6 levels). The 20 plus metre exceedance of the preferred height in the centre of the site will result in a visually dominating building that will not sit comfortably in this context. Although the site is large and has few sensitive interfaces, the height of development must be commensurate with what can be expected on nearby sites. From this perspective, to the south is Princess Park and to the east is residentially zoned land outside the Brunswick Activity Centre and to the north, on the opposite side of Brunswick Road heights of up to 25 metres can be expected. This demonstrates that the proposed height of 45.25 metres is not anticipated in this locality and in fact, is not anticipated anywhere within the Brunswick Activity Centre.

However, given the size of the site, it is considered that some additional height beyond the preferred height of the DDO could be accommodated without unreasonably compromising the character of the locality. A mid-rise built form character is encouraged within the Brunswick Activity Centre, including heights up to 10 storeys. Although there is nowhere within the Brunswick Activity Centre that has heights designated above 25 metres (approximately 8 levels), this site is a suitable candidate to consider heights up to 10 storeys. If this height was sited behind an appropriate streetwall height as outlined in the DDO, 10 storeys could sit comfortably in the centre of this site without resulting in unreasonable impacts to surrounding properties, would not be visually dominating and would be generally in keeping with expectations for heights elsewhere in the Brunswick Activity Centre.

The height in its current form is unacceptable and should not be supported.

Princes Park overshadowing

The DDO18 includes a design objective to protect the amenity of existing public open space, seeking to ensure that development does not overshadow more than 50% of public spaces, including parks, between 10 am and 2 pm at the equinox. The development will not result in any overshadowing on Princes Park at the equinox.

While concerns have been raised about overshadowing during winter, the DDO18 does not reference consideration of shadowing of open space during winter. For completeness, officers assessed the potential impact of shadows cast at the winter solstice and noted that while there would be some overshadowing of the park at the winter solstice (up to approximately 1500 square metres), this represented a very small proportion of the park.

A reduction to the height of the building to that anticipated by the Planning Scheme (no more than 8-10 storeys) and a reduction in streetwall height in the corner of Sydney Road and Park Street would mean that the extent of shadowing at the winter solstice would be reduced.

Setbacks and streetwall heights

As the subject site has frontages to three roads, a variety of streetwall heights are applicable to the proposal. For Sydney Road a preferred streetwall height of between 8-11 metres is designated (this is mandatory only for properties on Sydney Road north of Brunswick Road) and 20 metres is designated for Brunswick Road. No specific streetwall height is designated for Park Street with the exception of the first five metres as it wraps around the corner from Sydney Road, which should match the preferred streetwall height of Sydney Road.

The proposal's compliance with these preferred heights is demonstrated in Table2 below.

Table 2

Street	Preferred Streetwall height	Proposed Streetwall height	Variation +/-
Sydney Road	8-11 metres	20.26 metres	+9.26 metres
Brunswick Road	20 metres	19.55 metres	-0.45 metres
Park Street	8-11 metres for the first five metres from Sydney Road	20.26 metres	+9.26 metres

Table 2 highlights the preferred Sydney Road streetwall height is exceeded by over 9 metres and that Brunswick Road is compliant.

With regards to upper level setbacks, Table 3 below outlines the proposal's extent of compliance.

Table 3

Street	Preferred upper level setback	Proposed upper level setback	Variation +/-
Sydney Road	5 metres	0-2.3 metres	- 5 metres to - 2.7 metres
Brunswick Road	5 metres	6.5 metres	+1.5 metres
Park Street	n/a	n/a	n/a

For the storeys that exceed the preferred streetwall in Sydney Road, no setback is proposed for the fifth and sixth storey and a 2.3 metre setback is proposed at the seventh where a 5 metre setback is preferred.

In addition to the minimum 5 metre setbacks specified, the upper levels of buildings should be designed in accordance with Figure 1 and 2 of the Design and Development Overlay (DDO18). This requires that no more than 25% of the upper levels will be visible from the opposite side of the street in Sydney Road and that no part of the building be visible when viewed from the opposite side of the street in Brunswick Road.

The proposal fails to achieve this metric on Sydney Road and Brunswick Road. For Brunswick Road the five storeys above the ninth storey will be visible. For Sydney Road, as noted above no setback is proposed for the fifth and sixth storey and the seventh storey is setback just 2.3 metres. These 3 levels will occupy more than 25% of what is viewed from the opposite side of Sydney Road and therefore fails to meet the objectives of the DDO by not complimenting the heritage character along Sydney Road, and failing to design upper levels to be visually recessive.

For Park Street, with the exception of the first 5 metres from Sydney Road no streetwall height or upper level setbacks are specified within the DDO. The northern side of Park Street is characterised by a mix of buildings including freestanding single and double storey dwellings, semi-detached dwellings and multi-level residential buildings of up to 5 storeys with little articulation or moderating of upper levels. Setbacks also range with some buildings constructed with a hard edge to the front boundary and some maintaining landscaped front yards.

The subject site has an extensive frontage to Park Street and therefore has an opportunity to provide more building mass and height towards the corner of Park Street and Sydney Road while stepping down to respond to the existing lower scale development further east along Park Street. The proposal seeks to achieve this by providing for 3 storey dwellings on the eastern end of the site and providing a clear 6 metre setback to the eastern boundary. This is considered to be a positive aspect of the proposal.

However, as discussed above, the streetwall height at the corner of Sydney Road and Park Street exceeds the preferred height and is considered to be a dominating form.

Building design and appearance

The development incorporates 5 building elements constructed around a central courtyard. Each of these elements have been designed to provide visual interest through the use of varied materials and a mix of different building typologies. Of note is the townhouses in the south eastern corner of the site and along Park Street and the building in the north east corner to be used for the childcare centre which provide some visual separation from the larger apartment building elements.

Despite these positive features, the proposal will result in a large expanse of unbroken building form presented to Brunswick Road. While attempts have been made to break up this building through providing a 19.5 metre streetwall with elements recessed to provide visual interest, this expanse of development is considered to be overwhelming. This may be addressed by introducing a clear break in built form along the Brunswick Road elevation.

In addition, the upper levels of the Sydney Road elevation will expose a large blank wall at the south west corner of the site, presented to the Sydney Road intersection. This façade should include windows or appropriate façade treatment to present an active frontage. Furthermore, the proposal raises concern that the Brunswick Road presentation at street level is dominated by inactive elements including services and a blank wall of the childcare centre. Greater visual interest should be provided to these sections.

