1. WELCOME

2. APOLOGIES

3. CONFIRMATION OF MINUTES

   The minutes of the Urban Planning Committee Meeting held on 27 July 2016 be confirmed.

4. DECLARATION OF INTERESTS AND/OR CONFLICT OF INTERESTS

5. COMMITTEE REPORTS

   PLANNING AND ECONOMIC DEVELOPMENT

   DED69/16  31-37 STEWART STREET & 12-20 HARDY STREET, BRUNSWICK - PLANNING APPLICATION
   MPS/2015/269 (D16/249817) 3

   DED70/16  2-8 BARRY STREET BRUNSWICK PLANNING PERMIT
   APPLICATION MPS/2015/1002 (D16/158084) 25

   DED71/16  718-722 SYDNEY ROAD, COBURG NORTH - PLANNING APPLICATION MPS/2015/595 (D16/216599) 89

   DED72/16  22, 24-26, 28 AND 30 PENTRIDGE BOULEVARD AND
   27, 29 AND 31 URQUHART STREET, COBURG - REQUEST FOR AN EXTENSION TO PLANNING
   PERMIT NO. 2011/012837A (D16/262423) 142

6. URGENT BUSINESS REPORTS
Executive Summary

The application seeks approval for the partial demolition of the existing buildings and the construction of dwellings with a reduction of the car parking requirement. The application was refused without advertising because the information provided with the application was inadequate. An application for review has been lodged with the Victorian Civil Appeals Tribunal (VCAT) and amended plans have been submitted to VCAT.

The amended plans have been circulated to neighbouring properties by the permit applicant. 39 statements of grounds (objections) have been lodged with VCAT and there are 7 objec- tors who have indicated they will appear at the hearing. The main grounds raised by objectors include the density, car parking and traffic, the height, overshadowing and overlooking.

The application was lodged prior to the site being rezoned from General Residential Zone to Neighbourhood Residential Zone. The proposal is therefore afforded transitional provisions meaning discretion exists to approve a development exceeding four dwellings or eight metres in height.

Council is required to determine a position on the amended plans and to present that position to VCAT.

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

The key planning considerations are:

- Transitional provisions
- Internal treatment of the site
- Neighbourhood character and heritage
- The interface of the neighbouring dwellings and potential off site amenity impacts.
- Building height
- Landscaping and open space
- Car parking and traffic

The proposal requires significant amendments to ensure the internal treatment of the site is adequately resolved. In particular the presentation of the building to Stewart Street, the ground floor treatment of the dwellings and the provision of landscaping and open space should be addressed. These matters may require the deletion of further dwellings which would lessen the overall car parking reduction sought. To date it has not been demonstrated how this could be achieved on site. Given the extent of change required to the plans the proposal in its current form is not supported.

It is recommended that Council's submission to VCAT be to not support the proposal based on the grounds outlined in the recommendation.
Recommendation

The Urban Planning Committee resolve:

That Council’s submission to VCAT be to not support the Planning Application MPS/2015/269 for partial demolition and the construction of dwellings with a reduction of the car parking requirement based upon the following grounds:

1. The internal road and excessive garage doors contributes to a built environment that results in a poor level of amenity for the pedestrian contrary to Clause 22.03 (Car and Bicycle Parking and Vehicle Access).

2. The extent of hard paving, limited communal open space and landscaping for canopy trees fails to enhance the leafy character contrary to:
   a) Clause 22.01 – Neighbourhood Character
   b) Clause 55.03-6 – Open Space
   c) Clause 55.02-1 – Neighbourhood Character
   d) Clause 55.03-8 – Landscaping

3. The limited front setback, fenestration, dwelling orientation and building bulk fails to appropriately respond to the heritage place (Stewart Street) contrary to Clause 22.06 (Heritage) and Clause 43.01 (Heritage).

4. The proposal does not respect the neighbourhood character of the area which is contrary to Clause 22.01 (Neighbourhood Character) and Clause 55.02-1 (Neighbourhood Character Objective) of the Moreland Planning Scheme, in particular:
   a) The gated and private nature of the development through the provision of gates and the arch to Hardy Street.
   b) The lack of articulation to the Stewart Street façade and the inconsistency with the streetscape.
   c) The use of dark materials and colour palette.
   d) The continuous rows of garage doors and the lack of dwelling entries and habitable rooms within the internal roads.
   e) The proposal fails to offer an acceptable sense of address or an appropriately treated dwelling entry for the new dwellings.
1. **Background**

*Subject Site*

The subject site comprises three lots on the northern side of Stewart Street, Brunswick approximately 320 metres east of Sydney Road and 600 metres west of Lygon Street. The site is an irregular shape with a total area of 8659m². The site has a frontage to Stewart Street of 46 metres for part of the southern boundary and a frontage to Hardy Street of 77 metres on part of the eastern boundary.

The site contains industrial building except for one dwelling at 31 Stewart Street. These buildings total 54.5% site coverage and sparse landscaping due to the extent of hard paving. There are a total of two vehicle crossings to Stewart Street and six to Hardy Street.

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

*Surrounds*

This part of Brunswick is characterised by single storey dwellings on relatively small rectangular allotments with some more recent infill larger developments.

A location plan forms [Attachment 1](#).

**The Proposal**

The proposal as presented in the VCAT amended plans is summarised as follows:

- Demolition of most of the buildings on site with the retention of the portion of brick wall running along the rear of 29 Stewart Street, a small portion of wall adjoining 2 and 26 Connelly Street, the length of the northern boundary, the existing building opposite the bend in Hardy Street and approximately 40 metres fronting Hardy Street at the rear of the site.
- 75 dwellings comprising 66 three bedroom and 9 two bedroom dwellings.
- The three bedroom dwellings are three storeys in height and the two bedroom dwellings are double storey.
- Each dwelling has a balcony, roof terrace or courtyard ranging between 8m² and 48m².
- The maximum building height proposed is 12.3 metres (including roof terrace).
- The front setback proposed to Stewart Street is 2.75 metres.
- There is no setback proposed to Hardy Street.
- There are 80 car parking spaces including 77 resident spaces located within single and double garages and 3 visitor spaces located within the common areas.
- 8 on street car parking spaces are created through the deletion of existing crossovers.
- Each dwelling is provided with a bicycle rack within the garages (75 resident bicycle spaces) with 8 bicycle spaces proposed within the central area.
- The site is accessed via vehicle crossings from Stewart and Hardy Streets with car parking within garages that are accessed internally via a private road.
- A small communal landscaped area is proposed in the middle of the site.

The development plans form [Attachment 2](#).
Planning Permit and Site History

Planning application MPS/2004/0018 sought the demolition of all the buildings on site and the construction of four, five storey buildings over a basement with 161 dwellings. This application was refused by Council in 2004. This decision was appealed to VCAT and amended plans were substituted prior to the hearing on 18 February 2005. The VCAT order refused the application to substitute the plans as they represented a fundamentally different design solution for the site than the application plans.

Another application MPS/2006/486 was lodged in 2006. This application sought the demolition of all existing buildings and the construction of two and three storey buildings containing a total of 146 dwellings (136 apartments and 10 town houses) over two basement levels containing 176 car parking spaces. This application was refused by Council Officers under delegation.

The applicant appealed the decision and Council’s refusal was upheld by VCAT (order dated 28 July 2008). The refusal decision cited reasons relating to height, neighbourhood character, poor internal amenity, external amenity, the inappropriate response proposed to Hardy Street, the design of the basement entry, traffic flow inefficiencies and the lack of landscaping.

VCAT determined that these matters could not be adequately addressed through permit conditions and advised that the plans be revised by a new application.

The application plans initially lodged with this current application were the same plans that were refused by VCAT. The plans were submitted without consultant reports, schedule of colours and materials, a Neighbourhood and Site Description Plan, demolition plans, levels and landscape plans. It was refused because there was inadequate information to determine the application.

The applicant has significantly revised the proposal via amended plans to VCAT. These plans will be the subject of a 4 day appeal commencing 26 September 2016.

Statutory Controls – why is a planning permit required?

<table>
<thead>
<tr>
<th>Control</th>
<th>Permit Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Neighbourhood Residential Zone</td>
<td>A planning permit is required to construct two or more dwellings on a lot. This application is afforded transitional provisions in relation to the height and number of dwellings.</td>
</tr>
<tr>
<td>Heritage Overlay</td>
<td>A permit is required to demolish or remove a building, construct a building or construct or carry out works. The heritage overlay applies to the front portion of the site (to Stewart Street).</td>
</tr>
<tr>
<td>Particular Provisions – 52.06 - Car parking</td>
<td>There is a statutory requirement for 156 on site car parking spaces associated with the dwellings. The proposal has 80 spaces therefore requiring a reduction of 76 spaces. A permit is required to reduce the statutory requirement.</td>
</tr>
</tbody>
</table>

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

- Clause 52.36: Integrated public transport planning – the VCAT order required the permit applicant to notify Public Transport Victoria of the application.
- Clause 52.34 - Bicycle parking has been provided in excess of the statutory requirement (23 required, 79 proposed) therefore no waiver is required.
- Clause 55 (two or more dwellings on a lot).
The subject site is subject to a Developer Contributions Overlay Schedule 1. Should a permit be issued a condition within the recommendation should require payment of the contribution.

2. Internal/External Consultation

Public Notification

Notification of the application was carried out by the permit applicant in May 2016. Council advised VCAT of the neighbouring properties to be notified. Notice was carried out pursuant to Section 52 of the Planning and Environment Act 1987 by:

- Sending notices to the owners and occupiers of adjoining and nearby land
- By placing signs on the Stewart Street and Hardy Street frontages.

VCAT has received 39 submissions. The key issues raised in objections are:

- Increased traffic and lack of car parking
- Inconsistent with neighbourhood and heritage character
- Inconsistent with the intent of the Neighbourhood Residential Zone
- Overshadowing and overlooking
- Noise associated with the dwellings
- Process and lack of time to respond
- Roof top gardens – overlooking, bulk and noise
- The height is excessive and should not exceed double storey
- Overdevelopment and excessive site coverage
- Inadequate open space and landscaping.

Internal/External Referrals

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

<table>
<thead>
<tr>
<th>External Agency</th>
<th>Objection/No objection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Director of Public Transport</td>
<td>The applicant has notified Public Transport Victoria of the application who may provide comment to VCAT or become a party to the appeal. No comments have been received to date.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Internal Branch/Business Unit</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Strategy and Design Branch</td>
<td>Council’s Urban Designer raised the following concerns:</td>
</tr>
<tr>
<td></td>
<td>- There is little presentation of the building and surveillance of Stewart Street.</td>
</tr>
<tr>
<td></td>
<td>- The ground floor is dominated by vehicles and garages.</td>
</tr>
<tr>
<td></td>
<td>- The development should feel publically accessible to pedestrians.</td>
</tr>
<tr>
<td></td>
<td>- The Hardy Street and Stewart Street facade should be reflective of a townhouse typology.</td>
</tr>
<tr>
<td></td>
<td>- The brick pillars around the garages highlights the garages</td>
</tr>
<tr>
<td></td>
<td>- The colours of materials are too dark.</td>
</tr>
<tr>
<td></td>
<td>- Excessive use of concrete to the facades.</td>
</tr>
<tr>
<td>Strategic Transport and Urban Safety Branch</td>
<td>No objections were offered to the proposal.</td>
</tr>
</tbody>
</table>
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 11.04 Metropolitan Melbourne
- Clause 15.01 Urban Environment
- Clause 15.02 Sustainable Development
- Clause 15.03 Heritage
- 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 22.03 Car and Bike Parking and Vehicle Access
- Clause 22.06 Heritage

While not located within an Activity Centre, the subject land is located in an established urban area with good access to a range of infrastructure and services. In these areas, the MSS envisages modest change to accommodate a mix of single dwellings and infill multi-dwelling developments. In areas outside of Activity Centres, it is Council’s policy objective that any proposal respects the existing character of the area.

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, the previous VCAT decision, statements of grounds (objections) received and the merits of the application.
Do transitional provisions apply?

Transitional provisions allow for the consideration of permit applications inconsistent with provisions of the new zones to be considered if the application was lodged prior to the introduction of the new zone. VCAT has determined that when an application is amended during the application process (prior to Council issuing a decision) transitional provisions no longer apply. However, plans that are amended under the VCAT Act are still subject to the transitional provision and can be considered. Transitional provisions apply as the plans were amended during the VCAT process after Council issued a refusal.

Although the proposal now adopts a townhouse typology (previously apartment) the nature of the application is largely unchanged. It is acknowledged that the site is clearly capable of accommodating more than four dwellings given its overall size.

There is discretion to apply transitional provisions.

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

The proposal is not an acceptable response to Clause 22.01 (Neighbourhood Character) and Clause 55.02 (Neighbourhood Character and Infrastructure) of the Moreland Planning Scheme.

Neighbourhood Character

The policy statements relating to modest change are relevant to this application. The following relevant objectives apply:

- To ensure that the scale and siting of new development respects existing neighbourhood character.
- To ensure that the design and landscaping of new development contributes to an enhanced ‘green, leafy’ landscape character.
- Ensure new development is designed to respect the prevailing built form scale, siting and appearance of the surrounding context, particularly with regard to front and side setbacks of surrounding buildings and openness of rear yards, as documented in the Neighbourhood and Site Description.
- Ensure new development is designed, as confirmed on a landscape plan, to:
  - Include planting in the front setback of at least one tree, selected in accordance with the Moreland Tree Planting Manual for Residential Zones 2014;
  - Maximise opportunities for tree planting in side and rear setbacks.

The site is significantly larger than the surrounding lots in the neighbourhood and is aided by two street frontages. The offsite amenity impacts (further assessed below) are mitigated on site as the proposal meets the Clause 55 requirements for setbacks and overshadowing. There are outstanding issues relating to overlooking which could be addressed via further amendments to the plans providing screening. In this instance the site is large enough to accommodate a taller built form than double storey.

The proposal lacks meaningful areas of open space to accommodate landscaping. The small area of communal open space, the small areas of private open space and the minimal setback from Stewart Street fail to provide for adequate planting including mature trees. The lack of landscaping and open space is inconsistent with the neighbourhood character.
**Interface to Stewart Street**

Three dwellings have front doors facing Stewart Street, however the rest of the dwellings are orientated toward the internal road, essentially presenting a largely blank wall to Stewart Street. Stewart Street comprises single and double storey dwellings with landscaped setbacks and windows facing the street offering passive surveillance. This aspect of the proposal is largely inconsistent with the character of Stewart Street. The three dwellings should be orientated toward the Stewart Street with a landscaped front setback proportionate to the neighbouring dwellings.

The proposal requires significant changes to incorporate an increased setback and articulation to the façade. This will ensure the proposal sits comfortably with the streetscape and make a positive contribution to the public realm.

**Hardy Street Interface**

The interface to Hardy Street is significantly improved through the removal of most of the crossovers/hard edge walls, reinstatement of footpath and channel and increased passive surveillance through the dwellings that would face Hardy Street. The dwellings facing Hardy Street generally have front setbacks and ground level windows of a portion that is compatible with the dwellings on the eastern side of Hardy Street.

This interface should be more compatible with the neighbourhood character with the adoption of a lighter colour palate and the deletion of the archway (as recommended by Council’s Urban Designer).

**Internal ground floor presentation**

The interface on the ground floor is heavily dominated by vehicles with little room for well-designed dwelling entries, passive surveillance and pedestrian movement. The use of brick ‘pillars’ with recessed garages further highlights the garage entrances rather than highlighting the pedestrian entrances.

A development typology similar to that of dwellings 58 to 75 would be more in keeping with the neighbourhood character by creating a sense of address and providing more significant breaks between the garage doors. These dwellings break up the continuous rows of garage doors through the provision of a ground floor entry and habitable room with a window, the width of which is roughly equal to the width of the garage. The current proposal offers no minimal opportunity for the dwellings to have a sense of identity at ground floor. This will necessitate fewer dwellings and associated garages on site with significantly more dwellings having a ground floor habitable rooms to activate the development and make for an acceptable pedestrian environment.

**Pedestrian permeability**

The proposal in its current form makes it unclear whether the development is a place where the community is welcome to pass through or if it is being treated as a private development. From the facade treatment (security doors and blank walls to Stewart Street), the creation of an unfriendly pedestrian environment and the archway on Hardy Street this development portrays a privatised environment. A privatised community is a poor outcome as it isolates itself from the neighbourhood rather than integrating with it.

The use of security gates gives an impression that this area is unsafe which is considered an undesirable outcome. The threshold into these private dwellings should be designed to maximise the safety of the occupant and visitors through passive surveillance and clear public/private boundaries rather than the use of gates.

The vehicle and pedestrian path through the middle of the site discourages pedestrians to utilise it or walk through the site. A better design response would have the central access-way design as a space to favour pedestrians rather than current vehicle dominated arrangement.
The application proposes a pedestrian link along the eastern side of the site connecting Stewart Street to Hardy Street. This connection is landscaped, open and wide enough to provide a view through to Hardy Street. This pedestrian link is a positive element of the proposal.