Heritage

The proposal includes the demolition of the former City of Brunswick electricity supply transformer station. It is policy at 22.06-3.2 to encourage retention of contributory and significant heritage fabric to maintain the original streetscape appearance. The total demolition of a contributory and significant heritage place is discouraged unless it can be demonstrated that:

The building is structurally unsound and that the contributory or significant heritage fabric has deteriorated beyond reasonable repair and would require reconstruction of the whole.

Council's heritage advisor has reviewed the proposed demolition and has concluded that there is insufficient justification for the demolition of the transformer station and that heritage interpretation of the building and its history is not an acceptable alternative to its retention.

The demolition of this building should not be supported and this forms a ground of refusal. Instead, the proposal should be redesigned to retain this building in its entirety and the building repurposed. The site is large enough to be able to retain the heritage fabric without unreasonably compromising other strategic objectives of increasing housing density.

Does the proposal comply with Clause 22.07 of the Moreland Planning Scheme (Development of 5 or more storeys)?

Clause 22.07 seeks to ensure development is sufficiently separated to provide adequate daylight to habitable room windows, reasonable outlook from living rooms and reasonable future development opportunities of adjoining sites. The proposal has an immediate abuttal to four properties, two to the east and two to the west. The proposal's interaction with these interfaces is outlined in Table 4 below.

Table 4

Level	Outlook	Required setback	Proposed setback	Variation in metres (m)	
Up to 4 storeys/12 metres	Living/main balcony outlook to boundary	6 metres	East	6 m	0 m
			West	5 m	-1 m
	Bedroom outlook to boundary	3 metres	East	6 m	+3 m
			West	4.5 m	+1.5 m
5-8 storeys/up to 25 metres	Living/main balcony outlook to boundary	9 metres	East	11 m	+2 m
			West	5 m	-4m
	Bedroom outlook to boundary	4.5 metres	East	11 m	+5.5 m
			West	4.5 m	0 m
9 plus storeys	Living/main balcony outlook to boundary	12 metres	East	42 m	+30 m
			West	5 m	-7 m
	Bedroom outlook to boundary	6 metres	East	42 m	+36 m
			West	4.5 m	-1.5 m

Table 4 demonstrates that on the eastern boundary, the development provides for building separation that is compliant with the Clause 22.07 numerical standards. Compliance with the standards will ensure equitable development opportunities and adequate daylight access for future occupants. On the western side, however, the building results in living rooms or balconies that are too close to the western boundary at every level. From the ninth to the fourteenth storey, balconies and living rooms are located as close as 5 metres to the eastern boundary, 7 metres less than the 12 metres specified. This will result in unreasonable impacts on the future development potential of the adjoining land at 6 and 20 Sydney Road.

The development also has an abuttal to the southern boundary of 6 Sydney Road. The living room/main balcony or bedroom setbacks of apartments facing this boundary are compliant with Clause 22.07.

Clause 22.07 specifies that a building separation is not required where there is no outlook to a boundary, provided it does not affect the reasonable future development opportunities of the adjoining site. No outlook is proposed for a 7 storey wall on the southern boundary of 6 Sydney Road and a 6 storey wall on the eastern boundary of 20 Sydney Road.

The height and extent of these boundary walls combined with the size of the abutting lots means that their development potential will be unreasonably affected, particularly by limiting site layout options.

With regards to the separation of buildings within the site, the 7 storey building in the intersection of Park Street and Sydney Road and the tower in the centre of the site will result in setbacks far less than that required by Clause 22.07. On the northern side of the Park Street/Sydney Road building is a living room main balcony outlook with a setback of 10.2 metres to a living room main balcony on the southern side of the central tower. This is the case from the first to the sixth storey where setbacks of 12 metres is required up to 4 storeys and 18 metres above. This is a shortfall of 1.8 metres and 7.8 metres respectively.

Similarly for setbacks between the building on the eastern side of the site and the tower in the centre, insufficient setbacks of 15.6 metres are provided between living rooms on the fifth and sixth storeys where setbacks of 18 metres are required. This is a 2.4 metre shortfall.

Does the proposal satisfy the requirements of Clause 58 (Better Apartment Design Standards)?

The proposed development has been assessed against the standards and objectives of Clause 58 and results in a high level of compliance. Positive aspects of the proposal include the provision of communal open space well in excess of the minimum, over 50% of dwellings complying with the accessibility requirements and internal room sizes and balconies satisfying the standards. However, the proposal fails to achieve an appropriate response with regards to energy efficiency and insufficient cross ventilation is achieved for the dwellings. This is discussed in further detail below.

The following aspects of the proposal are also worth noting:

Communal outdoor space

While much of the communal outdoor area will be overshadowed in winter, more than 125 square metres will still receive sun light between 9 am and 3 pm, satisfying the relevant standard of this Clause.

Landscaping

Due to the size of the site, 15% of the land should be set aside for deep soil planting. The plans indicate that deep soil is provided along the entire length of the eastern boundary for a width of 6 metres and along part of the southern boundary at a width of 4 metres, equalling 10% of the site. However, much of this area is covered by impervious surfaces including the vehicle accessway, pedestrian paths and terraces. While 15% deep soil planting may not be achieved, sufficient canopy planting can be accommodated throughout the site to provide for an equivalent canopy cover including in small pockets of deep soil along the eastern boundary as well as within planting beds in the communal areas and roof top terraces.

A landscape plan has been submitted that depicts a range of planting throughout the site including small trees within planter beds and in ground planting. Planting is located around the perimeter of the site as well as within the communal spaces. Street trees are also shown within Park Street and Brunswick Road.

Does the proposal satisfy the requirements of Clause 55?

Clause 55 (Rescode) of the Moreland Planning Scheme is applicable to the townhouse type dwellings described as TH07-TH12 located in the south eastern corner of the development.

These dwellings have been assessed against the objectives of Clause 55 and are found to be acceptable. In particular they are sited to respond to the prevailing character of height and setbacks of dwellings in Park Street and will not result in any adverse amenity impacts to adjoining residential properties. With regards to internal amenity, balconies are of a size and dimension that exceed the standard and will receive sufficient daylight. With regards to storage, there is no externally accessible storage provided, however sufficient internal storage is provided.

Is the site potentially contaminated?

The site is affected by an Environmental Audit Overlay. The applicant has submitted two environmental site assessments dated 7 August 2014 and 27 July 2015 both of which analysed the potential contamination at the site. Council provided notice of the application to the Environmental Protection Authority (EPA) and provided them with a copy of the 2 site assessments. The EPA did not object to the proposal but recommended that the requirement to prepare an Environmental Audit be included as a condition of any permit granted. The inclusion of such a condition will ensure that the site is remediated to an appropriate standard to ensure the land is safe for future residents.

Has adequate car and bicycle parking been provided?

The Parking Overlay applies to part of the site (2 and 4 Sydney Road), but does not apply to the balance of the site. Therefore the application has been assessed as if a reduction for residential visitor spaces is required for the whole site.

A total of 294 car parking spaces are required for the dwellings plus 51 visitor spaces. The development provides 364 residential spaces on-site however no residential visitor spaces are proposed. Instead an additional 68 spaces are proposed to be allocated to the two bedroom apartments resulting in 156 spaces for 88 two bedroom apartments (approximately 1.8 spaces per 2 bedroom apartment, instead of 1). Therefore, while a surplus of spaces is provided a reduction is sought for the visitor spaces.

In addition, 12 spaces are required for the shop, and 22 spaces for the childcare centre. The development provides 5 spaces for the shop and 22 for the childcare centre. In addition, 10 visitor/customer spaces are proposed although there is no statutory requirement for this.

A total of 381 spaces are therefore required and 401 spaces are provided. While this exceeds the total statutory requirement, a reduction is required for 51 residential visitor spaces and 7 shop spaces.

Based on Council's Local Planning Policy at Clause 22.03-3 (Car and Bike Parking and Vehicle Access) it is appropriate 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 Jewell railway station within 600 metre, tram route 19 along Sydney Road and bus route 504 running east/west along Brunswick Road both within metres of the site. In addition, the proposal provides 83 bicycle parking spaces which is above the 78 specified in Clause 52.34.

A parking survey was undertaken by the applicant, which demonstrates adequate car parking is available within the area of the survey which included Park Street to the west up the train line and to the east up to Stranger Street as well as parts of Royal Parade, Sydney Road, The Avenue, Bowen Crescent and Lang Street. The results of the survey indicate that there is a moderate level of demand for on-street parking in the vicinity of the site with occupancy recorded between 40-62% (p.10, Traffic Engineering Assessment prepared by Traffix Group).

Council's Strategic Transport and Urban Safety Branch is satisfied that the statutory car parking requirement can be reduced for this application although raises concern that the proposal provides an excess of residential car parking spaces while providing relatively few bicycle parking spaces. Clause 22.08 (Environmentally Sustainable Development) of the Moreland Planning Scheme seeks to minimise car dependency and given the site's excellent access to cycling routes and paths, the site is well located to provide for additional bicycle parking. While the statutory bicycle parking rate has been satisfied through the proposal, a greater number of bicycle parking spaces would encourage the modal shift, reducing car dependency and assist with the proposal's compliance with Clause 22.08.

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

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

In relation to traffic impacts, the submitted Transport Impact Assessment calculates that the residential component of this development will generate about 1020 vehicle trip ends per day. Council's Strategic Transport and Urban Safety Branch considers that this traffic will use Park Street to access either Sydney Road or Brunswick Road with Park Street designed to support Brunswick Road to reduce the traffic congestion at Sydney Road and Brunswick Road. They have concluded that the additional vehicles will not result in these roads exceeding the maximum volumes permitted under the Moreland Integrated Transport Strategy and on this basis, the use of Park Street for vehicle access is acceptable. An additional vehicle access point on Brunswick Road was therefore not considered to be necessary.

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

The proposal would result in the removal of approximately 12 existing vehicle crossovers from the various allotments that make up the site, returning these to on-street public parking spaces and limiting vehicle access to one location. However, Council's Strategic Transport and Compliance Branch consider that the 7 metre wide crossover is excessive and should be reduced to a width of no more than 6 metres.

With regards to the impact of the proposal on cyclists, Council's Sustainable Transport Officer indicates that approximately 96 eastbound cyclists use the Park Street on road bike lane during the morning peak (8.15 – 9.15 am). The proposed accessway to the site will cross this bike lane. The submitted traffic engineering assessment estimates that 102 vehicle trips can be expected in the peak hour. While this assessment does not provide commentary on the potential conflict between cyclists and vehicles, Council's Development Advice Engineer has commented that the frequency of cyclist and vehicle movements and the potential for conflict will not result in an unreasonable safety concern, particularly given that cyclists will have the right of way.

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

Council's ESD officer has reviewed the proposal and notes inadequacies in the ESD response. In particular the development would result in:

- Poor energy performance, with a 6 star NatHERS rating for dwellings and incorporating no solar energy generation.
- Poor indoor environment quality with dwellings designed with poor cross ventilation.
- Inadequate bicycle parking facilities.
- Insufficient greening of the site contributing to the Urban Heat Island Effect.
- Insufficient green waste facilities to reduce waste generation.

The proposal has failed to adequately respond to the objectives of Clause 22.08 and will not result in best practice ESD as sought by this policy. This forms a recommended ground of refusal.

Is the proposal accessible to people with limited mobility?

The development will result in an appropriate outcome with regards to accessibility. The internal apartment layouts have been designed to achieve compliance with Clause 58 (Better Apartment Design Standards) ensuring at least 50% of dwellings have:

- A clear opening width of at least 850 millimetres at the entrance to the dwelling and main bedroom.
- A clear path with a minimum width of 1.2 metres that connects the dwelling entrance to the main bedroom, an adaptable bathroom and the living area.
- A main bedroom with access to an adaptable bathroom.
- An adaptable bathroom.

An accessibility consultant has reviewed the proposed development and notes that, with some changes, the common areas and circulation spaces would achieve compliance with the Access to Premises Standard, AS 1428, and the Disability Discrimination Act (DDA).

5. Response to Objector Concerns

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

- The height and scale of the building is not in keeping with the scale of nearby buildings.
- The site is an important gateway.
- The height and scale will set a bad precedent.
- Congestion.
- Heritage context.
- Incompatible with Princes Park.
- Insufficient bicycle parking provided on site.
- Single vehicle access point is insufficient.
- The height of the development is excessive and will be dominating.
- Loss of heritage fabric.
- Substation should be incorporated into the design.
- Insufficient open space incorporated into the design.
- Overshadowing of Princes Park.
- Loss of available parking.
- Increased risk to cyclists.
- Vehicle access from Brunswick Road should also be provided.
- Site contamination.