**Materials and Colours**

The proposal adopts a dark colour palette which Council's Urban Designer advised creates a "visually dominating effect." In particular, the proposal uses black materials and concrete or concrete coloured render. These are colours and materials which are typically not found within the area and are inconsistent with the neighbourhood character. These dark and dominating materials are at odds with the lighter coloured rendered buildings and weatherboard dwellings which exist on neighbouring sites.

A revised proposal should adopt a lighter colour palette particularly for the upper storeys, garage doors, and pedestrian entries. The use of concrete should be significantly reduced.

**What are the impacts upon the heritage character of the precinct?**

The Blyth Street Precinct is of local architectural significance as a large and intact area of Victorian and Edwardian residential buildings. The Blyth Street precinct is of local historical significance as an example of a late 19th century boom-period subdivision. The previous VCAT decision states: "the existing dwelling at No. 31 makes no heritage contribution to the precinct..." Similarly, the property at 33-37 Stewart Street has been identified as being of non-contributory significance. It is therefore acceptable that the buildings are demolished subject to the construction of an appropriate replacement building.

Clause 22.06-3.3 further encourages new buildings to: 'Respect the existing scale, massing, form and siting of contributory or significant elements and do not dominate the heritage place or precinct.' It encourages front setbacks of 'new buildings to be set back the same distance (or an average) from the front boundary as existing adjacent or nearby contributory or significant buildings.'

The front setback of the proposed new development fronting Stewart Street should be no less than the adjoining front walls of the contributory properties at Nos. 39 and 41 Stewart Street. The proposed 2.7 metre setback and lack of articulation dominates the heritage streetscape.

The facade should make a more positive contribution to the residential character of the street. As proposed, the new building reflects the character of the former non-contributory factory. Non-contributory buildings should not be used as the reference point for new development.

The proposed use of face brickwork is appropriate in this street context however the selected pattern and colouring of the new buildings fronting Stewart Street will not be respectful of the adjoining and adjacent contributory properties or the heritage precinct generally.

The proposal in its current form by way of materials, colours and the lack of setback are inconsistent with the heritage character of the precinct and will dominate and detract from the heritage place.

**Internal Amenity**

The proposal offers a high level of internal amenity with sizable rooms with access to daylight and ventilation. The development comprises of a range of dwelling types including two and three bedroom dwellings with a high level of internal amenity including excellent access to daylight and ventilation. The outstanding matters are discussed below.
Open Space/Landscaping

Clause 55.03-6 relates to open space and Clause 55.03-8 relates to landscaping. The proposal through its reliance upon balconies and terraces and extent of site coverage offers minimal open space and landscaping failing to adequately address these objectives and standards. Furthermore, Clause 55.06-3 (Common Property) seeks to provide communal open space that is attractive manageable and easy to maintain. Common property, where provided, should be functional and capable of efficient management. The development proposes a narrow garden area in the centre of the site. The area has some landscaping though essentially sits in the middle of two internal roads serving more of a nature strip purpose. Given the small size of the area it is unlikely that it will be desirable for residents to utilise this space for rest and recreation. The overall site is large enough to accommodate a more generous communal space which will enhance the amenity to residents and the nearby community. Furthermore landscaping is a key aspect of the neighbourhood character and a larger area of open space would enable a more meaningful landscaping contribution including mature trees to be included in the public areas.

A revised proposal should incorporate a well-designed and functional area of communal open space that is at least double the size of the current proposal. It should incorporate mature landscaping and furniture to encourage its use. The space should be visible from either or both Stewart and Hardy Streets to ensure that it feels publically accessible and safe.

Design Detail

Clause 55.06-1 relates to design detail and requires the design of buildings including the facade articulation and detailing, window and door proportions, roof form and veranda, eaves and parapets should respect the existing or preferred neighbourhood character. Garages should be visually compatible with the development and the existing or preferred neighbourhood character.

The proposal through the lack of articulation to Stewart Street fails to adequately address this standard. The dominating nature of the continuous rows of garage doors do not meet the objective and are not respectful of the neighbourhood character.

Impact upon western adjoining properties (27 and 29 Stewart Street and 4-26 Connelly Street)

These dwellings abut the western boundary with private open space areas abutting the subject site. At first floor the proposed dwellings have west facing windows that are screened to a height of 1.7 metres with translucent glazing. The second floor comprises of bedrooms that are setback between 4.6 and 8.3 metres. These windows should be required to be screened by conditions of any permit. Seven dwellings in the north western corner of the site have roof decks that are setback 8 metres from the common boundary.

The west facing walls of these decks are partly screened by the access stair however a view is partially available failing to meet Clause 55.04-6 (Overlooking) Standard B22 and Clause 55.04-7 (Internal Views) Standard B23. Given the proximity to the private open space of the neighbouring dwellings it is recommend that these roof decks be deleted by condition. The deletion of these roof decks would significantly reduce the building height from 12 metres to 9-10 metres which will lessen the visual bulk when perceived from the neighbouring private open space. Furthermore a building of 9 metres is more in keeping with the scale of new development found within the area. The proposal complies with the setback requirements of Clause 55.

The proposal does not cast any additional shadow upon the neighbouring areas of private open space. The proposal casts less shadow than the existing conditions.
Impact upon eastern adjoining properties (39 Stewart Street and 26 Hardy Street)

Hardy Street is an 11 metre wide road reserve, with the exception of the neighbourhood character and design detail matters addressed above there are no unreasonable amenity impacts upon the Hardy Street dwellings in terms of overshadowing or overlooking.

Dwellings 67 to 75 are setback between 6.4 metres and 8.1 metres from the eastern boundary which adjoins the private open space of 39 Stewart Street and 26 Hardy Street.

At first floor there are east facing windows screened to a height of 1.7 metres and balconies. The balconies are screened to prevent downward views through the provision of a 1.65 metre high planter with a depth of 1.7 metres. The second floor is setback between 7.1 metres and 8 metres. Should a permit be issued a condition should require the east facing windows to be screened to a minimum of 1.7 metres. There are seven roof terraces setback over 9 metres from the boundary. The setback in this instance is adequate and meets the relevant standard.

The proposal does not cast any additional shadow upon the 39 Stewart and 26 Hardy Street. The impact upon the eastern adjoining properties is lesser than the existing conditions.

Impact upon the northern adjoining property (10 Hardy Street)

Dwellings 37 and 38 adjoins the northern boundary and minimises the impact upon 10 Hardy Street due to the existing boundary wall being retained. There is no additional shadow cast upon 10 Hardy Street.

Is the car parking provision adequate?

The proposed development includes the provision of 80 car parking spaces. The table below shows the car parking reductions sought by the proposal against Clause 52.06 (Car Parking):

<table>
<thead>
<tr>
<th>Use</th>
<th>Proposal</th>
<th>Statutory Requirement</th>
<th>Reduction sought</th>
</tr>
</thead>
<tbody>
<tr>
<td>9 x 2 bedroom dwellings</td>
<td>9</td>
<td>9</td>
<td>0</td>
</tr>
<tr>
<td>66 x 3 bedroom dwelling</td>
<td>68</td>
<td>132</td>
<td>64</td>
</tr>
<tr>
<td>Residential visitor spaces</td>
<td>3</td>
<td>15</td>
<td>12</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>80</strong></td>
<td><strong>156</strong></td>
<td><strong>76</strong></td>
</tr>
</tbody>
</table>

In this instance a reduction is required for 76 spaces. Council’s Local Planning Policy at Clause 22.03-3 (Car and Bike Parking and Vehicle Access) 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 subject site is located outside an activity centre however it is generally well serviced with access to commercial, recreational and community land uses. The site has excellent access to the following public transport options, including the train and tram which is less than 750 metres away.

Through the removal of existing vehicle crossovers the proposal also adds 8 on street car parking spaces.

Councils Strategic Transport and Urban Safety Branch support the car parking reduction proposed.
The reduction of 76 spaces on a larger site outside of an activity centre which is generally less constrained in respect to the ability to provide on-site car parking is considered excessive. However, the car parking proposed would be further reduced if the proposal were redesigned accommodating less garages at ground floor which would require a reduction in the overall number of dwellings. This could result in a more acceptable planning outcome for this site.

**Is there adequate bicycle parking?**

The proposed development includes a provision of 83 bicycle parking spaces. One bicycle parking rack is being provided for each dwelling within the garage and 8 publically accessible visitor spaces have been provided in the central area. This exceeds of the planning scheme requirement of 23 (15 resident and 8 visitor spaces) at Clause 52.34. The bicycle provision is a positive aspect of the proposal and supported.

**Are there impacts upon vehicle access and traffic movements?**

Council’s Strategic Transport and Urban Safety Branch noted that the traffic that will be generated from the site will equate to approximately 450 additional vehicles per day compared to what was generated from the site. The traffic will travel along both Stewart Street and Hardy Street (local access streets). The additional vehicles will not result in either of these streets exceeding the maximum volumes permitted under the Moreland Integrated Transport Strategy.

A turning area has been provided so cars can both enter and egress the road travelling in a forwards direction. The access-way is at least 3m wide as required by Clause 52.06-8 of the Moreland Planning Scheme. The 4m internal radius on the approach to the garages has been provided. The proposal will provide safe and efficient vehicle movements.

**Are the waste management arrangements appropriate?**

A waste management plan has been submitted with the application. Council’s Strategic Transport and Urban Safety Branch have raised several matters which should be addressed via condition. Collection will be carried out by a private contractor on site and will not require bins to be located along Stewart or Hardy Streets.

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

With the exception of the Stewart Street frontage the proposal provides an acceptable response to Council’s Local Planning Policy Clause 22.03 (Car and Bike Parking and Vehicle Access) as it:

- Utilises existing crossovers and requires the removal of 8 redundant crossovers.
- Reinstates footpath along Hardy and Stewart Streets.
- The proposal includes a pedestrian link through the site.
- The proposal activates Hardy Street through the provision of increased windows and pedestrian entries.
- There are no street trees to be removed.
- Provides 83 bicycle spaces including visitor spaces.

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

The proposal includes many positive features some of which have not been shown on the plans including the capacity of rainwater tanks, outdoor clothes lines, solar hot water systems, photovoltaic systems, buffer strips. Should a planning permit be issued a condition should require the plans be amended to show these features.
Is the proposal accessible to people with limited mobility?

Objective 9 of Clause 23.03-3 (Housing) is to increase the supply of housing that is visitable and adaptable to meet the needs of different sectors of the community. The DDO also seeks to:

create accessible, adaptable and visitable housing within the activity centre to ensure housing caters for all residents’ needs.

Should a planning permit be issued a permit condition should require the submission of an Accessibility Report and for plans to be amended to reflect any recommendations contained within the report. The development has been designed to provide appropriate accessibility to common areas and visitable dwellings.

Is the site potentially contaminated?

The site is considered to be potentially contaminated due to its uses including warehousing and industry. The applicant has submitted an environmental site assessment report detailing the extent of site contamination and confirming that the site would be appropriate for the intended uses subject to the completion of an Environmental Audit. Should a planning permit be issued a condition should require an Environmental Audit to be undertaken before the development commences. This will ensure that the site is remediated to an appropriate standard to ensure the land is safe for future residents.

5. Response to Objector Concerns

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

- Increased traffic and lack of car parking.
- Inconsistent with neighbourhood and heritage character
- Inconsistent with the intent of the Neighbourhood Residential Zone
- Overshadowing and overlooking
- Process and lack of time to respond
- Roof top gardens overlooking, bulk and noise.
- The height is excessive and should not exceed double storey
- There is inadequate open space and landscaping.

Other issues raised by objectors are addressed below.

Noise associated with dwellings

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

Process and lack of time to respond

Many objections were received regarding the limited time to respond to the proposal and to lodge a statement of grounds with VCAT. The time to respond was controlled by VCAT. The plans have been available for residents to view at Council’s office. Copies of plans have been provided as requested and officers have met with several objector groups to explain the proposal and process.

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

Nil.
8. **Conclusion**

It is acknowledged that this site is capable of accommodating a three storey development. However, there are outstanding design matters which have not been adequately resolved.

Extensive amendments are needed that should ultimately result in a lesser yield. The extent of amendments required to plans are significant and will result in a very different proposal. On this basis it would be inappropriate to support the application or to try and address such significant matters via conditions.

On the balance of policies and controls within the Moreland Planning Scheme and objections received, it is considered that Council submit to VCAT that the application be refused, based on the grounds contained in the recommendation of this report.

**Attachment/s**

1. Location Plan - 31-37 Stewart Street & 15-21 Hardy Street, Brunswick (MPS/2015/269)  
   D16/274251

2. Development Plans - 31 Stewart Street, Brunswick (MPS-2015-269)  
   D16/274255
Executive Summary

The application seeks approval for the construction of a four storey building and five storey building encompassing 21 dwellings and a reduction of eleven car parking spaces.

The application was advertised and thirteen objections were received. The issues raised in the objections relate to inadequate parking provision, height, bulk of the eastern elevation, neighbourhood character and car parking.

The report details the assessment of the application against the policies and provisions of the Moreland Planning Scheme and finds that the car parking reduction and overall building height are justified, having regard to the context of the site and surrounds. Furthermore, the proposal is considered to achieve a high standard of environmentally sustainable design and will provide a positive contribution to the range of housing in the area.

It is recommended that a Notice of Decision to Grant a Planning Permit be issued for the proposal, subject to conditions outlined in this recommendation.

Recommendation

The Urban Planning Committee resolve:

That a Notice of Decision to Grant a Planning Permit No. MPS/2015/1002 be issued for the construction of a four storey building and five storey building encompassing 21 dwellings and a reduction of eleven of the required car parking spaces at 2-8 Barry Street, Brunswick, subject to the following conditions:

Amended Plans

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 advertised on the 11 March 2016 but modified to show:

   a) The car parking spaces at Ground Floor notated as being at least 2.9 metres wide to allow for door openings as required by the Australian Standard for Off-Street Parking (AS2890.1).

   b) Any practical changes to the plans required by Condition 11 (Access Report) of this permit.

   c) An amended Landscape Plan to include creeper vegetation on the eastern elevation.

   d) A screen diagram drawn at a scale of 1:50 which details the screens associated with the:

      - Dwelling 11 first floor terrace on its northern side
      - Dwelling 21 first floor terrace on its southern side
      - Dwelling 1 second floor deck on its northern side
      - Dwelling 21 second floor deck on its southern side
      - Dwelling 10 third floor deck on its southern side
      - Dwelling 11 third floor deck on its northern side,
- Dwelling 21 third floor deck on its southern side
- Dwelling 13, Dwelling 14, Dwelling 15, Dwelling 16, Dwelling 17, Dwelling 18, Dwelling 19 and Dwelling 20 fourth floor decks on their eastern sides

These 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) A lift located on the north-west side of the carpark for disability access to the first floor level.

f) The Dwelling 13, 14, 15, 16, 17, 18, 19 and 20 east facing rooftop planter boxes removed and the roof form setback 5.5 metres from the eastern property to reduce the visual impact of the east elevation.

g) The screens and architectural features projecting over the abutting laneways clearly dimensioned on the plans from the property boundary and with a minimum clearance of 4.1m above the laneway surfaces.

Secondary Consent

2. The use and development as shown on the endorsed plans must not be altered or modified unless with the further written approval of the Responsible Authority.

Development Contribution

3. Prior to the issue of a Building Permit in relation to the development approved by this permit, a Development Infrastructure Levy and Community Infrastructure Levy must be paid to Moreland City Council in accordance with the approved Development Contributions Plan. The Development and Community Infrastructure Levy amount for the development is $602.51 per dwelling. In accordance with the approved Development Contributions Plan, these amounts will be indexed annually on 1 July.

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

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

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

Environmental Assessment and Auditing Requirements

4. Prior to the commencement of construction or carrying out works pursuant to this permit:

a) A Certificate of Environmental Audit for the land must be issued in accordance with Section 53Y of the Environment Protection Act 1970 and provided to the Responsible Authority; or

b) An Environmental Auditor appointed under Section 53S of the Environment Protection Act 1970 must make a Statement in accordance with Section 53Z of that Act that the environmental conditions of the land are suitable for the use and development that are the subject of this permit and that statement must be provided to the Responsible Authority.
Where a Statement of Environmental Audit is issued for the land, the buildings and works and the use(s) of the land that are the subject of this permit must comply with all directions and conditions contained within the Statement.

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

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

Prior to any remediation works being undertaken in association with an Environmental Audit, a Remediation Works Plan, prepared in consultation with the appointed Environmental Auditor, must be submitted to and approved by the Responsible Authority. The plan must detail only those remediation works, excavation works as well as any proposed structures such as retaining walls, necessary to facilitate the completion of the environment audit. Only the works detailed in the Remediation Works Plan, approved by the Responsible Authority, are permitted to be carried out prior to the issue of a Certificate or Statement of Environmental Audit.