Other issues raised by objectors are addressed below.

Dominate views from Princes Park

This report acknowledges the proposed height and setbacks of the building will result in a dominating building that will be highly visible from Princes Park. For reasons outlined above, the height as proposed is excessive however heights of between 8 and 10 storeys may be acceptable.

Dangerous traffic situations due to major traffic intersections of Sydney Road and Park Street

Council's Development Advice engineer has reviewed the proposal and has not raised specific concerns about these intersections and the way the proposal may impact on them.

The Childcare centre will generate excessive parking

The proposal includes the provision of onsite parking for drop off and pickup purposes at the childcare centre. The use of the land for childcare centre is not expected to result in adverse parking impacts.

Loss of privacy due to overlooking

A screen diagram has been shown on submitted plans, indicating that external screens will be located on the east elevation of habitable room's windows to avoid unreasonable overlooking of the residential property at 180 Brunswick Road. This is considered to be an appropriate response.

Overshadowing, impact on health, garden and solar panels

The proposal will result in some additional overshadowing to the properties at 180 Brunswick Road and 697 Park Street from 2 pm and 178 Brunswick Road from 3 pm. The extent of this additional shadowing is considered acceptable.

Loss of views

The Victorian Civil and Administrative Tribunal has consistently found that although impact upon views can be considered amongst the amenity impacts of a proposal, there cannot be considered a right to any particular view. In the absence of particular planning controls which might require the protection of, or sharing of views, loss of views is usually afforded very limited weight. This is especially the case where a view is obtained across adjoining land and the views are not afforded any special consideration in a planning control. In this case the development is not considered to intrude unreasonably upon the skyline to reduce the amenity of neighbours through their outlook or access to daylight.

Whilst it is recognised that views may form part of residential amenity, the Tribunal has consistently held that there is no legal entitlement to a view.

Concern about where bins will be stored and collected from

The development will be serviced by a private waste contractor and bins will be stored and collected from the basement level. A waste management plan has been submitted with the planning application. A satisfactory waste management plan should form part of any permit that may be issued for the development.

Population density is too great

State and Local planning policy seek to increase housing density in locations such as this that have excellent access to transport and services.

Impacts on wind flows

The applicant did not submit a wind impact assessment. A condition of any permit granted should require the preparation and submission of a wind impact assessment with the recommendations of such an assessment implemented.

Traffic exhaust

This is not a relevant planning consideration. This report notes that reduced vehicle parking provision is supported in this location.

Impact on infrastructure facilities and public transport

The ongoing development of the locality will result in more intensive use of infrastructure. The planning scheme encourages this, to make efficient use of available infrastructure and services. Activity centres like Brunswick have been identified due to the services and facilities that are available. The excellent access to services and facilities is one reason why intensive development is sought here.

A bridge linking the development and the north side of Princes Park is inappropriate.

The proposal does not include a bridge to Princess Park.

The retail component will detract from existing commercial strip of Sydney Road.

The zoning of the land allows for retail and commercial uses and the proposal will add to and complement the existing strip shopping along Sydney Road to the north.

Need greater number of larger apartments including 3 bedrooms.

The proposal is considered to result in an acceptable diversity of dwelling types and sizes.

The proposed pedestrian path does not add significant benefit to public access in the area and there is no clear objective or guarantee regarding the 'community amenities'. They could be repurposed at a later stage.

The provision of the pedestrian link from Park Street to Brunswick Road is considered to provide a convenient link through the site if a permit were to issue, condition of approval could secure public access to this link via a legal agreement. It is unclear how the community hub would be utilised and if there would be demand for its use. The Planning Scheme does not direct the provision of a community space for this site.

6. Officer Declaration of Conflict of Interest

Council Officers involved in the preparation of this report do not have a Conflict of Interest in this matter.

7. Financial and Resources Implications



There are no financial or resource implications.

8. Conclusion

It is considered that the proposed development would result in an unacceptable impact on the character of the locality, failing to appropriately respond to the unique context of this site. The proposal includes inadequate building separation resulting in impacts on development potential of adjoining sites and inadequate access to daylight. The excess of onsite parking is also not site responsive and fails to reduce car dependence. The demolition of the heritage building is not supported.

On the balance of policies and controls within the Moreland Planning Scheme and objections received, it is considered that application No MPS/2016/985 should be refused on the grounds included in the recommendation of this report and that this be Council's position at VCAT.

Attachment/s

- | | | |
|--|--------------------------------------|------------|
| 1  | Locality Plan and Objector Locations | D18/222461 |
| 2  | Development Plans | D18/83460 |

**DED41/18 3-5 CENTENNIAL AVENUE, BRUNSWICK WEST -
MPS/2013/309/A - MODIFICATIONS TO APPROVED
APARTMENT DEVELOPMENT (D18/99194)**

**Director Planning and Economic Development
City Development**

Executive Summary

The application seeks approval for modifications to the approved 3 storey apartment development at 3-5 Centennial Avenue, Brunswick West. The application was advertised and 17 objections were received. The main issues raised in objections are concerns in relation to the level of change made to the proposal since the VCAT determination of the application and the impact of the proposed modifications on the amenity of adjoining properties.

A Planning Information and Discussion meeting was held on 19 March 2018, following which without prejudice plans were circulated to objectors for their feedback. These without prejudice plans offered more screening to reduce overlooking and conceal plant equipment. The applicant amended their application on 14 May 2018 to include further modifications to the approved development. Copies of the amended plans were also circulated to objectors for their feedback. No withdrawal of the objections resulted from either circulation.

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 proposed window modifications on the adjoining property at 1 Centennial Avenue;
- The bulk and shadowing impact of the balcony modifications on adjoining properties; and
- The additional height resulting from the addition of rooftop screening.

The proposal meets the requirements of Clause 55 in relation to overlooking and shadowing. It is also considered to be acceptable in relation to visual bulk to the rear, however the proposed increase in upper level wall to the eastern elevation is considered to result in an unacceptable level of visual bulk.

It is recommended that a Notice of Decision to Grant an Amended Planning Permit be issued for the proposal and that this include requirements to delete the proposed modification to the upper level wall and to reduce the extent of rooftop screening.