**Landscaping**

5. The Landscape Design Plans TP LD 00 – TP LD 05 prepared by MALA studio with issue date December 2015 once amended as per Condition 1.c will be endorsed to form part of this permit. Prior to the issuing of a Statement of Compliance or occupation of the development, whichever occurs first, all landscaping works, including installation of automatic irrigation, must be completed in accordance with the approved and endorsed Landscape Design Plans to the satisfaction of the Responsible Authority. The areas designated as landscaped areas on the endorsed Landscape Design Plans must thereafter be maintained and used for that purpose, including the notated street tree planting on the Barry Street frontage.

**Environmental Sustainable Development**

6. The Sustainability Management Plan prepared by GIW Environmental Solutions dated 22 December 2015 will be endorsed to form part of this permit. All works must be undertaken in accordance with the endorsed Sustainability Management Plan to the satisfaction of the Responsible Authority. No alterations to the Sustainability Management Plan must occur without the written consent of the Responsible Authority.

7. Prior to the occupation of any dwelling approved under this permit, a report from the author of the Sustainability Management Plan, 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 Sustainability Management Plan have been implemented in accordance with the approved Plan.
Waste Management

8. The Waste Management Plan prepared by Leigh Design Pty Ltd dated 18 December 2015 will be endorsed to form part of this permit. The recommendations of the plan must be implemented and complied with at all times to the satisfaction of the Responsible Authority.

9. All works must be undertaken in accordance with the recommendations contained in the endorsed Waste Management Plan to the satisfaction of the Responsible Authority. No alterations to the Waste Management Plan may occur without the written consent of the Responsible Authority.

Accessibility

10. An Access Plan must be submitted to the Responsible Authority by a suitably qualified access auditor to the satisfaction of the Responsible Authority to include the following:

   a) Demonstration that at least two dwellings are able to be visited by a person with limited mobility by providing:

      i. An accessible path from the street and car park areas to a level entry.

      ii. Minimum width of 850mm for doors and 1000mm for hallways at entry at entry level.

      iii. A clear path of travel from the accessible entry to a living area and toilet suitable for people with limited mobility.

   b) Demonstration that Dwellings 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 meet the ‘Silver Level’ requirements in the Livable Housing Design Guidelines produced by Livable Housing Australia.

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

The recommendations of the plan must be implemented to the satisfaction of the Responsible Authority prior to the occupation of the development. No alterations to the plan may occur without the written consent of the Responsible Authority.

11. Prior to the occupation of any dwelling approved under this permit, a report from the author of the Access Plan, 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 Access Plan have been implemented in accordance with the approved Plan.

Laneway Reconstruction

12. Prior to the occupation of the development, the bluestone right-of-way to the south of 2-8 Barry Street is to be repaired in bluestone by reconstruction to Council’s standard from Barry Street to a point at least 1.5 metres east of the vehicle entry using construction plans approved by Council and the works supervised by Council.

General

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

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. Stormwater from the land must not be directed to the surface of the right-of-way to the satisfaction of the Responsible Authority.
16. Prior to the commencement of the development, a legal point of discharge is to be obtained, and where required, a stormwater drainage plan showing how the site will be drained from the property boundary to the stated point of discharge, must be submitted to and approved by the Responsible Authority.

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

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

19. 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.

Expiry

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

The Responsible Authority may extend the period referred to if a request is made in writing before the permit expires or:
   • Within six months after the permit expires to extend the commencement date.
   • Within 12 months after the permit expires to extend the completion date of the development if the development has lawfully commenced.

NOTES:

These notes are for information only and do not constitute part of the conditions of this permit.

Note 1: Unless no permit is required under the Moreland Planning Scheme, no sign must be constructed or displayed on the land without a further planning permit.

Note 2: Further approvals are required from Council’s City Infrastructure Department who can be contacted on 9240 1143 for any works beyond the boundaries of the property. Planting and other vegetative works proposed on road reserves can be discussed with Council’s Open Space Unit on 8311 4300.

Note 3: Should Council impose car parking restrictions in this street, the owners and/or occupiers of the land would not be eligible for any Council parking permits to allow for on street parking.

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

Notes about Environmental Audits:

Note 7: A copy of the Certificate or Statement of Environmental Audit, including the complete Environmental Audit Report must be submitted to the Responsible Authority within 7 days of issue, in accordance with Section 53ZB of the Environment Protection Act 1970.

Note 8: Where a Statement of Environmental Audit is issued for the land a copy of that Statement must be provided to any person who proposes to become an occupier of the land, pursuant to Section 53ZE of the Environment Protection Act 1970.
Note 9: The land owner and all its successors in title or transferees must, upon release for private sale of any part of the land, include in the Vendor’s Statement pursuant to Section 32 of the Sale of Land Act 1962, a copy of the Certificate or Statement of Environmental Audit including a copy of any cover letter.

Note 10: Where a Statement of Environmental Audit issued for the land contains conditions that the Responsible Authority considers to be unreasonable in the circumstances, the Responsible Authority may seek cancellation or amendment of the planning permit in accordance with Section 87 of the Planning and Environment Act 1987.
1. **Background**

**Subject Site**

The subject site is located on the east side of Barry Street, Brunswick and is bound by two laneways on its northern and southern boundaries. It has a frontage to Barry Street of 47.5 metres, depth of 26.7 metres and total area of 1272 square metres and currently contains a brick warehouse constructed to the side and rear boundaries with a concreted front setback utilized for car parking.

**Surrounds**

The surrounding area is experiencing some transition. It is characterised by a mix of industrial buildings, single storey dwellings on small lots and large multi storey mixed use developments.

North of the subject site are a number of single storey brick veneer attached buildings.

The site to the east, 108-124 Union Street Brunswick, contains six multi dwelling buildings (128 dwellings in total – ranging from three to five storeys) and a shop and restaurant at ground level fronting Union Street.

Abutting the subject site to the south are single and double storey shops and retail premises fronting Union Street.

On the west side of the site is a mix of single and double storey dwellings.

**The Proposal**

It is proposed to construct a four storey building and five storey building on the subject site. Features include:

- 1 x one bedroom dwellings, 9 x two bedroom dwellings and 11 x three bedroom dwellings (total 21 dwellings)
- Dwellings with primary living areas and balconies that are either east or west facing
- Each dwelling has a roof deck and mid level terrace
- A communal landscaped walkway between the two buildings at first floor which includes an open retreat area
- 21 car parking spaces are provided at ground floor accessed via a laneway
- Bicycle parking above the garages and car parking spaces
- 6 visitor bicycle parking spaces to the north of the car park
- 12 storage spaces at ground floor
- External finishes include face brick, timber cladding, natural cement render and grey metal cladding
- Building height of:
  - 11.84 metres (4th storey parapet height)
  - 14.84 metres (5th storey parapet height)

The development plans form **Attachment 1.**

**Planning Permit and Site History**

Planning Application MPS/2013/983 was lodged on 17 October 2014 for the construction of a 4 storey building containing 49 (apartment style) dwellings and a reduction of the standard car parking requirement.

The application was advertised in October 2014 attracting 26 objections.

The applicant lodged an application for review of Council’s failure to grant a permit within the prescribed time (60 statutory days) on 20 January 2015.
Ten of the objectors to the application lodged statements of grounds with the Tribunal to become parties to the appeal.

Two VCAT mediation meetings were subsequently held, where revised plans were circulated. The revised plans were consented by the applicant, objector parties and the Urban Planning Committee and a permit was issued in June 2015. The approved plans are contained at Attachment 2. Of particular relevance, the approved plans mediated include:

- Construction of a 4 storey building over two basement levels comprising 36 dwellings and 3 offices
- Setbacks of 4.27m, 4.3m and 4.6m on the eastern third storey and 6.9m and 7.1m on the eastern fourth storey
- 60 car parking spaces
- 34 bicycle parking spaces
- 12 metre building height

**Statutory Controls – why is a planning permit required?**

<table>
<thead>
<tr>
<th>Control</th>
<th>Permit Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zone</td>
<td>Clause 32.04-6 – Mixed Use Zone - A permit is required to construct two or more dwellings on a lot</td>
</tr>
<tr>
<td>Overlays</td>
<td>Clause 45.03-1 – Environmental Audit Overlay</td>
</tr>
<tr>
<td>Particular Provisions</td>
<td>Clause 52.06 – Car Parking - A permit is required to reduce the car parking requirements by 11 car parking spaces</td>
</tr>
</tbody>
</table>

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

- Clause 45.06-1: Development Contribution Plan Overlay
- Clause 45.09-3: Parking Overlay
- Clause 52.35: Urban Context Report and Design Response for Residential Development of Four or More Storeys

2. **Internal/External Consultation**

**Public Notification**

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

- Sending notices to the owners and occupiers of adjoining and nearby land; and
- By placing three signs on site for fourteen days.

Council has received 13 objections to date. A map identifying the location of objectors forms Attachment 3.

The key issues raised in objections are:

- Privacy/overlooking
- Noise associated with dwellings
- Construction noise
- Design detail
- Lack of passive surveillance
- Waste removal
- Traffic
- Landscaping
- Loss of views
- Car parking
- Overshadowing
- Height
- Neighbourhood character

A Planning Information Discussion (PID) meeting was held on the 21 July 2016 with Council officers, Mayor Samantha Ratnam, the permit applicant and one objector in attendance. The discussion focused on minimising impacts to the east due to the location of the objector at 108-124 Union Street. The outcome from the PID meeting was that the permit applicant would treat the eastern boundary wall with creepers to visually soften the appearance of the sheer wall. This forms a condition in the recommendation.

**Internal/External Referrals**

No external referrals were required in relation to this application.

<table>
<thead>
<tr>
<th>Internal Branch/Business Unit</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Design Unit</td>
<td>No objections were offered to the proposal. The architectural quality of this proposal was considered very high and quite an improvement on the previous proposal. There are many elements in this design which reflect a high quality design response including material choices, building mass, facade treatment and integrated external landscaping.</td>
</tr>
<tr>
<td>Strategic Transport and Urban Safety Branch</td>
<td>No objections were offered to the proposal subject to modifications, which are addressed by conditions detailed in the recommendation. It was noted that the proposal incorporates excellent bicycle parking facilities for future occupants and visitors to the site, and the design architectural fins that protrude over the road reserve are also accepted as they are too high to be effected by vehicles.</td>
</tr>
<tr>
<td>ESD Unit</td>
<td>No objections were offered to the proposal. It was noted that the proposal achieves excellent ESD initiatives, including a 1st floor internal landscaped walkway separating the two buildings which allows each dwelling to have a dual frontage, improved access to natural daylight and natural cross ventilation, whilst also providing excellent urban ecology on the site.</td>
</tr>
<tr>
<td>Open Space Design and Development Unit</td>
<td>No objections were offered to the proposal.</td>
</tr>
</tbody>
</table>

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 Open Space
- Clause 11.04 Metropolitan Melbourne
- Clause 13.03 Soil Degradation
- 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 21.03-1 Activity Centres
- Clause 21.03-3 Housing
- Clause 21.03-4 Urban Design, Built Form and Landscape Design

Local Planning Policies:
- Clause 22.01 Neighbourhood Character
- Clause 22.03 Car and Bike Parking and Vehicle Access
- Clause 22.07 Development of Five or More Storeys
- Clause 22.08 Environmentally Sustainable Development

Planning Scheme Amendments

Amendment C142 – Moreland Higher Density Design Code

Amendment C142 seeks to introduce the Moreland Apartment Design Code (MADC)
as a local policy to the Moreland Planning Scheme.

An independent panel report, publicly released in June 2015, was supportive of the
amendment. Council at its August 2015 meeting resolved to adopt the amendment
and submit it to the Minister for Planning for inclusion into the Planning Scheme.

In June 2016, the Minister for Planning decided to ‘make no decision on Amendment
C142’ further noting that he would ‘reassess this decision once the outcomes of the
(State led) Better Apartments project are known’. Relevantly the Minster noted that
MADC remains a policy that Council must consider.

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

4. Issues

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

Does planning strategy support the proposed use and development in this
location?

The subject land is located within the Mixed Use Zone, and within 120m of the
Brunswick Major Activity Centre. Both the SPPF and Council, through its MSS, seek
to channel higher density housing into mixed use areas to take advantage of the
excellent access to public transport and other services within these locations. Of
relevance is Clause 22.01 (neighbourhood character) which nominates land in the
Mixed Use Zone as substantial change areas.

The proposal also provides high level sustainability outcomes through its energy
efficient design. This is supported by SPPF and LPPF objectives and policies which
encourage energy efficient and best practice environmentally sustainable building
design, reduced motorised vehicle use and alternative modes of transport. The
subject site is located within 300m east of the 55 Tram route, within 225m south of
the 506 bus route and within 790m west of the Jewell Train Station.
Is the proposed form and height of the building appropriate?

The Mixed Use Zone provides guidance for overall building height, seeking to ‘ensure building height does not exceed four storeys unless it can be demonstrated that: the prevailing height of surrounding buildings is five or more storeys’. Height provisions contained at Clause 22.01 (neighbourhood character) for the Mixed Use Zone are as follows:

**Overall height**

Substantial Change Areas (Commercial, Mixed Use and Residential Growth Zones)

*Ensure building height does not exceed four storeys unless it can be demonstrated that:*

- The prevailing height of surrounding buildings is five or more storeys, in which case the prevailing height should not be exceeded; or
- The site is large enough to allow the visual impacts of the development to be mitigated through the design response. In such cases, the building height at the interface with adjoining properties and at street frontages should not exceed four storeys.

The maximum height of the previously approved planning permit for the land was 12 metres. The building heights proposed for this current application are four storeys (11.84 metres) with a partial five storeys (14.84 metres) at the rear. The four storey height for the building to the west fronting Barry Street adheres to the permitted height for the mixed use area, and also is respectful to the adjoining properties with the graduation of building heights and setbacks to mitigate the building bulk. The building fronting Barry Street is generally similar in terms of the height that was approved in the 2015 permit.

The rear section of the site exceeds the previously approved height by 2.8 metres. Importantly, the four storey maximum height is a discretionary height limit which may be increased in circumstances where increased height may be justified by the site surrounds and design response of a building. The five storey built form to the east of the site is acceptable for the following reasons:

- It is setback behind the four storey building and will therefore not be readily visible from Barry Street.
- It adjoins a development at 108-124 Union Street Brunswick which encompasses 128 dwellings in three to five storey buildings.
- The off-site amenity impacts on adjoining residential properties are acceptable (discussed later in this report).
- The design objectives of the Moreland Apartment Design Code (MADC) have been achieved (discussed later in this report).
- There will be no unreasonable overlooking impacts to the adjoining properties (subject to conditions discussed later in this report).
- Proposed overshadowing from the five storey building will not exceed that approved by the previous application for the site.
- A condition is included in this recommendation that the Dwelling 13, 14, 15, 16, 17, 18, 19 and 20 rooftop east facing planter box structures be removed and replaced with a lightweight screening to minimize bulk and better reflect the glass structure of the fifth floors entirety.

Is the internal amenity of the proposal acceptable?

On balance, the proposal is considered to provide a high level of internal amenity. The following aspects of the design are positive:
- Provision of approximately 210 square metres of communal landscaped area at first floor.
- Cross ventilation for each dwelling.
- Floor areas of 108 – 186 square metres.

The key issue relating to internal amenity is daylight access. Clause 22.07-3.15 of the Moreland Planning Scheme seeks to ‘ensure that habitable rooms in new dwellings receive adequate natural light and ventilation’. Quantifiable measures for achieving this objective are not provided in Clause 22.07. Instead, the standards and objectives for daylight and building separation in MADC are used.

The northern and southern side boundary setbacks to the laneways do not comply with MADC, however, each dwelling has multiple outlooks and balconies/decks to maximise outlook and so the variation to these north and south sides warrants support.

At third storey, the east facing kitchen windows of the four storey building have direct views to the west facing bedroom windows of the five storey building. Internal overlooking at the third storey is addressed by providing east facing screening to the kitchen windows of the four storey building. This will minimize internal overlooking.

The key interface requiring consideration in relation to daylight is the eastern setbacks.

**Eastern setback**

The previous proposal incorporated eastern boundary setbacks of 4.27m, 4.3m and 4.6m on the third storey and 6.9m and 7.1m on the fourth storey. This application subsequently proposes a lesser eastern boundary setback than the original approval for the land. The objectives of building separation are four-fold: providing adequate daylight, reducing overlooking, providing quality outlook and ensuring equitable development.

The building separation standards (D.1.2 – Passive Design Element) in MADC state that up to the fourth storey, the building should be setback 3 metres at first floor (as there are bedrooms on this level) and 6 metres from 108-124 Union Street at second, third and fourth floor (as they're living areas on this level).

The proposal provides an eastern ground floor setback of 0m, first floor balcony boundary setback of 2m, a second floor boundary setback of 2m, side third floor boundary setback of 2m and fourth boundary setback of 4 metres.

At the fourth floor, there is a separation of 6.8 metres from balcony edge to balcony edge at 108-124 Union Street for a height of approximately 10 metres from the ground. MADC allows a setback of 6 metres between a living room and a wall up to a height of 12 metres. Therefore the MADC building separation is satisfied at this level.

Although the building on the eastern elevation is five storeys, Clause 55 remains an appropriate measure for internal amenity as the fifth storey encompasses a roof deck and winter garden with glass roof and walls.

Pursuant to Standard B27 (daylight to new windows) at Clause 55.05-3, 1 metre setbacks are required for each level on the eastern side boundary. Levels one, two and three are separated from 108-124 Union Street by the existing 6.5 metre boundary wall. Levels four and five are further recessed to 2 metres and 3.8 metres respectively and so also comply with Standard B27.

The proposed eastern setback responds to the site’s context and constraints and acceptably responds to the building separation objectives.

**Are the proposed off-site amenity impacts of the building acceptable?**

The proposed building will not result in unreasonable off-site amenity impacts having regard to the extent of built form change expected within a Mixed Use area. Each interface is assessed in turn.
**North – 14 Barry Street**

The single storey weatherboard dwelling at 14 Barry Street (separated by the subject site by a laneway) will not be unreasonably impacted by the proposal due to:

- The proposed development only extends past the private open space of 14 Barry Street for 0.8m.
- The previous approval includes an identical wall on boundary to the northern interface.
- No additional overshadowing will occur to the private open space of this dwelling as a consequence of the proposal.
- The 3.4m laneway separating the subject site and properties to the north provides an adequate buffer to ensure overlooking/privacy is not unreasonable.
- Overlooking to the private open space of 14 Barry Street will be managed by conditions included in this recommendation to screen the Dwelling 1 and Dwelling 11 deck and terrace on their northern sides to minimize overlooking potential.

It is relevant that no objection was received from the property to the immediate north of the subject site.

**East – 108-124 Union Street**

The site to the east contains 108-124 Union Street, Brunswick totalling 128 dwellings within three to five storey buildings. This site has balconies to 5 of the 128 dwellings facing the subject site. These dwellings are located on the third level of the building and serve living areas. However, these dwellings also have secondary balconies to their eastern side.

The proposed development includes a partial third, fourth and fifth floors to be built above the height of the existing boundary wall. Whilst it is acknowledged that this will impact on daylight and sunlight access along with having a visual impact, the question is whether these impacts are acceptable. Clause 55 is also an appropriate measure to determine acceptable amenity impacts for this application as the fifth floor encompasses a roof deck and winter garden within an entirely glass structure, and Clause 55 applies to development of four storeys.

The ground floor contains an eastern wall on boundary however, Standard B17 (side and rear boundary setbacks) at Clause 55.04 of the Moreland Planning Scheme requires the development to have the following eastern boundary setbacks from each respective level above the ground level being 2m, 4m, 6m and 7.2m respectively. The eastern boundary encompasses setbacks of 2m, 2m, 2.9m and 4m and so does not comply with Standard B17 at third, fourth and fifth levels. The variations are acceptable due to the overshadowing cast on this elevation being no worse than the previous approval for the land; the overlooking being minimized by way of screening to new east facing windows; the compliance with the daylight to existing windows of 108-124 Union Street as per Standard B19 and the fifth level being a glass structure to minimize visual bulk impacts.

Further, the off-site amenity impacts are considered acceptable because:

- The 6.5 metre existing boundary wall hides the lower levels and is considered acceptable as detriment from these proposed levels will be no worse than the existing conditions. Levels 3 (partial), 4 and 5 protrude above the wall but are recessed from the boundary.
- The recession provided at the fourth and fifth storeys on the eastern elevation ensures an acceptable distance from the adjoining balconies of the third storey of 108-134 Union Street and it allows daylight access. The setback adheres to Standard B19 (daylight to existing windows) at Clause 55.04-3.
• The fifth storey is roof decks and winter garden areas only, with wall and roof fabric for this level being glass. Conditions form part of this recommendation requiring that the Dwelling 13, 14, 15, 16, 17, 18, 19 and 20 east facing planter boxes be removed from the fifth level, and the roof form for these structures be setback 5.5 metres from the eastern property boundary to minimize the visual impact and bulk to the east elevation.

• Balconies and decks are shown as being screened in accordance with Standard B22 (overlooking) to minimise overlooking impacts to the balconies and decks of the neighbouring site.

• The layouts at 108-124 Union Street are dual aspect on this portion (west) of the building, with a secondary outlook from secondary balconies to the east.

• At the PID meeting, at the request of one of the objectors from 108-124 Union Street the permit applicant agreed to plant some creepers and greenery on the eastern boundary wall to minimise impacts of the proposal when viewed from the eastern interface. This greenery will soften the appearance of the building.

South – 126-134 Union Street

Land to the south contains 126-134 Union Street Brunswick which contains five shops. These are commercial uses, and separated from the subject site by a laneway. The MADC supports new development and balconies to be built to the boundary provided it does not unreasonably affect the development potential of these adjoining lots. In this case, the blank wall on the proposals southern elevation should not unreasonably affect the development potential of 126-134 Union Street because these sites have the benefit of outlook to Union Street. Shadows cast by the proposed development to these backyard areas are mostly obscured by the existing garages and outbuildings on the boundaries of these allotments, and where they marginally exceed this they are not worse than the previous approval for the land. Whilst some shadow will occur at 9am on the September Equinox, overshadowing to the southern side of the subject site still achieves compliance with Standard B21 (overshadowing) at Clause 55.04-5 of the Moreland Planning Scheme and is acceptable.

Does the external appearance of the building positively relate to the street?

The proposal’s external appearance is of a high architectural quality, utilises durable and contemporary building materials and provides a visually interesting facade which will positively contribute to the emerging character of the street. The use of planter boxes on balconies that include climber plants will also enhance landscaping in the public realm.

Active frontage and casual surveillance of the street is achieved through incorporation of ground floor decks for dwellings 1, 2, 3 and 4, and the location of first and second floor decks for most dwellings on the western elevation. The proposal is considered to represent high quality architecture that responds positively to Council’s strategic vision for the site.

The removal of the large crossover and associated concrete area currently at the front of the site is a positive of the proposal, with the one crossover proposed to be located on the laneway on the sites northern elevation. This will ensure street frontage to Barry Street prioritises pedestrian movement and safety and to create an active frontage.

Is the landscaping provision within the site acceptable?

The landscaping proposed is acceptable given the location of the subject site within a Mixed Use Zone and adjoining buildings whereby high site coverage is prevalent and encouraged. Four new canopy street trees are proposed on the Barry Street frontage, and a shared landscaped area at first floor will also incorporate planting for shared use by future occupants.
Is the proposed reduction of car parking acceptable?

Pursuant to Clause 52.06 (car parking) of the Moreland Planning Scheme, 1 car parking space is required for each proposed 1 and 2 bedroom dwelling and 2 car parking spaces for each proposed 3 bedroom dwelling. 32 car parking spaces are therefore required for the development. The applicant is therefore seeking a waiver of 11 required car parking spaces as the proposal provides 21 on-site car parking spaces at a rate of 1 per dwelling. The subject site is located within an area covered by the Parking Overlay pursuant to Clause 45.09 of the Moreland Planning Scheme.

In addition, 1 bicycle space is provided for each dwelling and 6 visitor bicycle spaces are provided.

The Traffic Engineering Assessment by Traffix Group submitted with the application concludes that the 21 car parking spaces provided within the development will adequately accommodate for all dwellings proposed. The report also provides data from the Census Australian Bureau of Statistics which states that for Brunswick, dwellings with 1 bedroom, 2 bedrooms and 3 bedrooms statistically primarily own only 1 car.

The reduction of 11 car parking spaces is considered appropriate for the following reasons:

- The site has proximity to multiple modes of public transportation (the subject site is located within 300m east of the 55 Tram route, within 225m south of the 506 bus route and within 790m west of the Jewell Train Station).
- The number of bicycle spaces provided exceeds the statutory requirement by 23 spaces. Bicycle use is highly viable due to the proximity of the site to the Upfield Shared Bike Path.
- 23 Car Share Vehicles are located within 1km of the site.
- 8 Car Share Vehicles are located within 500m of the site.
- The reduction is supported by Council’s Strategic Transport and Urban Safety Branch.
- Reduced motor vehicle use and mode shift to sustainable transport is supported by planning policy.
- Provision of car parking spaces within the ground floor carpark accords with the above-mentioned ABS data for car ownership in Brunswick).
- Occupiers will only be able to park in the street in accordance with parking regulations. Owners and/or occupiers of the premises will not be eligible for any Council parking permits to allow for on-street parking. This is noted in the recommendation.
- The proposal meets the Brunswick Integrated Transport Strategy (August 2014) adopted by Council provides the following car parking rates for development in Brunswick:

<table>
<thead>
<tr>
<th>Residential (1 brm dwelling)</th>
<th>0.5 - 1 space per dwelling</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential (2 brm dwelling)</td>
<td>0.8 – 1 space per dwelling</td>
</tr>
<tr>
<td>Residential (3+ brm dwelling)</td>
<td>1.0 - 1.5 spaces per dwelling</td>
</tr>
</tbody>
</table>
What impact does the proposal have on car congestion and traffic in the local area?

Swept path diagrams submitted with the Traffic Engineering Assessment by Traffix Group demonstrate that vehicles can appropriately enter and exit the right-of-way to access the car spaces. Furthermore, Council’s Strategic Transport and Urban Safety Branch did not object to the traffic generation in the laneway, noting that Council policy at Clause 22.03 (car and bike parking and vehicle access) supports the use of laneways for vehicle access.

A turning area has been provided so cars can both enter and egress the road travelling in a forwards direction. The laneway is 3.1m wide as required by Clause 52.06-8 of the Moreland Planning Scheme.

The increase in use of the constructed right of way is expected to lead to an increase in deterioration of the bluestone surface.

A condition in the recommendation therefore requires the owner/developer to undertake repair and reconstruction works in bluestone of the right-of-way to the south of the site (where vehicle access is proposed) to a point at least 1.5 metres east of the vehicle entry to Council’s requirements and under Council supervision. This will ensure that the right-of-way can accommodate the increased use associated with the development. This condition was also imposed and accepted in the previously approved development.

Does the proposal incorporate adequate Environmental Sustainable Design features?

The proposed development is deemed to have an advanced level of environmental sustainability. The sustainability management plan submitted with the application identifies the following key ESD outcomes:

- Passive design, including high level insulation, efficient glazing, high thermal mass and cross ventilation
- 6.6 Star average energy rating
- Roof top balconies/winter gardens
- Landscaped walkway at first floor
- 8,000L rainwater collection and reuse system
- No borrowed light

Is the proposal accessible to people with limited mobility?

Objective 9 of Clause 23.03-3 (Housing) is to increase the supply of housing that is visitable and adaptable to meet the needs of different sectors of the community.

It is acknowledged that townhouse style dwellings are not ideal in terms of accessibility. Nonetheless, Dwellings 1 and 10 can be made to be adaptable as they have a bedroom and living area at ground level, and no entry steps into the dwellings. These dwellings will also be visitable for people with limited mobility. Dwellings 2, 3, 4, 5, 6, 7, 8, 9 and 11 all have one room (bedroom/living room/study) and one bathroom at ground level to also accommodate for individuals with limited mobility. To ensure all dwellings comply with the Objective of Clause 23.03-3, a condition is included in this recommendation that a lift be provided at ground level for access to the dwellings at first floor to ensure they can visited by people with limited mobility.

A condition is also included in this recommendation that an Access Report be prepared and submitted to Council to provide specific details of the abovementioned dwellings and their compliance with the ‘Silver Level’ requirements in the Livable Housing Design Guidelines produced by Liveable Housing Australia.
Is the site potentially contaminated?
The subject site is affected by an Environmental Audit Overlay. An Environmental Audit was prepared following the previous application on the subject land. An Environmental Audit was completed in accordance with the previously issued permit for the land and a Statement of Environmental Audit issued. The Statement concludes that the site is suitable for the land use and development approved by Planning Permit MPS/2014/983.

Despite the Statement, the recommendation for this application includes the standard Environmental Audit conditions. This will ensure that the Statement of Environmental Audit can be amended by an auditor to reflect the proposal subject to this planning application. The construction of any works associated with this permit will need to comply with the recommendations of the amended Statement.

5. Response to Objector Concerns
The following issues raised by objectors are addressed in Section 4 of this report:

- Design detail
- Lack of passive surveillance
- Traffic
- Privacy/Overlooking
- Car parking
- Height
- Neighbourhood character
- Landscaping
- Overshadowing

Other issues raised by objectors are addressed below.

Waste removal
A concern has been raised in relation to the frequency of bin collection from the site and amount of bins provided. The waste management proposed is acceptable, and the shared bin area at ground floor is proportional to the residential use of the site. The waste management plan details the means by which garbage and recyclables will be stored on the site and the time and frequency of collection and location of the collection point, and the collection will be undertaken weekly by a private company.

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

Loss of views
While the Victorian Civil and Administrative Tribunal has recognised that views can be a relevant amenity consideration, it has also held that there is no right to a view and that the weight to be given to the amenity impact of loss of views is diminished where no planning control applies encouraging retention or sharing of views. There is no specific policy or provision regarding views within the Moreland Planning Scheme. Despite this, at the PID meeting the permit applicant advised that they would treat the eastern boundary wall that fronts 108-124 Union Street with creepers to soften the appearance of the proposal.
Construction noise
Noise and amenity impacts during the construction process are not generally a planning matter. The *Environmental Protection Act* (s.48A(3)), provides noise control guidelines for construction sites which set working hours and noise management expectations. Council's General Local Law 2007 also includes provisions regarding control of noise associated with residential works.

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
Nil.

8. Conclusion
The proposed development achieves advanced sustainability outcomes and use of passive design principles. The contemporary architecture achieves an active facade, shared open space area and large balcony spaces to enhance the public realm. The proposal will not result in unreasonable offsite amenity impacts and will provide good amenity for future occupants. Furthermore, the provision of 21 car parking spaces on the land is considered to be acceptable, having regard to the site’s excellent proximity to public transport and emphasis on alternative modes of transport.

On the balance of policies and controls within the Moreland Planning Scheme and objections received, it is considered that Notice of Decision to Grant a Planning Permit No MPS/2015/1002 should be issued for the construction of a four storey building and five storey building encompassing 21 dwellings and a reduction of eight of the required car parking spaces subject to the conditions included in the recommendation of this report.

Attachment/s
1. Development Plans - 2-8 Barry Street, Brunswick D16/277040
2. Application Plans - 2-8 Barry Street, Brunswick D16/277043
3. Location Map - 2-8 Barry Street, Brunswick Objector D16/277038
Executive Summary

The application seeks approval for the use and development of the land to construct two buildings containing retail spaces and dwellings, the removal of vegetation, alteration of an access to a Road Zone Category 1 and a reduction in the car parking requirement associated with retail uses. The application has been referred to the Urban Planning Committee as the building exceeds the preferred building height identified within the Activity Centre Zone.

The application was advertised and four objections were received. The main issues raised in objections are the building height and setbacks, the interface to the park, internal amenity and off site amenity.

A Planning Information and Discussion meeting was held on 3 May 2016 and was attended by the applicant and the four objectors. Following this meeting the plans were amended to address matters raised during this meeting. The amendments included alterations to the access to the park with a bicycle push ramp included, increased activation to the park facade including the introduction of retail spaces and entrances to the development, additional retail fronts to Sydney Road and amendments to the north and south facade windows. Further shadow diagrams were also provided.

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

The key planning considerations are:

- The built form, height and setbacks
- The interface with the park.
- The level of internal amenity created by the new dwellings.
- The provision of a through-link and the impact upon the public realm.

The proposal offers a high quality building offering an excellent level of internal amenity with minimal off site amenity impacts. The interface with the Lake Reserve is greatly enhanced through the provision of dwellings facing the park. The building is finished in high quality materials that will ensure the building makes a positive contribution when viewed from Sydney Road or the park. A minor variation is sought to the overall building height (approximately one level) and to the street-wall height. The proposal is an improvement upon an existing approval that applies for this site. The proposal includes the provision of a publically accessible link from Sydney Road to the park and the construction of a stair within the park. The proposal makes a positive contribution to the public realm whilst achieving a quality design outcome that is suitable for the site.