Officer Recommendation

That a Notice of Decision to Grant an Amended Planning Permit No. MPS/2013/309/A be issued for the construction of a three storey building plus basement and a reduction in car parking, in accordance with the endorsed plans at 3-5 Centennial Avenue, Brunswick West, subject to the following conditions (**amended conditions in bold**):

- 1A. Unless otherwise agreed in writing by the responsible authority, within 1 month of the date of the amendment of this permit, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans prepared by C Kairouz Architects marked TP10 – Amendment and submitted on 14 May 2018, but modified to show:**

- a) **The area of ground floor roof located between dwellings 1.02 and 1.03 to be marked as 'Non trafficable – maintenance access only' on the first floor floor plan;**
 - b) **Full details, including the type, footprint and height, of plant to be installed within the rooftop plant area nominated to be screened, with the siting of plant focussed toward the north-eastern section of the approved plant area;**
 - c) **A reduction in the extent and height of the proposed rooftop screen to the minimum necessary to screen view of the plant from the immediately abutting properties.**
 - d) **The eastern balcony wall to Dwelling 2.02 to be amended to accord with that indicated on the plans endorsed by Council on 13 October 2017.**
1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans dated 1 July 2014 (Revision V) but modified to show:
- a) All first floor balconies on the western, eastern and southern elevations and all first floor habitable room windows on the eastern elevation screened in accordance with Standard B22 at Clause 55.04-6 of the Moreland Planning Scheme, by either:
 - i. Having sill heights of at least 1.7 metres above finished floor level.
 - ii. Having fixed, obscure glazing in any part of the window below 1.7 metre above floor level.
 - iii. Having permanently fixed external screens to at least 1.7 metres above floor level and be no more than 25 per cent transparent.
 - b) All second floor habitable room windows and balconies on the eastern and western elevations screened in accordance with Standard B22 at Clause 55.04-6 of the Moreland Planning Scheme, by either:
 - i. Having sill heights of at least 1.7 metres above finished floor level.
 - ii. Having fixed, obscure glazing in any part of the window below 1.7 metres above floor level.
 - iii. Having permanently fixed external screens to at least 1.7 metres above floor level and be no more than 25 per cent transparent.
 - c) The balconies of dwellings 2.2 and 2.4 screened to limit angled views to the secluded private open spaces of 1 and 7 Centennial Avenue in accordance with Standard B22 at Clause 55.04-6 of the Moreland Planning Scheme.
 - d) A screen diagram drawn at a scale of 1:50 which details any screening provided in accordance with conditions 1a), 1b) and 1c). This diagram must include:
 - i. All dimensions, including the width of slats and the gap between slats.
 - ii. All side screens.
 - iii. How compliance is achieved with the standard of Clause 55.04-6 (overlooking) of the Moreland Planning Scheme.
 - e) Notations on the northern elevation that all glass balustrades on balconies facing Centennial Avenue will be transparent.

- f) A new highlight window (with sill height at least 1.7 metres above finished floor level) in the western wall of the living room of dwelling 1.2 and in the western wall of the bedroom of dwelling 1.1.
- g) Reduced deck size to dwelling 0.4 to accord with the landscape plan required by condition 3 of this permit.
- h) Modified footings to the east side of dwelling 0.3 to ensure protection of an existing tree on 1 Centennial Avenue.
- i) Alignment of the roof opening with the internal light court.
- j) Notation of acoustic treatment to the west facing bedroom window of dwelling 0.2 and the east facing bedroom window of dwelling 0.3.
- k) Internal north facing highlight windows to bedrooms of dwellings 0.2 and 0.3 (in dwelling 0.3 that bedroom adjacent to the kitchen).
- l) Relocation of all ground level rainwater tanks to basement level or under vehicle ramp.
- m) The vehicle access way modified to be 3 metres wide at the street frontage. The width may increase approaching the basement.
- n) The vehicle crossover modified to be 3 metres wide and matching the location and width of the access way. The crossover must have 1 metre straight splays on both sides commencing at the property boundary and finishing at the kerb.
- o) Two car spaces allocated to the three bedroom dwelling, one car space allocated to each two bedroom dwelling, and one car space allocated to 12 of the one bedroom dwellings.
- p) The visitor bicycle stands in front of dwelling 0.3 relocated to be 0.7 metres from the street frontage and with 1 metre spacing between the rails.
- q) A landscape plan in accordance with condition 3 of this permit.
- r) An amended ESD Assessment and Report in accordance with condition 6 of this permit.
- s) Initiatives in the amended ESD report annotated on the plans, including but not limited to the harvesting of rainwater and provision of harvested rainwater to rainwater tanks to be relocated to basement and connected to toilets on ground and first floor for flushing and for irrigation of landscaping including planter boxes.
- t) The location of any air-conditioning units and other plant equipment, including any screening.
- u) A schedule of all proposed exterior decorations, materials, finishes and colours, including colour samples (3 copies in a form that can be endorsed and filed).
- v) The location of any substation required by the power company for this development. Any substation must be incorporated within the building (i.e. not freestanding or pole mounted in the street) to ensure minimal impact on the visual amenity of the public realm.
- w) The following notations on the plans to be corrected:
 - i. 'Window height' as noted to the first floor balconies of dwellings 1.6 and 1.7 metres is to be amended to 'screen height'.
 - ii. The notation on the second floor plan to dwelling 2.4 indicating 'obscured window' to the west facing living room, kitchen and bathroom windows is to be amended to 'minimum sill heights to 1700 millimetres'.

- iii. The notation on the second floor plan to dwellings 2.1 and 2.4 indicating 'obscured window' to the west facing bedroom windows is to be amended to 'minimum screen heights to 1700 millimetres'.
 - iv. The notation on the first floor plan to dwelling 1.3 indicating 'screened window' to the east facing living room and kitchen windows is to be amended to 'minimum sill heights to 1700 millimetres'.
 - v. The notation on the second floor plan to dwelling 2.1 indicating 'obscured window' to the east facing living room window is to be amended to 'minimum sill heights to 1700 millimetres'.
 - vi. The notation on the second floor plan to dwelling 2.2 indicating 'obscured window' to the east facing kitchen windows is to be amended to 'screened to 1700 millimetres'.
 - vii. The notation on the second floor plan to dwelling 2.2 indicating 'obscured window' to the east facing bathroom window is to be amended to 'minimum sill height to 1700 millimetres'.
 - viii. The north elevation is to show a screen to a minimum height to 1700 millimetres to the living room window of dwelling 0.3. (noted on plan, but not on elevation).
 - ix. Correct floor area of dwelling 0.5.
2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. Prior to the commencement of any development works, a landscape plan generally in accordance with the Plan numbers V01, V01 and V03 dated July 2014 prepared by John Patrick Pty Ltd must be submitted to and approved by the Responsible Authority but modified to show:
 - a) A schedule of all proposed trees, shrubs and ground covers (including numbers, size at planting, size at maturity and botanical names), as well as sealed and paved surfaces. The flora selection and landscape design should be drought tolerant and based on species selection recommended in the Moreland City Council landscape Guidelines and Technical Notes.
 - b) Proposed hedge planting in the front setback of dwellings 0.1 and 0.2 to be semi mature or substantial height at the time of planting.
 - c) The relocation of water tanks shown at ground level to basement level and additional hedge type planting with plants capable of reaching above fence height in place of tanks adjacent to dwellings 0.4, 0.6 and 0.7.
 - d) Tree protection measures during excavation and construction for the existing street tree along the frontage of the site, and trees located adjacent to the site at 1 Centennial Avenue, 7 Centennial Avenue and 42 Heller Street.
 - e) 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.
 - f) An irrigation system that includes irrigation to planter boxes, the light well and all garden areas.
4. Prior to the occupation of the development all landscaping works must be completed in accordance with the approved and endorsed landscape drawing to the satisfaction of the Responsible Authority. The areas designated as landscaped areas on the endorsed landscape plan must thereafter be maintained and used for that purpose to the satisfaction of the Responsible Authority.

5. The Waste Management Plan approved under this permit (prepared by Leigh Design, dated 26 September 2013, or as amended 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.
6. Prior to the commencement of the development, an amended ESD Assessment and Report, prepared by a suitably qualified environmental engineer or equivalent, must be submitted and approved to the satisfaction of the Responsible Authority. The amended ESD Report must be generally in accordance with the report prepared by Efficient Energy Choices dated 08/08/13, but modified to:
 - a) Reflect revised development plans dated as required by Condition 1 of the permit.
 - b) Include revised STORM calculations based on the correct roof area.

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

7. Prior to the occupation of any dwelling approved under this permit, a report from the author of the endorsed ESD Report approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the endorsed ESD Report have been implemented in accordance with the approved Report.
8. Prior to the occupation of the development all visual screening measures shown on the endorsed plans including landscaping 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.
9. Prior to the occupation of the development, a vehicle crossing must be constructed as shown on the endorsed plans to a standard satisfactory to the Responsible Authority (Moreland City Council, City Infrastructure Department).
10. 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).
11. Prior to the occupation of the development, any Council or service authority pole or pit within 1 metre of a proposed vehicle crossing, including the 1 metre splays on the crossing, must be relocated or modified at the expense of the permit holder to the satisfaction of the Responsible Authority and the relevant service authority.
12. An automatic light must be installed and maintained in the parking area so that the light operates automatically when a vehicle enters or leaves the land between dusk and dawn and no direct light is emitted onto adjoining property to the satisfaction of the Responsible Authority.
13. The level of the footpath at the property boundary must not be altered to the satisfaction of the Responsible Authority.
14. All stormwater from the land, where it is not collected in rainwater tanks for re-use, must be collected by an underground pipe drain approved by and to the satisfaction of the Responsible Authority (Moreland City Council, City Infrastructure Department).
15. Prior to the occupation of the development, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.

16. Unless with the prior written consent of the Responsible Authority, any plumbing pipe, ducting and plant equipment must be concealed from external views. This does not include external guttering or associated rainwater down pipes.
17. Prior to the occupation of the development all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land (including all existing and new buildings) must be underground to the satisfaction of the Responsible Authority.
18. A letterbox must be provided for each of the premises accessible from the street frontage. The dimensions, placement and numbering must comply with the Australia Post – Letterbox Security and Specification as published on its website to the satisfaction of the Responsible Authority.
19. This permit will expire if one of the following circumstances applies:
 - a) The development is not commenced within two (2) years from the date of issue of this permit;
 - b) The development is not completed within four (4) years from the date of issue of this permit.

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

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

1. Background

Subject site

The subject site is located at 3 and 5 Centennial Avenue, Brunswick West. The site is currently developed with a substantially completed apartment building, which incorporates a basement car park and construction over three levels above ground.

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

Surrounds

The surrounding area is characterised by mostly single and double storey dwellings of a variety of ages and styles, and of double storey multi dwelling developments, set within established gardens. A notable exception are the two storey 1960s/1970s flats located opposite the site.

A location plan forms **Attachment 1**.

The proposal

The proposed amendments to the approved plans are summarised as follows:

- Provision of clear glass with a fixed external screen to the lower 1.7 metres of the east facing bedroom window of dwelling 1.02, in place of the approved obscure glass to this section of the window;
- Provision of full height windows with fixed obscure glazing in place of the highlight windows approved to the east facing living room windows of dwelling 2.02; and
- An increase in the height of the southern end of the eastern wall of the balcony to dwelling 2.02 at the third level. This wall would now be of a single height, rather than stepping down 1.3 metres for the rear 0.9 metres.

Planning Permit and site history

The current construction on the site was authorised by Planning Permit MPS/2013/309 (the permit), which was issued at the direction of the Victorian Civil and Administrative Tribunal on 14 October 2014, following the applicant's successful review against Council's refusal of the application.

Amended plans have previously been approved for the permit, as follows:

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| 14 Jan 2016: | Plans endorsed pursuant to condition 1 of the permit. These plans also include a number of modifications which were not either specifically sought by the permit, identified by the permit applicant in their correspondence to Council, or considered by Council. Most notably, this included the provision of a roof over a 2.8 metres deep section of the south facing balconies of the third level. |
| 31 October 2017: | Plans approved under Secondary Consent, with amendments including: |

- Amalgamation of dwellings G.04 and G.05 to a single dwelling. Number of apartments have changed accordingly and the overall number of apartments on ground floor reduced from 9 to 8 apartments;
- Minor material and finish changes;
- Modification of window locations at the ground and second floor levels, with maintenance of screening to 1.7 metres above finished floor level;
- Enclosure of the eastern side of the dwelling 2.02 balcony and the west side of the dwelling 2.03 balcony; and
- The provision of a rooftop service deck, with access from dwelling 2.03.