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

The Urban Planning Committee resolve:

That a Notice of Decision to Grant a Planning Permit No. MPS/2015/595 be issued for the use and development of the land to construct two buildings containing retail premises and dwellings, the removal of vegetation, to alter access to a Road Zone Category 1 and to reduce the car parking requirement associated with shop at 718-722 Sydney Road, Coburg North, subject to the following conditions:

1. Before the use and development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans received 28/06/2015 but modified to show:
   a) Setback levels 1 to 4 a minimum of 3 metres from the southern boundary.
   b) Setback level 5 minimum of 4.5 metres from the southern boundary.
   c) Private storage areas at a rate of 4m³ for one bedroom dwellings, 6m³ for two bedroom dwellings and 8m³ for the three bedroom dwelling.
   d) Four car parking spaces and four bicycle parking racks identified as ‘retail owned by owners’ of the retail areas. The remaining retail spaces marked as ‘customer parking.’
   e) Two resident bicycle parking spaces allocated to electronic bicycles.
   f) The resident bicycle parking room on the basement level 1 with dimensioned bike spaces at least 4.9 metres wide to ensure the correct 1.5 metre wide access aisle between the two rows of parked 1.7 metre long bicycles.
   g) Bicycle signage at least 300mm wide and 450mm high showing a white bicycle on a blue background must be erected directing cyclists to the location of the bicycle parking.
   h) The customer car parking space with a wall adjacent to one side must be provided with 300mm width in addition to the 2.6 metre wide parking space, as required by the Australian Standard for Off-Street Parking (AS2890.1).
   i) The location of any substation required by the power company for this development. Any substation must be incorporated within the building (i.e. not free standing or pole mounted in the street) to ensure minimal impact on the visual amenity of the public realm.
   j) Any practical changes to the plans required by condition 5 of this permit (Landscape Plan).
   k) The tree protection zones marked on the floor plans in accordance with condition 6 of the planning permit.
   l) Any practical changes to the plans required by condition 8 of this permit (Sustainability Management Plan).
   m) Any practical changes to the plans required by condition 16 of this permit (Access Report).
   n) Any practical changes to the plans required by condition 18 of this permit (Acoustic Report).
   o) Any practical changes to the plans required by conditions 19-21 (VicRoads conditions).
   p) Any practical changes to the plans required by condition 22-25 (Public Transport Victoria conditions).
q) Any practical changes to the plans required by condition 38 of this permit (Erosion Management Report (Geotechnical Report)).

Secondary Consent

2. The use and development as shown on the endorsed plans must not be altered or modified unless with the further written approval of the Responsible Authority.

Development Contribution

3. Prior to the issue of a Building Permit in relation to the development approved by this permit, a Development Infrastructure Levy and Community Infrastructure Levy must be paid to Moreland City Council in accordance with the approved Development Contributions Plan. The Development Infrastructure Levy amount for the development is $814.10 per 100 square metres of leasable floor space and the Development and Community Infrastructure Levy amount for the development is $470.90 per dwelling. In accordance with the approved Development Contributions Plan, these amounts will be indexed annually on 1 July.

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

a) For a maximum of 12 months from the date of issue of the Building Permit for the development hereby approved; or

b) Prior to the issue of a Statement of Compliance for the subdivision.

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

Environmental Assessment and Auditing Requirements

4. Prior to the commencement of construction or carrying out works pursuant to this permit either:

a) A Certificate of Environmental Audit for the land must be issued in accordance with Section 53Y of the Environment Protection Act 1970 and provided to the Responsible Authority; or

b) An Environmental Auditor appointed under Section 53S of the Environment Protection Act 1970 must make a Statement in accordance with Section 53Z of that Act that the environmental conditions of the land are suitable for the use and development that are the subject of this permit and that statement must be provided to the Responsible Authority.

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

Where a Statement of Environmental Audit is issued for the land, prior to the commencement of the use, and prior to the issue of a Statement of Compliance under the Subdivision Act 1988, and prior to the issue of an Occupancy Permit under the Building Act 1993, a letter prepared by an Environmental Auditor appointed under Section 53S of the Environment Protection Act 1970 must be submitted to the Responsible Authority to verify that the directions and conditions contained within the Statement have been satisfied.
Where a Statement of Environmental Audit is issued for the land, and any condition of that Statement requires any maintenance or monitoring of an ongoing nature, the Owner(s) must enter into an Agreement with Council pursuant to Section 173 of the Planning and Environment Act 1987. Where a Section 173 Agreement is required, the Agreement must be executed prior to the commencement of the permitted use, and prior to the certification of the plan of subdivision under the Subdivision Act 1988. All expenses involved in the drafting, negotiating, lodging, registering and execution of the Agreement, including those incurred by the Responsible Authority, must be met by the Owner(s).

Prior to any remediation works being undertaken in association with an Environmental Audit, a Remediation Works Plan, prepared in consultation with the appointed Environmental Auditor, must be submitted to and approved by the Responsible Authority. The plan must detail only those remediation works, excavation works as well as any proposed structures such as retaining walls, necessary to facilitate the completion of the environment audit. Only the works detailed in the Remediation Works Plan, approved by the Responsible Authority, are permitted to be carried out prior to the issue of a Certificate or Statement of Environmental Audit.

Landscaping

5. Prior to the commencement of any development works, a landscape plan consistent with the development plans submitted 28/06/2016 must be submitted to and approved by the Responsible Authority. The landscape plan must provide the following:
   
   a) Additional landscaping surrounding the stair within the parkland.
   
   b) The tree protection zones as required by condition 6.
   
   c) A schedule of all proposed trees, shrubs and ground covers (including numbers, size at planting, size at maturity and botanical names), as well as sealed and paved surfaces. The flora selection and landscape design should be drought tolerant and based on species selection recommended in the Moreland Landscape Guidelines 2009.
   
   d) Identification of any existing tree(s) and vegetation proposed to be removed and retained. Vegetation retainment must include strategies for the retainment (i.e. barriers and signage during the construction process).
   
   e) Details of the location and type of all paved and sealed areas. The adoption of porous/permeable paving, rain gardens and other water sensitive urban design features is encouraged.

6. Prior to development commencing (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), all council trees and the trees (or nominate tree numbers or species of individual trees) marked on the endorsed plans as being retained must have a Tree Protection Zone (TPZ) to the satisfaction of the Responsible Authority. The fencing associated with this TPZ must meet the following requirements:
   
   a) Extent - The tree protection fencing (TPF) is to be provided to the extent of the TPZ, calculated as being a radius of 12 x Diameter at Breast Height (DBH – measured at 1.4 metres above ground level as defined by the Australian Standard AS 4970.2009). If works are shown on any endorsed plan of this permit within the confines of the calculated TPZ, then the TPF must be taken in to only the minimum amount necessary to allow the works to be completed.
   
   b) Fencing - All tree protection fencing required by this permit must be erected in accordance with the approved TPZ. The TPF must be erected to form a visual and physical barrier and must be a minimum height of 1.5 metres and of chain mesh or similar fence with 1.8 metre support posts (e.g. treated pine or similar) every 3-4 metres, including a top line of high visibility plastic hazard tape erected around the perimeter of the fence.
c) Signage - Fixed signs are to be provided on all visible sides of the TPF clearly stating “Tree Protection Zone – No Entry”, to the satisfaction of the Responsible Authority.

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

e) Provision of Services - Unless with the prior written consent of the Responsible Authority, all services (including water, electricity, gas and telephone) must be installed underground, and located outside of any TPZ, to the satisfaction of the Responsible Authority.

f) Access to TPZ - Should temporary access be necessary within the Tree Protection Zone during the period of construction, the Responsible Authority must be informed prior to relocating the fence (as it may be necessary to undertake additional root protection measures such as bridging over with timber).

7. Following completion of the development the areas designated as garden areas on the endorsed landscape plan must be maintained and used as garden areas.

Environmental Sustainable Development

8. Prior to the endorsement of plans, the Sustainability Management Plan prepared by ‘Sustainable Development Consultants’, dated 5th August 2015, version 2, received by Moreland City Council on 6 August 2015, must be amended by a suitably qualified environmental engineer or equivalent to the satisfaction of the Responsible Authority to include the following:

a) Demonstration that stormwater detention volume requirements are in addition to stormwater retention and that the rainwater tanks are not directly topped up by mains water

b) Details demonstrating how the commercial premises will achieve a 10% improvement on the performance of the building fabric, and confirmation that this can be achieved

c) A minimum of 20% of the proposed dwellings modelled in an amended ‘First-Rate 5 Assessment’, demonstrating best practice energy efficiency

d) Provide fixed/adjustable external shading to north facing exposed glazing and operable shading devices to east and west facing exposed glazing.

Where alternative ESD initiatives are proposed to those specified in conditions 7a)– d, the Responsible Authority may vary the requirements of this condition at its discretion, subject to the development achieving equivalent (or greater) ESD outcomes in association with the development.

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

10. Prior to endorsement of plans, a Water Sensitive Urban Design (WSUD) Report/MUSIC Model demonstrating the incorporation of water sensitive urban design initiatives in accordance with best practice stormwater management targets must be provided to the satisfaction of the responsible authority. It must include (however is not limited to) the following:

a) A complete copy of the MUSIC report submitted to Council, including all parameters set for a Melbourne location
b) The Gross Pollutant Trap within the MUSIC model attributed to treat only gross pollutants (i.e. the inputs for total suspended solids and total phosphorus set to 0%)
c) Consistent information and stormwater initiatives between the architectural plans, MUSIC model and the SMP, including permeable and impermeable areas
d) Clarification of permeable and impermeable areas.

Where alternative ESD initiatives are proposed to those specified in conditions 9a)–d), the Responsible Authority may vary the requirements of this condition at its discretion, subject to the development achieving equivalent (or greater) stormwater best practice outcomes in association with the development.

11. Before the development commences, a Water Sensitive Urban Design (WSUD) initiative implementation schedule to the satisfaction of the responsible authority must be submitted to and approved by the Responsible Authority. This must identify the different areas of responsibility and provide a schedule for implementation, ongoing management, maintenance and monitoring of WSUD initiatives included in the approved WSUD Report and MUSIC model.

12. All works must be undertaken in accordance with the endorsed Water Sensitive Urban Design (WSUD) Report/MUSIC model including the type and area of treatment initiatives specified and to the satisfaction of the Responsible Authority. No alterations to the WSUD Report and MUSIC Model(s) may occur without written consent of the Responsible Authority. An application to amend the WSUD Report and MUSIC Model(s) must be accompanied by an updated WSUD Report and MUSIC Model(s) and WSUD implementation schedule to the satisfaction of the Responsible Authority and must incorporate the proposed changes.

13. Prior to the commencement of works approved under this permit, a report from the author of the Water Sensitive Urban Design (WSUD) Report/MUSIC model(s) 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 initiatives specified in the WSUD Report and MUSIC model to have been implemented in accordance with the approved report.

Waste Management

14. The Waste Management Plan prepared by Leigh Design Pty Ltd dated 3 August 2015 will be endorsed to form part of this permit. The recommendations of the plan must be implemented and complied with at all times to the satisfaction of the Responsible Authority.

15. All works must be undertaken in accordance with the recommendations contained in the endorsed Waste Management Plan to the satisfaction of the Responsible Authority. No alterations to the Waste Management Plan may occur without the written consent of the Responsible Authority.

Accessibility

16. Prior to the endorsement of plans, an Access Plan must be prepared by a suitably qualified access auditor to assess any plans and provide advice/recommendations on access and mobility issues to the satisfaction of the Responsible Authority. The Plan must be submitted to and approved by the Responsible Authority. The Plan must provide for, but not be limited to, the following:
   a) Vehicular and pedestrian access into the buildings;
   b) Access to the lifts;
   c) The provision of tactile indicators;
   d) The provision of Braille indicators for the lifts;
The use of contrasting paving or surface materials to assist the vision impaired;
Adaptable, accessible and visitable design features in accordance with the silver Performance Level of the Livable Housing Design Guidelines 2012. A minimum of 10% of the total number of dwellings must be adaptable;
Emergency exits, particularly above the ground floor; and
Car parking.

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

17. Prior to the occupation of any dwelling approved under this permit, a report from the author of the Access Plan, 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 Access Plan have been implemented in accordance with the approved Plan.

**Noise Attenuation**

18. Prior to the commencement of the development approved by this permit, a report prepared by a qualified Acoustic Engineer must be submitted to the satisfaction of the Responsible Authority outlining specific noise attenuation measures to minimise the noise from the adjacent arterial road and tram route and neighbouring industrial land uses. Construction and maintenance of the buildings must be in accordance with the recommendations contained in this report to the satisfaction of the Responsible Authority.

**VicRoads Conditions**

19. Right hand turns into the site from Sydney Road must be prohibited.

20. The crossover and driveway are to be constructed to the satisfaction of the Roads Corporation and/or the Responsible Authority and at no cost to the Roads Corporation prior to the commencement of the use hereby approved.

21. All disused or redundant vehicle crossings must be removed and the area reinstated to kerb and channel to the satisfaction of and at no cost to the Roads Corporation prior to the commencement of the use hereby approved.

**Public Transport Victoria Conditions**

22. Before the development starts, amended plans to the satisfaction of Public Transport Victoria must be submitted to and approved by Public Transport Victoria. 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 submitted with the application but modified to show:

   a) access to Sydney Road from the development being restricted to left-in left-out only.

23. Before the use of the land commences, a Green Travel Plan must be prepared to the satisfaction of the Responsible Authority following consultation with Public Transport Victoria. The Plan must be prepared by a suitably qualified person and must encourage the use of non-private vehicle transport modes by the occupiers of the land. The Plan must include the following:

   a) A description of the location in the context of alternate modes of transport and objectives for the Green Travel Plan;

   b) Outline Green Travel Plan measures for the development including, but not limited to:
i. Household welcome packs — tram, train and bus timetables relevant to the local area must be included in the pack of information provided to purchasers upon a purchaser's occupation of an apartment.

ii. a minimum of two (2) MYKI Cards within the household welcome pack and relevant registration information.

iii. details of bicycle parking and facilities available on the land.

iv. pedestrian routes to key destinations

v. periodic monitoring & review.

c) A plan showing:

i. the bicycle parking areas to be provided for use by residents.

24. The Green Travel Plan must not be amended without the written consent of the Responsible Authority, following consultation with Public Transport Victoria.

25. Once approved the Green Travel Plan must form part of the planning permit and any ongoing Management Plan for the land to ensure the Green Travel Plan continues to be implemented by residents / owners to the satisfaction of the Responsible Authority.

General

26. 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).

27. Stormwater from the land must not be directed to the surface of the right-of-way to the satisfaction of the Responsible Authority.

28. The surface of all balconies and terraces are to be designed to collect the stormwater run-off into stormwater drainage pipes that connect into the underground drainage system to the satisfaction of the Responsible Authority.

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

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

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

32. 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.

33. All resident and retail owned parking spaces are to be marked with the associated apartment number to facilitate management of the car park to the satisfaction of the Responsible Authority.

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

35. The area marked as a loading bay on the endorsed plan must not be used for any other purpose.
36. Before the occupation of the development, bollard lighting no higher than 1.2 metres above ground level is to be installed and maintained on the land to automatically illuminate pedestrian access to the rear dwelling(s) between dusk and dawn with no direct light emitted onto adjoining property to the satisfaction of the Responsible Authority.

**Construction Management**

37. Prior to the commencement of any development works, a Construction Management Plan must be submitted to, and approved by the Responsible Authority. When approved the plan will form part of the permit. The plan must address, but not be limited to, the following:

a) Hours of demolition and construction.

b) Methods to contain dust, dirt and mud within the site, and the method and frequency of clean up procedures.

c) On site facilities for vehicle washing.

d) The protection measures for site features to be retained (e.g. vegetation, retaining walls, buildings, other structures and pathways, etc)

e) Delivery and unloading points and expected frequency.

f) A liaison officer for contact by residents and the Responsible Authority in the event of relevant queries or problems experienced.

g) The movement of construction vehicles to and from the site must be regulated to ensure that no traffic hazards are created in and around the site.

h) Parking facilities for construction workers.

i) Measures to minimise the impact of construction vehicles arriving at and departing from the land.

j) An outline of requests to occupy public footpaths, roads or parkland and anticipated disruptions to local services.

k) The processes to be adopted for the separation, re-use and recycling of demolition materials.

l) The measures for prevention of the unintended movement of building waste and hazardous materials and other pollutants on or off the site, whether by air, water or other means

m) The measures to minimise the amount of waste construction materials; the provision for the recycling of demolition and waste materials; and the return of waste materials to the supplier (where the supplier has a program of reuse or recycling)

n) The measures to minimise noise and other amenity impacts from mechanical equipment and demolition/construction activities, especially outside of daytime hours

o) The provision of adequate environmental awareness training for all on-site contractors and sub-contractors.

**Erosion Management**

38. Prior to the commencement of any buildings and/or works, including the removal, destruction or lopping of any vegetation, and/or the certification of any plan of subdivision:

a) The impact of the final design of the buildings and/or works (including the stairs in Coburg Lake Reserve), removal, destruction or lopping of vegetation and/or subdivision on slope stability must be assessed and certified by a chartered geotechnical practitioner with experience in slope stability;
b) Certification by way of a completed “Geotechnical Declaration and Certification” for generally in accordance with the Geotechnical Declaration and Certification Form, Moreland City Council, November 2012, must be lodged with the responsible authority; and

c) Any changes to the final design/plan which are recommended by the chartered geotechnical practitioner must be shown on amended plans submitted to, and approved by, the responsible authority.

39. The buildings and/or works, including removal, destruction or lopping of vegetation, and/or subdivision must be undertaken in accordance with any requirements of a chartered geotechnical practitioner.

40. If the certification by the chartered geotechnical practitioner includes any recommendations or requirement for ongoing maintenance of the buildings and/or works, prior to the commencement of building and/or works the owner must enter into an agreement with Council pursuant to section 173 of the Planning and Environment Act 1987 which is to be registered on the title to the land. The agreement will set out a regime for the recommended or required maintenance and the obligation of the owner to comply with such recommendations and/or requirements. The owner is to pay all reasonable costs of Council in the preparation and execution of the agreement.

Public Works

41. Prior to the commencement of development, a Public Works Plan and associated construction drawing specifications detailing the works to the land must be submitted and approved to the satisfaction of the Responsible Authority. The Plan must detail works including the stair and path to the park and include:

a) A detailed level and feature survey.

b) A vegetation removal plan for any vegetation outside the title boundary.

c) Plans detailing the stair and bicycle ramp that connects to the public pathway to Coburg Lake Reserve.

d) A lighting plan of the public pathway and stairway

e) Embankment planting that will occur prior to the construction of the building.

f) The Sydney Road footpath works including street furniture and tree planting.

The approved Public Works Plan will form part of the endorsed plans under the permit and must be implemented to the satisfaction of the Responsible Authority at the expense of the owner of the land, prior to the occupation of the development unless otherwise agreed with prior written consent of the Responsible Authority.

42. Prior to the commencement of the development hereby permitted, an agreement under Section 173 of the Planning and Environment Act 1987 must be entered into between the Owners of the land and the Responsible Authority in a form satisfactory to the Responsible Authority providing for:

a) Unrestricted public pedestrian and bicycle access through the landscaped community walk (park connection) between Sydney Road and Coburg Lake Reserve for 24 hours a day.

b) The owners of the land to indemnify the Moreland City Council against any claims associated with the use of the community walk (park connection) including the stair connection to Coburg Lake Reserve and to accept liability and responsibility for the on-going maintenance of the community walk (park connection)

c) The maintenance of the stair connection to Coburg Lake Reserve including landscaping referred to in condition 41 (Public Works Plan) by the owners of the land for a period of thirty years.
d) Prior to Council taking management of the stair asset (at the end of the 30 years) the owner must renew the asset in consultation with a suitable qualified engineer and undertake a geotechnical land risk assessment to the satisfaction of the Responsible Authority.

The agreement must be registered on title. The owner must pay the reasonable costs of the Responsible Authority in relation to the preparation, execution and registration of the agreement on title.

**Expiry**

43. 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:

   a) Within six months after the permit expires to extend the commencement date.

   b) Within 12 months after the permit expires to extend the completion date of the development if the development has lawfully commenced.

**NOTES:**

These notes are for information only and do not constitute part of the conditions of this permit.

**Note 1:** Unless no permit is required under the Moreland Planning Scheme, no sign must be constructed or displayed on the land without a further planning permit.

**Note 2:** Further approvals are required from Council’s City Infrastructure Department who can be contacted on 9240 1143 for any works beyond the boundaries of the property. Planting and other vegetative works proposed on road reserves can be discussed with Council’s Open Space Unit on 8311 4300.

**Note 3:** Should Council impose car parking restrictions in this street, the owners and/or occupiers of the land would not be eligible for any Council parking permits to allow for on street parking.

**Note 4:** Council charges supervision (2.50%) and plan checking (0.75%) fees on the cost of constructing the drain along the easement or street as permitted by Sections 5&6 of the Subdivision (Permit and Certification Fees) Regulations 2000.

**Note 5:** Contact needs to be made with Jemena (Mr Youssef Ali - 9351 2233) to determine whether Jemena will require the power lines to be relocated away from the dwellings.

**Note 6:** Further approvals should be sought from various departments within Moreland City Council including Property, Open Space, Engineering Assets, Road Management and Transport.

**Notes about Environmental Audits:**

**Note 7:** A copy of the Certificate or Statement of Environmental Audit, including the complete Environmental Audit Report must be submitted to the Responsible Authority within 7 days of issue, in accordance with Section 53ZB of the Environment Protection Act 1970.

**Note 8:** Where a Statement of Environmental Audit is issued for the land a copy of that Statement must be provided to any person who proposes to become an occupier of the land, pursuant to Section 53ZE of the Environment Protection Act 1970.
Note 9: The land owner and all its successors in title or transferees must, upon release for private sale of any part of the land, include in the Vendor's Statement pursuant to Section 32 of the Sale of Land Act 1962, a copy of the Certificate or Statement of Environmental Audit including a copy of any cover letter.

Note 10: Where a Statement of Environmental Audit issued for the land contains conditions that the Responsible Authority considers to be unreasonable in the circumstances, the Responsible Authority may seek cancellation or amendment of the planning permit in accordance with Section 87 of the Planning and Environment Act 1987.

Vic Roads Notes:

Note 11: The proposed developer requires reinstatement of disused crossovers to kerb and channel. Separate approval under the Road Management Act for this activity may be required for Vic Roads (the Roads Corporation). Please contact Vic Roads prior to commencing any works.

Note 12: The proposed development requires the construction of a crossover. Separate approval under the Road Management Act for this activity may be required from VicRoads (the Roads Corporation). Please contact VicRoads prior to commencing any works.
1. **Background**

**Subject Site**

The subject site comprises four lots located at 718-722 Sydney Road, Coburg North and is occupied by a vacant retail and warehouse building. The existing building is single storey with 86% site coverage. There is an existing double crossover at the southern end of the lot from Sydney Road providing access to a loading area. The site has a principal frontage to Sydney Road of 60.69 metres with side boundary lengths of 52 metres. The rear of the site faces Coburg Lake Reserve (60.69m) though there is a fall between the site and parkland of approximately 3 metres. The total site area is 3177m2.

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

**Surrounds**

The surrounding area is characterised by a mix of hard edge industrial/commercial buildings mixed with some dwellings. The site is at the northern end of the Coburg Activity Centre which comprises a mix of land uses and development types. The site is well serviced by public transport with access to Batman Train Station (200 metres to the west) and the Sydney Road tram.

To the north of the subject site is the Coburg Motor Inn (motel), the buildings associated with the motel have a frontage to Carr Street and Sydney Road and are single to double storey in height. Further north is Carr Street, a local street providing access to the Reserve.

Significantly to the rear (east) is Coburg Lake Reserve, this extensive area of open space centres around Coburg Lake and forms a wider corridor of open space running the length of the Merri Creek. A pedestrian/bicycle path passes near the rear of the subject site.

To the south is a commercial/industrial property of brick construction. The building is setback 8.6 metres from Sydney Road and 16 metres from the common boundary with the subject site.

West of the site is Sydney Road, a Road Zone Category 1 the street accommodates two lanes of traffic and a tram line in each direction. Beyond Sydney Road facing the subject site are double storey single dwellings and medium density housing. Further west of the site is 14-22 Gaffney Street which has an existing approval for development of up to ten storeys.

A location plan forms **Attachment 1**.

**The Proposal**

The application was formally amended on 28 July 2016 (via Section 57A) and is summarised as follows:

- The construction of two six storey buildings containing 141 dwellings and 4 retail spaces (two to Sydney Road and two to the through-link).
- The buildings comprise 50 one bedroom dwellings, 89 two bedroom dwellings and one 3 bedroom dwelling. Each dwelling comprises of a court yard or balcony of a minimum of 8m2.
- Building 1 faces Sydney Road and has an overall height of 18.5 metres with a street-wall height of 10.8m (9.2 metres with a 1.7 metre glass balustrade). The podium depth is 3 metres to Sydney Road.
• Building 2 faces the park and has an overall height of 6 storeys, 18.3 metres (excluding lift overrun and plant). It has a street wall of 10.7 metres (9 metres with a 1.7 metre glass balustrade) the podium depth is 5 metres.

• The building separation between buildings one and two ranges between 9 and 14.6 metres.

• The development has 73% site coverage.

• Three shared basement levels can be accessed from Sydney Road comprising 165 car parks (including 24 visitor spaces), 100 bicycle parking and storage.

• A 515m² of landscaped, communal open space is provided between the two buildings with a further 55m² provided at first floor.

• A 405m² public access way is proposed to run through the site between Sydney Road and the Reserve providing more direct public access. The through-link is partly over hung by the upper levels and is activated with retail spaces, furniture and lighting.

• A public stairway projects from the through-link outside the title boundary from south eastern corner of the site into the park land and includes cycle push ramps. The stair has been designed to provide for a reasonable access with relief flat areas between the sections of stairs. The stair runs from the through-link along the rear boundary of the site and into the park connecting with a bicycle/pedestrian path.

• The building presents with frontages to both Sydney Road and the park. The podium is articulated through a variation in material including the use of bronze perforated panels that can be slid open by residents. The upper levels incorporate angled balconies using glazing and textured concrete panelling.

The development plans form Attachment 2.

Planning Permit and Site History

The subject site has an existing permit for the use and development of the land for a six storey building comprising 54 dwellings, a shop and an office with alterations to access and a reduction in the standard car parking rate (MPS/2006/6).

The building approved was four storey to Sydney Road and six storeys to the park with a three storey street wall. This development was similar to the current proposal however it proposed two vehicle access points from Sydney Road, the central area was occupied by car parking, there was no through-link proposed to the park, with a far less resolved presentation of the building to both Sydney Road and the park. The material palette comprised of render, aluminium and glazing. Internally the approved development comprises of more borrowed light and battle axe shaped rooms with deep living rooms and minimal open space. The development has 97% site coverage.

The application was determined by the Urban Planning Committee in March 2009. This permit will expire if the works are not commenced by 13 March 2017 and completed by 13 March 2019.

Statutory Controls – why is a planning permit required?

<table>
<thead>
<tr>
<th>Control</th>
<th>Permit Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Activity Centre Zone Schedule 1 – Precinct 8</td>
<td>A shop is a Section 1 (permit not required). A dwelling is a Section 2 land use (permit required). A permit is required to carry out buildings and works. The zone identifies a preferred overall height of 14.4 metres, a street wall height of 7.5m and a podium setback of 7.5 metres.</td>
</tr>
</tbody>
</table>
Control | Permit Requirement
--- | ---
Erosion Management Overlay | The overlay affects the rear north eastern corner of the site. A permit is required to construct a building or carry out works and to remove, destroy or lop any vegetation.

Particular Provisions – 52.06 - Car parking | There is a statutory requirement (column B rates) for 151 on site car parking spaces associated with the dwellings. The proposal exceeds this providing 165. 10 spaces are required for the retail spaces, 0 are provided. A reduction for the spaces associated with the shop is therefore required. A permit is required to reduce the statutory requirement.

Particular Provisions - Clause 52.29 – Road Zone Category 1 | A permit is required to create and alter access to a Road in a Road Zone Category 1. Sydney Road is identified as a Road Zone in the care and management of Vic Roads. Applications which seek to alter an access to a Road Zone require a planning permit and must be referred to Vic Roads for comment.

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

- Clause 52.07: Loading and Unloading - A loading bay associated with the commercial uses has been provided therefore a waiver is not required.
- Clause 52.35: Urban context report and design response for residential development of four or more storeys.
- Clause 52.34: Bicycle parking has been provided in excess of the statutory requirement (44 required, 100 proposed) therefore no waiver is required.
- Clause 52.36: Integrated public transport planning – the application is referred to Public Transport Victoria for comment.

The subject site is subject to a Developer Contributions Overlay Schedule 1, a condition within the recommendation will require payment of the contribution.

The subject site is subject to an Environmental Audit Overlay a permit condition will require that prior to the commencement of a sensitive land use or buildings and works an environmental audit is provided. A preliminary investigation was provided with the application.

**Aboriginal Heritage**

The *Aboriginal Heritage Act 2006* and *Aboriginal Heritage Regulations 2007* provide for the protection of Aboriginal places, objects and human remains in Victoria.

Under these provisions the proposed development is defined as a High Impact Activity and the land is within an Area of Cultural Heritage Sensitivity. As such, Council is prevented from granting a planning permit unless a Cultural Heritage Management Plan (CHMP) is first approved.

The permit applicant has provided Council with a copy of the necessary CHMP approved by the Wurundjeri Tribe Land Council in accordance with the requirements of the *Aboriginal Heritage Act 2006*.

2. **Internal/External Consultation**

**Public Notification**

Notification of the application has been undertaken pursuant to Section 52 of the *Planning and Environment Act 1987* by:
• Sending notices to the owners and occupiers of adjoining and nearby land
• By placing 4 signs on the Sydney Road frontage and facing the park.

Council has received four objections to date.

The key issues raised in objections are:

• The height of the building is inconsistent with the neighbourhood character.
• Impact upon the character and feel of the park.
• Inadequate car parking on site and increased traffic in the area.
• The setback to the south is inadequate.
• Noise protection to neighbouring industrial uses.
• Impact upon dwellings on the opposite side of Sydney Road through light spill and overshadowing and increased difficulties for residents turning right towards the city.
• Bins should be collected by private on site collection not on the footpath.
• Bicycle paths within the park should be extended, limited visibility, should be upgraded to accommodate population increase.
• Impacts upon infrastructure including trains, emergency services, etc.
• Affects upon housing prices/value.

A Planning Information and Discussion meeting was held on 2 May 2016 and attended by Council's Planning Officers, the applicant and four objectors. The meeting provided an opportunity to explain the application, for the objectors to elaborate on their concerns, and for the applicant to respond.

Following the discussions at the Planning and Information Discussion meeting, it was resolved by the applicant to amend the plans to address some of the concerns raised by objectors. The following changes were made:

• The stair connection to the park revised, with bicycle push ramp on one side.
• A publicly accessible connection between Sydney Road and park revised, also now more activated with introduction of retail spaces, entrances to private development not the focal point of connection, encourage public foot traffic.
• Retail on Sydney Road frontage amended with more articulated shopfronts.
• Further shadow diagrams provided to show requested hours.
• The windows on north and south elevations were amended.

The plans were formally amended pursuant to Section 57A of the Planning and Environment Act 1987 on 28 June 2016. These plans are described in The Proposal section of this report.

Internal/External Referrals

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

<table>
<thead>
<tr>
<th>External Agency</th>
<th>Objection/No objection</th>
</tr>
</thead>
<tbody>
<tr>
<td>VicRoads</td>
<td>No objection subject to conditions including restricting right hand turns to be included in the recommendation.</td>
</tr>
<tr>
<td>Director of Public Transport</td>
<td>No objection subject to conditions requiring a Green Travel Management Plan amongst other things to be included in the recommendation.</td>
</tr>
</tbody>
</table>
Internal Branch/Business Unit | Comments |
--- | --- |
Urban Design Unit | No objection subject to amendments including increase the building separation. |
Development Advice Engineer | No objections were offered to the proposal subject to modifications, which are addressed by conditions detailed in the recommendation. |
ESD Unit | No objections were offered to the proposal subject to modification, which are addressed in the conditions detailed in the recommendation. |
Open Space Design and Development Unit | No objections were offered to the proposal subject to modification of the stairway which has been provided. |
Property Branch | No objection provided that maintenance, liability, cleaning and servicing of the stair remain with the body corporate. |

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 Open Space
- Clause 12.04 Significant environments and landscapes
- Clause 13.03 Soil Degradation
- Clause 13.04 Noise and Air
- Clause 15.01 Urban Environment
- 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 22.07 Development of Four or More Storeys
- Clause 22.08 Environmentally Sustainable Development
Planning Scheme Amendments

Amendment C142: Moreland Apartment Design Code (MADC) - previously known as the Moreland Higher Density Design Code (MHDDC) - is a proposed amendment to the Moreland Planning Scheme to introduce the MADC into the Scheme to replace Clause 22.07. The amendment has been adopted by Council and awaits gazettal from the Minister. The MADC aims to improve the quality of development of five or more storeys in Moreland, particularly for apartment-style developments. It provides objectives, standards and decision guidelines for assessing these types of development applications.

The Minister for Planning has written to Council to advise that no decision has been made and there is currently a state wide provision under consideration. The Minister’s letter highlighted that MADC is a Council approved policy and remains relevant to Council’s decision making.

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.

Is there strategic support for the proposal?

Council through its MSS, seeks increased residential densities in the Coburg Activity Centre to take advantage of the excellent access to public transport and other services within this location. The proposal meets the objectives and strategies of the LPPF by incorporating a range of uses including increased housing and active spaces at ground level to create and reinforce an active and pedestrian friendly street environment. The proximity of the site to a variety of public transport options and the provision of bicycle facilities on the site encourages less reliance on cars as a means of travel.

Council’s Neighbourhood Character Policy supports substantial change and creation of a new character of increased scale associated with increased density in this designated Activity Centre. The proposal enjoys strong strategic support at both State and Local level.

Is the built form appropriate?