The permit remains valid, with completion currently required by 16 October 2018. The current approved plans form **Attachment 2**.

Statutory Controls—why was a planning permit required?

At the time of the original lodgement of the application, the land was zoned General Residential Zone. Since that date, Amendment C153 was gazetted rezoning the land to Neighbourhood Residential Zone. Pursuant to the General Residential Zone, a permit was originally required for the construction of more than one dwelling on a lot.

The following Particular Provisions of the Moreland Planning Scheme were 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 55: Two or more dwellings and residential buildings.

Planning Scheme Amendments

Since the issue of the planning permit, a number of amendments have been approved which impact upon the site and consideration of the proposal:

- Amendment C153 rezoned the land and surrounding properties to Neighbourhood Residential Zone.
- Amendment VC110 introduced mandatory height controls and the Garden Area requirement into the Neighbourhood Residential Zone. The applicable mandatory maximum height is 2 storeys, or 9 metres, above ground level. Whilst the building on site exceeds this requirement, and the proposed modifications include alterations to the third floor level, Clause 32.09-9 provides that:

An extension to an existing building may exceed the applicable maximum building height or contain more than the applicable maximum number of storeys if it does not exceed the building height of the existing building or contain a greater number of storeys than the existing building.

Building height extends from the ground to the top of the roof or parapet, but does not include rooftop plant.

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.

Council has received 17 objections from 13 households to date. A map identifying the location of objectors forms **Attachment 1**.

The key issues raised in objections are:

- The proposed modifications add to the character, bulk and overlooking issues of the development;
- The proposed balcony wall modification results in additional shadowing and bulk issues to the neighbouring properties;
- The proposal has been incrementally changed a number of times since the Tribunal's decision, with neighbours not being advised of these changes, which have increased the impact of the proposal upon them;
- The proposed window modification will allow access onto a section of ground floor roof adjacent to dwellings 1.02 and 1.03, and the future use of this area as a balcony; and
- The proposed window screen provides greater potential for overlooking of 1 Centennial Avenue than the previous obscure glass, whilst the window layout is less aesthetically pleasing than that shown on the VCAT plans.

A Planning Information and Discussion meeting was held on 19 March 2018 and attended by 2 Council Planning Officers, the applicant and 4 objectors. The meeting provided an opportunity to explain the application, for the objectors to elaborate on their concerns, and for the applicant to respond. The applicant tabled without prejudice plans at this meeting which included:

- Modifications to the dwelling 1.02 window to provide obscure glass to a height of 1.7 metres above finished floor level, in place of the screen proposed;
- The provision of additional screening to the south facing first floor balconies (including the eastern and western sides of these balconies), including a solid screen 1.5 metres in height in addition to the approved 1.7 metres high screen with 25% transparency; and
- The provision of a screen extending to 1.8 metres in height above the upper level parapet to restrict view of plant and equipment. It is understood that this screen had been installed in the days prior to the meeting.

The objectors were provided with a copy of the plans, and their feedback sought in relation to them. As a result, two parties have sought to reinforce their objection to the proposal, but no withdrawal of an objection has been received.

Amended application (Section 57A)

On 14 May 2018 the applicant amended the application to include:

- Modifications to the first floor dwelling 1.02 east facing bedroom window to include obscure glazing to a height of 1.7 metres above floor level;
- The roofing of the south facing balconies at the upper level;
- The provision of a screen to sections of the roof shown as plant area;
- Modifications to the external materials and finishes;
- The layout of support piles within the basement;
- Minor changes to the layout of basement storage and service areas;
- Provision of a nib wall between the open space of dwellings G.06 and G.07;
- Modifications to the entry treatment and service locations;
- Minor internal layout changes to some dwellings;
- An increase in the extent of obscure glazing to selected windows;
- Provision of a canopy over the central courtyard at first floor level; and
- Provision of a balustrade to the first floor courtyard.

With the exception of the modification to the window of dwelling 1.02, approval of each of these modifications is sought retrospectively. These amended plans form **Attachment 3** to this report.

Formal notice of the amendment was not given as it was considered that the majority of modifications made were minor and did not alter the impact of the proposal upon any adjoining property. A copy of the amended plans and covering letter detailing the modifications included was provided to each of the objectors, and their feedback sought in relation to them. Three responses have been received, reiterating concern in relation to the proposed modifications, and outlining concerns in relation to the provision of a spiral staircase to the roof, and the proposed screening to sections of the roof. No withdrawal of objection has been received as a result.

Internal/external referrals

No internal or external referral of the application was required.

3. Policy Implications

State Planning Policy Framework (SPPF)

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

- Clause 9: Plan Melbourne
- Clause 11.02 Urban Growth
- Clause 15.01 Urban Environment
- Clause 15.02 Sustainable Development
- Clause 16.01 Residential development
- Clause 16.02 Housing Form

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 21.03-3 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 22.08 Environmentally Sustainable Design

The MSS envisages minimal housing growth in areas outside of Activity Centres within the Neighbourhood Residential Zone (NRZ), to ensure an ongoing supply of single dwellings and low density multi-dwelling developments. Whilst the NRZ aims to limit opportunities for increased residential development, the modifications proposed are to an under-construction apartment building and do not alter the building's response to the existing and preferred 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. Council's consideration is limited to the amendments being sought, and it is not able to revisit whether an apartment building is appropriate for this site.

Is the proposal consistent with the planning permit?

The proposed modifications do not breach any conditions of the planning permit, and do not represent a transformation of the proposal when compared to both the currently endorsed plans and the plans considered by VCAT.

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

The Tribunal, in granting a permit for the proposal, determined an apartment development was an acceptable response to Clause 22.01 (Neighbourhood Character) and Clause 55.02 (Neighbourhood Character and Infrastructure) of the Moreland Planning Scheme. The modifications proposed will not significantly alter the proposal as viewed from Centennial Avenue and will not impact upon the character of the area as appreciated from the street.

The proposed roofing of the top level balconies and rooftop screens will be visible from the rear however it is considered that these modifications will not have a significant impact upon the character of the area as appreciated from the rear, given the three storey nature of the remainder of the building.