The Activity Centre Zone Schedule 1 (ACZ1) precinct 8 includes the following relevant objectives to this proposal:

- To strengthen the mixed-use nature of the precinct and encourage restricted retail premises, commercial or complementary light industrial uses and limited office and residential uses.
- To improve the contribution of buildings to the streetscape and amenity of Sydney Road.
- To retain and capitalise on views and vistas to the former Pentridge Prison complex.
- To ensure building design responds to the transitional nature of the precinct from large scale development to the south and lower-scale buildings to the north, west and east.
The following precinct guidelines are also relevant:

- **Locate restricted retail, light industrial and employment generating uses at ground floor with offices or residential uses above.**
- **Buildings should be designed as part of the streetscape rather than as stand-alone buildings to create a cohesive character and consistent built form.**
- **The design and siting of any development within the precinct should make provision for a pedestrian link through the site between Sydney Road and Coburg Lake Reserve.**

When compared to the existing approval (MPS/2006/6) the proposed development demonstrates a higher level of conformity with the height and setback requirements. The table below described the ACZ height and setback guidance:

<table>
<thead>
<tr>
<th>Built-form consideration</th>
<th>ACZ requirement</th>
<th>Existing Approval MPS/2006/6</th>
<th>Proposed building</th>
<th>Proposed Building Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overall height</td>
<td>14.4 metres</td>
<td>21 metres</td>
<td>18.5 metres</td>
<td>4.1 metre variation sought</td>
</tr>
<tr>
<td>Sydney Road street-wall height</td>
<td>7.5 metres</td>
<td>13.9 metres</td>
<td>10.8 metres</td>
<td>3.3 metre variation sought</td>
</tr>
<tr>
<td>Upper level setback from the street-wall</td>
<td>3 metres</td>
<td>0 metres</td>
<td>3 metres</td>
<td>Complies</td>
</tr>
<tr>
<td>Street wall height from the park</td>
<td>14.4 metres</td>
<td>13 metres</td>
<td>14 metres</td>
<td>Complies</td>
</tr>
<tr>
<td>Upper level setback from the park</td>
<td>0 metres</td>
<td>5 metres</td>
<td>3 metres</td>
<td>Complies</td>
</tr>
</tbody>
</table>

The Activity Centre Zone allows for discretion when applying the abovementioned heights and setbacks. In this instance the variations are appropriate given the building is of a high quality design that makes a positive contribution to the character of the area. The ACZ provides guidance on how to exercise discretion, identifying adherence to the design objectives, overall design quality, community benefit, shadowing to the park and impacts on adjoining properties as key considerations.

The proposed development meets the design objectives. Notably, the proposal will not impact upon key vistas to the former Pentridge Prison Complex.

The siting of the building of this scale along a Road Zone is appropriate and it is relevant to note that there are no immediately adjoining small scale dwellings within the context. Given the context the variations to the overall height and street wall of approximately one level are considered acceptable.

The existing streetscape (Sydney Road) comprises a double storey commercial/industrial building to the south of approximately 80 metres in length. To the north is a double storey brick building used as a motel. These buildings do not represent the type of development anticipated by the ACZ or the arrival point to the Coburg Activity Centre.

The proposal provides a high level of internal amenity with minimal off site amenity impacts. The staggered setback from the park and the incorporation of landscaping and green spaces complements the high quality material palate which includes bronzed glass, textured concrete, powder coat steel, timber soffits, textured metal cladding and perforated aluminium screening. The screening is bronze in colour and allows for the residents to move the screens to suit their internal amenity. The perforated finish will allow for lighting to shine through the screens at night enhancing the presentation of the building to the street and park.
The proposal does not have an unreasonable impact upon the park in terms of visual bulk or overshadowing and will provide for improved surveillance, access and an improved built form interface. The ACZ notes that where there is no preferred street-wall identified, development should be sympathetic to and not have an adverse impact upon the amenity of adjoining public spaces. This is relevant to western facade and the interface to the park. The proposal steps back from the park through the provision of landscaped areas. The building is articulated and detailed to ensure that it does not appear as a sheer or blank wall. The interface to the park is adequately resolved.

The proposal has additional benefits to the community particularly when compared to the existing approval. The proposal has lesser site coverage than the existing conditions and 16.2% of the land is nominated as a public through-link, as sought by the ACZ. There are conditions in the recommendation that will ensure that this key public benefit is implemented to Council’s standards. The proposal enhances the presentation of the building to the park, provides for passive surveillance of the park and includes the construction of public infrastructure (the stair) within the parkland which makes that area of the park functional (given the incline). Furthermore, the buildings have been designed incorporating a high level of Environmentally Sustainable Design that has been endorsed by Council’s ESD officer.

The development proposes some shadow to Sydney Road until midday and the front yards of the neighbouring dwellings to the west until around 10am. This is acceptable given the short amount of time in which these sites are impacted. The building casts a small amount of shadow upon the park during the afternoon from 2.30pm onwards. Most of the shadow falls in the incline area between the subject site and the bicycle path which is not currently a usable space. It is expected that a development of any size would cast some shadow upon the park land. The extent of shadow is appropriate in this instance as it is limited to the late hours of the afternoon.

**Does the proposal comply with Clause 22.07 (Development of Four or More Storeys) / The draft Moreland Apartment Design Code?**

The proposed Clause 22.07 Moreland Apartment Design Code (MADC) seeks to improve the quality of higher density mixed use and residential development. Key aspects of internal amenity for future occupants are discussed below.

**Natural Light and Ventilation**

All habitable rooms within the development have direct access to natural light and ventilation. The MADC discourages borrowed light and there are no borrowed light rooms proposed as part of this development.

**Battle-axe-style bedrooms**

With regard to battle-axe rooms the MADC standard requires that the space providing access to daylight should have a maximum length of twice its width. The proposal includes 32 dwellings where a second bedroom has a battle-axe arrangement. The dwellings have greater ‘handle’ depths than width. The width seems to be approximately 1 metre and the depth ranges from 2.5 metres to 3 metres. Whilst not strictly compliant with the standard this variation is appropriate given the uninterrupted outlook each of these dwelling has to Sydney Road or Lake Reserve and the provision of a floor to ceiling window and generous floor to ceiling heights of 3 metres.
**Building Separation**

MADC requires building separation to ensure adequate light to living rooms and bedrooms, to reduce overlooking, provide open space areas and quality outlook. The proposal has an excellent outlook to Sydney Road and the Coburg Lake Reserve. The internal facing dwellings have an outlook over the landscaped court yard. The width of the court yard and building separation ranges from 9 metres to a maximum of 14.6 metres. MADC identifies a preferred building separation between building 1 and 2 of 12 metres and 18 metres for the top floor. At the narrowest part the building has four dwellings on each level separated by 9 metres. This variation is appropriate in this instance given there is adequate light to the bedrooms and living areas, each dwelling has adequate open space and access to communal space. The layout also adequately addresses overlooking by providing a separation of more than 9 metres. The outlook over the communal area provides a positive aspect for the dwellings and the limited separation does not impact upon the equitable development potential of any other site.

The ground to second floor levels of the proposed building are setback 1.5 metres from the southern boundary and the upper levels are setback 3 metres. The objector from the southern adjoining property has submitted that the upper levels should be setback 4.5 metres. MADC requires levels 5 and above to be setback 4.5 metres and levels 1-4 to be setback 3 metres to allow for equitable development should the neighbouring property be redeveloped, allowing for a 9 metres future separation and therefore addressing overlooking without the necessity for screens. Given the size of the site being redeveloped and the absence of any constraints or justification for a lesser setback, it is considered that the MADC requirements should be met. Meeting the MADC setbacks will also improve the openness and amenity of the through link. A permit condition will require the plans to be amended to comply with this standard.

**Dwelling Diversity**

MADC seeks a range of studio, one, two and three bedroom developments. For developments of more than 50 dwellings three bedroom apartments should be included. The objective is to seek a range of dwelling sizes and types. The development includes an appropriate mix of one and two bedroom dwellings some of which also contain a study. There is one three bedroom dwelling proposed with a study. The dwellings range in size and layouts to ensure the development can accommodate the needs of varying residents. Whilst it would be ideal to provide more three bedroom dwellings the layout is adaptable and can allow for the consolidation of dwellings into larger apartments if sought by residents.

**Dwelling Size and Layout**

There are 13 one bedroom dwellings that are less than the preferred minimum dwelling size of 50m2. These dwellings are 42-47m2, they are all one bedroom, and have a functional layout, adequate open space, and floor to ceiling heights of 3 metres. On this basis this variation is supported.

**Acoustic performance**

MADC seeks to minimise noise transfer through apartment layouts and treatments. Further to this Clause 37-08-9 (Decision Guidelines) of the Activity Centre Zone requires consideration of the extent that the layout and design of the new use or development minimises for off-site impacts including noise, fumes odour or vibrations ensuring that existing uses are not compromised by new development or a new development is designed to address amenity impacts from existing uses.

A condition will require the submission of an acoustic report detailing how noise from the arterial road (Sydney Road) and neighbouring industrial land uses will be attenuated.
**Private Open Space**

Private open space is required at a rate of 8m² for one bedroom dwellings, 10m² for two bedroom dwellings and 12m² for three bedroom dwellings. Most of the two bedroom dwellings only have 8m² and the three bedroom dwelling has 10m². This variation is appropriate given the proximity to the park land and the amount of communal spaces offered by the proposal. The private balconies, the communal spaces and the parkland will ensure that the amenity and recreation needs of residents are met.

**Privacy**

The proposed buildings do not provide views internally or externally to any habitable room windows or private open space. The building separation which at its minimum is 9 metres ensures that views are protected whilst ensuring each dwelling has a positive outlook that’s not impeded by screening.

**Communal facilities**

The proposal offers excellent communal facilities including a vegetable garden and the internal court yard. The provision of communal space exceeds 2.5m² per dwelling, these spaces are safe, accessible, well lit and ventilated. These spaces include outdoor furniture including seating.

**Storage**

Storage is required at a rate of 4m³ for one bedroom dwellings, 6m³ for two bedroom dwellings and 8m³ for the three bedroom dwelling. This will be required by permit condition.

**Is the car parking provision adequate?**

The proposed development includes the provision of 165 car parking spaces. The table below shows the car parking reductions sought by the proposal against Clause 52.06 (Car Parking):

<table>
<thead>
<tr>
<th>Use</th>
<th>Proposal</th>
<th>Statutory Requirement</th>
<th>Reduction sought</th>
</tr>
</thead>
<tbody>
<tr>
<td>50 x one bedroom dwellings</td>
<td>141</td>
<td>50</td>
<td>0</td>
</tr>
<tr>
<td>89 x 2 bedroom dwellings</td>
<td></td>
<td>89</td>
<td>0</td>
</tr>
<tr>
<td>1 x 3 bedroom dwelling</td>
<td></td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Residential visitor spaces</td>
<td>24</td>
<td>0</td>
<td>0 (+24)</td>
</tr>
<tr>
<td>Retail spaces</td>
<td>0</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Total</td>
<td>165</td>
<td>151</td>
<td>10</td>
</tr>
</tbody>
</table>

In this instance the car parking provided for the dwellings exceeds the requirements however a reduction is required for the spaces associated with the retail uses.

Council’s Local Planning Policy at Clause 22.03-3 (Car and Bike Parking and Vehicle Access) 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 site is well serviced, highly accessible and the following ameliorating circumstances apply that support a reduction in car parking:

- Proximity of the Upfield Railway Corridor
- Sydney Road tram stop located outside the site.
- Sydney Road car share and bus stops.
- Proximity to bicycle routes and bicycle parking provision that significantly exceeds (by 183 spaces) the rates specified in Clause 52.34.

A reduction of 10 spaces associated with the retail uses is sought. A condition will require the provision of four spaces to be dedicated to the retail uses these spaces will allow for loading and unloading and for staff car parking. Given the size of the retail spaces, proximity to other uses, access to public transport and that the site is located within an activity centre a reduction of six customer spaces is appropriate in this instance.

Councils Strategic Transport and Urban Safety Branch support the car parking reduction proposed.

Is there adequate bicycle parking?

The proposed development includes a provision of 100 bicycle parking spaces. MADC requires a provision of 231 spaces, the proposal has a short fall of 131 spaces. However, the provision is in excess of the planning scheme requirement of 44 as identified at Clause 52.34.

The bicycle provision is a positive aspect of the proposal and supported.

Are there impacts upon vehicle access and traffic movements?

Council’s Strategic Transport and Urban Safety Branch noted that the traffic that will be generated from the site will travel along Sydney Road (an arterial road). The additional volumes will not exceed the maximum volumes permitted under the Moreland Integrated Transport Strategy.

Vic Roads recommended a permit condition banning right hand turns into the site. This is a logical conclusion given that a right turning vehicle would cross tram lines, cause delays, etc. Instead these vehicles can continue and access Carr Street which has a keep clear line marking which can facilitate a U turn to re-enter Sydney Road.

Adequate areas have been provided including a lane in each direction to the car park. This will ensure that vehicles enter and exit the site in a forward direction only and that the proposal will not cause queuing or impact upon the traffic flow of Sydney Road.

Has loading and unloading been provided for?

Clause 52.07 of the Moreland Planning Scheme requires provision for loading which has been provided at the ground floor, accessed via the crossover from Sydney Road.

Are the waste management arrangements appropriate?

A waste management plan has been submitted with the application. Council’s Strategic Transport and Urban Safety Branch have not raised concerns regarding the waste storage and collection arrangements. Collection will be carried out on site and will not require bins to be located along Sydney Road.

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

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

- Utilises an existing crossover and requires the removal of a redundant crossover.
The street frontages prioritise pedestrian movement and safety creating an active frontage to Sydney Road.

Limits the removal of on-street public parking spaces, removal of street trees, and encroachment into landscaped front setbacks

Provides 100 bicycle spaces.

Improves access to bicycle and walking paths in Lake Reserve through the creation of a through-link from Sydney Road.

The through-link and the stair provide for direct access to the existing bicycle path within Lake Reserve. A push ramp located at the side of the stairway allows cyclists to walk down the stair whilst guiding their bike down a ramp.

A public area plan condition will provide for potential improvements to the public realm on Sydney Road including the contribution of street furniture and new street tree planting.

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

The proposal provides an excellent range ESD features including communal vegetable gardens, rainwater tanks, solar panels, bicycle parking, appropriate cooling loads, ceiling fans and a commitment to regular measurements and adjustments.

There were some deficiencies relating to landscaping, stormwater management, energy efficiency and additional information is required in relation to the electric car parking, energy samples and shading. These matters will be addressed via conditions including the provision of a revised Sustainability Management Plan and amendments to the plans.

**Is the proposal accessible to people with limited mobility?**

Objective 9 of Clause 23.03-3 (Housing) is to increase the supply of housing that is visitable and adaptable to meet the needs of different sectors of the community. The DDO also seeks to:

> create accessible, adaptable and visitable housing within the activity centre to ensure housing caters for all residents’ needs.

A permit condition will require the submission of an Accessibility Report and for plans to be amended to reflect any recommendations contained within the report. The development has been designed to provide appropriate accessibility to common areas and all dwellings are visitable.

Accessible car parking spaces have been provided within the basement levels.

The proposed stair way doesn’t provide for wheelchair access. Given the steep incline the provision of a ramp is not practical without utilising a vast amount of parkland. The stair has been designed with flat breaks between sections of stairs to ensure that it is not physically challenging and would be more practical for use by elderly persons or children. Access to the park for persons with limited mobility will remain from Carr Street.

**Is the site potentially contaminated?**

The site is affected by an Environmental Audit Overlay. The applicant has submitted an environmental site assessment report detailing the extent of site contamination and confirming that the site would be appropriate for the intended uses subject to the completion of an Environmental Audit. A condition is therefore contained in the recommendation requiring an Environmental Audit to be undertaken before the development commences. This will ensure that the site is remediated to an appropriate standard to ensure the land is safe for future residents.
5. **Response to Objector Concerns**

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

- The height of the building is inconsistent with the Activity Centre Zone
- The setback from the southern adjoining property.
- Impact upon the character and feel of the park.
- Inadequate car parking on site and increased traffic in the area.
- Impact upon dwellings on the opposite side of Sydney Road through light spill and overshadowing and increased difficulties for residents turning right towards the city.
- Bins should be collected by private on site collection not on the footpath.

Other issues raised by objectors are addressed below.

**Noise protection from neighbouring industrial uses**

A dwelling is a permissible use within this zone. Whilst it is acknowledged that the area is transitioning from industrial to residential, industrial uses are required to operate within the requirements of the EPA to ensure an amenable environment for residents. However, in managing the transitional nature of the area, a condition will require the dwellings to be appropriately attenuated to prevent disturbance from industrial noise.

**Impacts upon the bicycle paths**

Whilst the proposal seeks to enhance connectivity to the bicycle path, the path itself is not part of this application, there is no requirement for the applicant to undertake any additional works to the bicycle path within the park. The application was referred to Council’s Open Space Branch who did not see the construction of the buildings as a threat to the usability of the path. Conditions of the permit included in the recommendation require the applicant to construct the stairwell access and its connection to the existing shared pathway within the Coburg Lake Reserve.