Is an appropriate level of privacy maintained to the adjoining properties?

Clause 55.04-6 (Overlooking) of the Moreland Planning Scheme does not aim to eliminate all overlooking, but rather seeks to prevent unreasonable overlooking. This includes a requirement that screening with a maximum of 25% transparency be provided to restrict overlooking to adjoining habitable room windows or private open space areas within 9 metres of a new balcony or habitable room window.

The amended plans indicate the use of obscure glass and highlight windows which meet these requirements to the east facing windows, whilst increasing the level of screening provided to the east and west from the second floor balconies. These amendments also address concerns of the adjoining neighbour to the east in relation to the relative privacy provided by external screening, as opposed to obscure glazing.

It is noted that whilst the adjoining neighbours to the rear have raised concern in relation to the extent of screening provided by the first floor balcony screens, these are not proposed to be amended and currently provides a maximum of 25% transparency to the area within approximately 9 metres of the balconies as required by the Planning Scheme.

The proposal responds appropriately to the provisions of Clause 55 with respect to overlooking.

Does the proposal result in excessive shadowing of the adjoining properties?

Clause 55.04-5 of the Moreland Planning Scheme outlines that a development should ensure that at least 75% or 40 square metres (whichever is the lesser) of the secluded private open space of surrounding properties retains at least 5 hours of sunshine at the equinox. A review of the plans considered by VCAT indicates that the proposal incorporated the provision of:

- Minor amounts of additional shade to 1 Centennial Avenue from 2 pm at the equinox. The dwelling would retain sunlight to approximately 167 square metres of private open space at 2 pm and 134 square metres at 3 pm, well in excess of the standard; and
- No appreciable increase in shadow to the properties to the south at the equinox, due to the proposed rear boundary setback, including increased setbacks to the upper levels.

Whilst the modifications made to the balcony of dwelling 2.02 result in some increase in shadow to the neighbouring property at 1 Centennial Avenue in the mid-late afternoon, this increase, inclusive of the increase resulting from the roofing of the balcony, is in the order of 2 square metres at 2 pm and 4 square metres at 3 pm, ensuring that the neighbouring property retains an adequate level of sunlight access. The modifications will not result in an increase in shade to the properties to the south. It is therefore considered that the increase in shade associated with the balcony wall modification is acceptable.

Does the proposal incorporate excessive visual bulk to the neighbouring properties?

The proposed roofing of the third floor balconies increases the extent of the third floor that is visible from the adjoining properties to the rear. Whilst the impact upon the rear yard of 44 Heller Street is reduced by the fact that the rear setback of that property is used for car parking and clothes drying rather than recreation, the additional built form is visible from north facing living areas and the secluded private open space at 42 Heller Street. Whilst three storey development is unusual in this area, and the balcony roofs do increase the visibility of this element, it is noted that:

- A section of the third floor was previously visible from the neighbouring property,
- The 9.85 metre setback proposed to the balcony roofs both reduces the bulk associated with them and is well in excess of the 4 metre sought by ResCode for a wall of the same height; and
- The location of the southern walls of the dwellings and the treatment of the balcony balustrades remains unchanged, resulting in a less imposing built form than a wall at a similar setback.

These factors result in a built form which is considered to include an acceptable level of bulk to the neighbouring property.

The proposed modification to the eastern wall of balcony 2.02 will result in an additional 1.2 square metre of wall at the top level of the building compared with the plans previously endorsed, or 5.6 square metre compared with those plans considered by VCAT. Whilst the proposed modification is minor in extent when compared with the plans most recently approved, the cumulative change resulting from the modifications made since the proposal was considered by VCAT is such that an unacceptable increase in visual bulk results. This is considered to be of particular concern given the proximity of the wall to the boundary, and that the additional form proposed is at the third floor level. This modification should be deleted by permit condition.

Is the additional height acceptable?

The proposed screens to sections of the roof are understood to have been included to restrict view of the rooftop plant from the neighbouring properties, although it is noted that no such screening is indicated to the solar panels provided toward the south-eastern corner of the roof area.

The provision of screening to restrict views of plant and equipment from the abutting properties is supported. However, the plans do not clearly indicate what plant is proposed to be installed within the screened area, the screened area is substantially larger than the indicative plant area shown, and the screens extend above the approved height of the building. It is therefore considered appropriate to require amended plans to indicate full details of the proposed plant, with screening to be restricted to the minimum extent necessary to restrict view of it from the abutting properties i.e.; set back from the perimeter of the roof edge.

5. Response to Objector Concerns

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

- The proposed modifications add to the character, bulk and overlooking issues of the development;
- The proposed window screen provides greater potential for overlooking of 1 Centennial Avenue than the previous obscure glass, whilst the window layout is less aesthetically pleasing than that shown on the VCAT plans; and
- The visual impact of the proposed rooftop screens.

Other issues raised by objectors are addressed below.

Previous modifications

Whilst the proposal has been modified to include a number of minor changes that do not increase its impact upon the neighbouring properties since it was approved (including the provision of a staircase to the roof from balcony 2.03), there have been a number of modifications for which formal approval was not previously sought. This matter has now been rectified through the amendment of the current request as detailed above.

Use of roof space

Objectors have raised the potential for the roof adjacent to Dwellings 1.02 and 1.03 to be utilised as a balcony, based upon concerns that the bedroom window proposed to be modified may be converted to a door in the future. The applicant has included a note on the revised elevations indicating that this area is to be non-trafficable, save for maintenance access. Whilst not strictly necessary from a planning perspective (as a window, rather than a door is indicated), for clarity this should also be included on the floor plan.

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, save for the rooftop screening and the eastern wall to the third floor balcony, the proposed modifications are acceptable.

On the balance of policies and controls within the Moreland Planning Scheme and objections received, it is considered that Notice of Decision to Grant an Amended Planning Permit No MPS/2013/309/A should be issued for construction of a 3 storey building plus basement and a reduction in car parking, in accordance with the endorsed plans subject to the conditions included in the recommendation of this report.

Attachment/s

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|--------------------------|---|------------|
| <u>1</u> | Location Plan - 3-5 Centennial Avenue, Brunswick West | D18/193596 |
| <u>2</u> | Endorsed Plans - 3-5 Centennial Avenue, Brunswick West | D18/193607 |
| <u>3</u> | Application Plans - 3-5 Centennial Avenue, Brunswick West | D18/193617 |