**Impact on infrastructure**

An objector concern was the impact of the dwellings on infrastructure, particularly emergency services. The site owner will be required to address infrastructure servicing demands of the additional dwellings as required by the various service agencies at the time of subdivision or connection of the development, including any service authorities’ requirements to contribute to the cost of upgrading trunk infrastructure.

With regard to impact upon public transport infrastructure the application was referred to Public Transport Victoria who did not object to the proposal subject to conditions.

**Property values**

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

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**

Nil.
8. Conclusion

It is considered that the proposed use and development of the land to construct two buildings containing a shop and use of dwellings, the removal of vegetation, to alter access to a Road Zone Category 1 and to reduce the car parking requirement associated with retail premises.

On the balance of policies and controls within the Moreland Planning Scheme and objections received, it is considered that Notice of Decision to Grant a Planning Permit No MPS/2015/595 should be issued for 718-722 Sydney Road Coburg North subject to the conditions included in the recommendation of this report.

Attachment/s

1 Locality Plan - 718-722 Sydney Road, Coburg North (MPS/2015/595) D16/276415
2 718-724 Sydney Road, Coburg North - MPS2015595 - Development Plans D16/276416
Executive Summary

The Urban Planning Committee at its 27 April 2016 meeting (DED29/16) considered its position at the Victorian Civil and Administrative Tribunal (VCAT) in relation to a request to extend Planning Permit No. 2011/012837A, which was issued by the Minister for Planning on 30 January 2012 and approved the use of the site as a Shop (having a floor area greater than 300m2 for each shop tenancy); buildings and works (in stages), including a variation to the building height in the table to the Sub-Precinct B; Creation of access to a road in a Road Zone, Category 1; and a reduction in the number of car parking spaces required by the scheme.

The Urban Planning Committee resolved to support the officer recommendation that Council’s position at VCAT be that the extension to the permit should not be granted. Council’s grounds related to:

- Whether the request was validly made as the requestor is not the owner/occupier of all of the land, with Council the owner of 29 and 31 Urquhart Street who does not consent to the request for an extension;
- That part of the land (29 and 31 Urquhart Street) forming the permit is now owned by Council who has no intention to develop these lots pursuant to Planning Permit No. 2011/012837A and reconsideration of a new application is warranted; and
- The design of some buildings results in:
  - Building separation distances, layouts, sizes and daylight access that do not comply with the Moreland Apartment Design Code (MADC); and
  - A two storey car park to Urquhart Street that fails to provide an active street frontage.

The matter has been listed for a merits hearing at VCAT commencing 19 October 2016. The land owner has sought to reach a consented agreement with Council.

This report considers a proposed consented arrangement between the land owner and Council. This agreement seeks to settle the matter, prior to the VCAT hearing, with Council agreeing to extend the Planning Permit No. 2011/012837A subject to the following requirements:

- The land owner and Council enter into a section 173 agreement which will require the land owner to:
  - Amend the permit so that it removes Council land from the permit; and
  - Require lots 29 and 31 Urquhart Street to have building setbacks that comply with the building separation distances in MADC.

It is recommended that the Urban Planning Committee resolve to support this consented agreement, subject to the conditions outlined in the recommendation.
**Recommendation**

The Urban Planning Committee resolve to support an extension to Planning Permit No. 2011/012837A at 22, 24-26, 28 and 30 Pentridge Boulevard and 27 Urquhart Street, Coburg by a consented agreement subject to:

1. The execution of a section 173 agreement requiring:
   a) Removal of Council land from Planning Permit No. 2011/012837A; and
   b) Development at 27 Urquhart Street and 28 Pentridge Boulevard, Coburg to have building separation distances to 29 and 31 Urquhart Street, Coburg that complies with the Moreland Apartment Design Code.
1. **Background**

The request for an extension to Planning Permit No. 2011/012837A was lodged with Council on 23 December 2015. The applicant sought a review of Council’s failure to make a decision on the request within the prescribed time. Report DED29/16 to the Urban Planning Committee on 27 April 2016 outlined the history of the permit approval process as follows:

- Planning Permit application No. 2011/012837 was lodged with the Minister in December 2011. This application proposed use of the site as a Shop (having a floor area greater than 300m² for each shop tenancy); buildings and works (in stages), including a variation to the building height in the table to Sub-Precinct B; Creation of access to a road in a Road Zone Category 1; and a reduction in the number of car parking spaces required by the Scheme.

- Planning Permit No. 2011/012837 was issued by the Minister for Planning on 30 January 2012. No public notice of this application was given and Council has no record of a copy of the application having been sent to Council to allow an opportunity to provide any comments on the application. The Planning Permit forms Attachment 2.

- The only plan endorsed under the permit is a ‘Preliminary Site Plan’ which identifies the construction of eight buildings ranging in height from six to 16 storeys. This plan and a copy of the plans which were submitted with the application form Attachment 3. All buildings are mixed use comprising residential and retail. The approved heights are as follows:

<table>
<thead>
<tr>
<th>Building</th>
<th>Address</th>
<th>Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building A</td>
<td>22 Pentridge Boulevard, Coburg</td>
<td>9 storeys</td>
</tr>
<tr>
<td>Building B</td>
<td>24 Pentridge Boulevard, Coburg</td>
<td>6 storeys</td>
</tr>
<tr>
<td>Building C</td>
<td>24 Pentridge Boulevard, Coburg</td>
<td>8 storeys</td>
</tr>
<tr>
<td>Building D</td>
<td>28 Pentridge Boulevard, Coburg</td>
<td>10 storeys</td>
</tr>
<tr>
<td>Building E1</td>
<td>30 Pentridge Boulevard, Coburg</td>
<td>13 storeys</td>
</tr>
<tr>
<td>Building E2</td>
<td>31 Urquhart Street, Coburg</td>
<td>16 storeys</td>
</tr>
<tr>
<td>Building F</td>
<td>29 Urquhart Street, Coburg</td>
<td>10 storeys</td>
</tr>
<tr>
<td>Building G</td>
<td>27 Urquhart Street, Coburg</td>
<td>9 storeys</td>
</tr>
</tbody>
</table>

- Planning Permit No. 2011/012837 was subsequently amended by the Minister for Planning on 5 March 2013. The amendment reworded condition 1 and introduced conditions 1A – 1H which was the result of changes to the proposed development. The proposal as described above includes the approved amendment.

A location plan forms Attachment 1.

**The proposal**

Subsequent to the Urban Planning Committee’s resolution not to support the request for an extension to the permit, the land owner has sought to reach a consented agreement with Council. This would result in Council consenting to extend the planning permit and vacating the VCAT hearing set down for 19 October 2016.

The land owner and Council officers have explored an agreement that will predominantly address Council’s concerns as set out in the position resolved by the Urban Planning Committee. The execution of a legally binding agreement will ensure the following outcomes are achieved:
• Removal of Planning Permit No. 2011/012837A from Council land. This removes two buildings at 10 and 16 storeys from the permit approval and the two storey car park to Urquhart Street.

• Compliance with the building separation distances set out in the MADC with respect to 27 Urquhart Street and 28 Pentridge Boulevard and their interface with Council land. This outcome will result in modifications to the southern setbacks to building ‘E1’ which are setback approximately 2 metres from the property boundary. The increased southern setbacks will improve internal amenity and ensure that south facing dwellings will have adequate access to daylight and outlooks provided on their own land as envisaged by the MADC. This also ensures that the lot at 31 Urquhart Street has equitable development potential.

Statutory Controls – what is the mechanism for requesting an extension of time to a planning permit?

When considering an application to extend a planning permit, regard is given to Section 69 of the Planning and Environment Act 1987, which reads:

1. Before the permit expires or within 6 months afterwards, the owner or the occupier of the land to which it applies may ask the responsible authority for an extension of time.

1.A The owner or occupier of land to which a permit for a development applies may ask the responsible authority for an extension of time to complete the development or a stage of the development if-

(a) the request for an extension of time is made within 12 months after the permit expires; and

(b) the development or stage started lawfully before the permit expired.

2. The responsible authority may extend the time within which the use or development or any stage of it is to be started or the development or any stage of it is to be completed or within which a plan under the Subdivision Act 1988 is to be certified.

3. If the time is extended after the permit has expired the extension operates from the day the permit expired.

2. Internal/External Consultation

Public Notification

The Planning and Environment Act 1987 does not include public notice provisions for a request for an extension of time to a planning permit.

Internal/external referrals

The Planning and Environment Act 1987 does not require any statutory referrals for a request for an extension of time to a planning permit.

The request was not referred to any internal departments for comment as the extension of time request does not provide an opportunity to review the merits of the application or to modify the nature of the proposal through new or modified permit conditions.

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 11.04 Metropolitan Melbourne
Local Planning Policy Framework (LPPF)

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

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

Local Planning Policies:
- Clause 22.01 Neighbourhood Character
- Clause 22.03 Car and Bike Parking and Vehicle Access
- Clause 22.07 Development of Five or More Storeys

Planning Scheme Amendments

Amendment C142 – Moreland Apartment Design Code

Amendment C142 seeks to introduce the Moreland Apartment Design Code (MADC) as a local policy to the Moreland Planning Scheme.

An independent panel report, publicly released in June 2015, was supportive of the amendment. Council at its August 2015 meeting resolved to adopt the amendment and submit it to the Minister for Planning for inclusion into the Planning Scheme.

In June 2016, the Minister for Planning decided to ‘make no decision on Amendment C142’ further noting that he would ‘reassess this decision once the outcomes of the (State led) Better Apartments project are known’.

Importantly, the Minister noted that ‘in making this decision, I acknowledge that, pursuant to section 60(1)(h) of the Act, a responsible authority must consider, before deciding on an application, ‘any amendment to the planning scheme which has been adopted by a planning authority but not, as at the date on which the application is considered, approved by the Minister or a planning authority’. This means that Council must continue to consider and give weight to MADC being a Council adopted amendment by a planning authority.

The panel endorsed and Council adopted MADC is considered to be a seriously entertained planning policy and should be given significant weight in the assessment of planning proposals.

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

The proposed consent agreement will predominantly address Council’s concerns as set out in the position resolved by the Urban Planning Committee on 27 April 2016. This will result in improvements to building setbacks, daylight access and outlooks. On the basis that these outcomes will be achieved through the section 173 agreement, it is recommended that Council consent to extend Planning Permit 2011/012837A.

The report considered at the 27 April 2016 Urban Planning Committee meeting (DED29/16) considered the request against the ‘tests’ set out by the Supreme Court in *Kantor v Murrindindi Shire Council*, 18 AATR 285 which guide consideration of whether an extension of time to a planning permit should be granted.

The Court held that a Responsible Authority should consider the following matters when exercising its discretion to extend a permit:

- The applicant is obliged to advance some reason or material in support of the grant of an extension;
- Whether there has been a change of planning policy;
- Whether the landowner is seeking to “warehouse” the permit;
- Intervening circumstances as bearing upon grant or refusal;
- The total elapse of time;
- Whether the limit originally imposed was adequate;
- The economic burden imposed on the landowner by the permit; and
- The probability of a permit issuing should a fresh application be made.

The request made by the permit applicant on 23 December 2015 to extend the time of the Planning Permit for a further 2 years to commence works with 4 years to complete works, before expiry.

In considering the proposed consent agreement, the remaining elements of the permit approval are appropriate having regard to the Kantor tests as assessed below:

Reasons in support of the grant of an extension

The applicant has advanced reasons in support of the grant of an extension, principally that they have recently acquired the land and have had insufficient time to act on the permits;

Whether there has been a change of Planning Policy

Zoning

The rezoning of the site from the Activity Centre Zone Schedule 1 from the Comprehensive Development Zone was a policy neutral translation with the *Pentridge Village Design Guidelines and Masterplan August 2009* continuing to be the document guiding development at the site. Therefore whilst the approved heights forming Planning Permit No. 2011/012837A exceed the heights in the Masterplan and Schedule to the ACZ, it is not considered that there has been a change in policy which would warrant refusal of the extension on the basis of building height (as detailed in report DED29/16).

*Clause 22.08 – Environmentally Sustainable Development*

The introduction of this policy does not apply to the extension of time request however conditions 15 and 16 require the works to be undertaken in accordance with an ESD Management Plan (submitted with the application) and then a report upon completion of the development confirming that the ESD Management Plan has been implemented. Therefore the development will adequately achieve a sustainable outcome and this new policy is therefore not a sufficient reason to refuse the request.
Development Contributions Plan Overlay (DCPO)

Since the issue of the planning permit, Council introduced a Development Contributions Plan (DCP) into the Moreland Planning Scheme in September 2015. The DCPO is not a planning permit trigger in its own right and does not represent a change in policy that would mean that the extension of time request should not be supported.

The Community Infrastructure Levy component of the DCP will be applicable to this development at the time that a Building Permit is to be issued for the development. In addition, if a planning permit application to subdivide the land in accordance with the approved development is lodged, the Development Infrastructure Levy component of the DCP will be applicable at that time.

Moreland Apartment Design Code (MADC)

Planning Scheme Amendment C142 has not yet been incorporated into the Moreland Planning Scheme. However in deciding to ‘make no decision on Amendment C142’ the Minister noted that ‘in making this decision, I acknowledge that, pursuant to section 60(1)(h) of the Act, a responsible authority must consider, before deciding on an application, any amendment to the planning scheme which has been adopted by a planning authority but not, as at the date on which the application is considered, approved by the Minister or a planning authority’. This means that Council must continue to consider and give weight to MADC being a Council adopted amendment by a planning authority. A brief summary of the proposal’s alignment with the Moreland Apartment Design Code is provided later in this report. It is considered that the key MADC non-compliances will be addressed through the proposed consent agreement and that the remaining MADC non-compliances do not warrant refusal of this request.

Whether the landowner is seeking to ‘warehouse’ the permit

There is no evidence that the landowner is seeking to “warehouse” the permit, for the following reasons:

- This is the first request to extend the planning permit. For a development of this scale a request for an extension of time to commence works is not uncommon.
- There has been a recent change of ownership following the appointment of receivers for the site.
- No other planning permits have been applied for or issued at this site.

Intervening circumstances as bearing upon grant or refusal

The delay to the commencement of the proposal that necessitates this request was the sale of the land as the previous owner went into liquidation. This has a bearing in favour on the grant of this request.

Council made a request to the Minister for Planning to review the approved Masterplans for the Pentridge redevelopment sites. The Minister has suggested that the Council may review the Masterplans in consultation with the landowners and community. At 10 August 2016 Council meeting Council resolved to explore a review of the Masterplans however it is acknowledged that it will take many months to complete a review and pursue an amendment to the Masterplan. Given the timeframes and uncertainty involved in a review this process cannot reasonably have a bearing on the current application for an extension of time.

As detailed, two of the lots – 29 and 31 Urquhart Street are now owned by Moreland City Council. The proposed consent agreement will require an application to amend the Planning Permit to remove these lots from the permit approval. This in part resolves Council’s opposition to the scale of development and the fact that Council has no intention to construct the development approved under the permit for these lots.
The proposed consent agreement will require increased setbacks to the southern elevation of building ‘E1’ at 30 Urquhart Street and its interface to Council owned land. This will ensure compliance with the separation, daylight access, outlook and equitable development requirements sought by MADC. This will allow Council to facilitate development at 29 and 31 Urquhart Street for a major hospital.

The total elapse of time

The total elapse of time, being four and a half years, is not significant considering the size of the site and the scale of the mixed use high density buildings that are proposed.

In this instance, the site went into receivership, meaning that the original developer was not in a financial position to commence the development. The time taken for the site to be sold and settled with the new landowner has resulted in a significant delay. These factors mean that it is reasonable to conclude that more time is required for the new landowner to be in a position to commence the development.

Whether the limit originally imposed was adequate

It is considered that the original time limit of 4 years was adequate to allow the landowner or developer to discharge all permit obligations to allow the development to commence. However it is not uncommon for one or two requests for an extension of time for larger scale developments.

The economic burden imposed on the landowner by the permit

These buildings comprise a major mixed use proposal requiring detailed site remediation and extensive marketing and presales to secure financing and the viability of the project. These result in an economic burden placed on the landowner.

The probability of a permit issuing should a fresh application be made

The extension of time process is not an opportunity for Council to undertake a new assessment of the application against the same planning provisions. The assessment required of Council is whether the planning provisions have in any way changed such that when considered against any changes in planning policy or controls, there is a probability that the permit would not be issued should a fresh application be submitted.

In this instance, the factors which weigh in favour of a permit being issued if a fresh application were made include:

- Council, through its MSS, seeks to channel higher density housing into Activity Centres to take advantage of the excellent access to public transport and other services within these locations. This site is located in the Coburg Activity Centre.
- The proposal was originally considered by the Minister for Planning as being consistent with the Pentridge Village Design Guidelines and Masterplan (August 2009). This Masterplan continues to apply to the site.
- Although the building heights vary from those depicted in the Masterplan and Activity Centre Zone Schedule, the heights are not mandatory and the original assessment of the application determined that the heights were appropriate in both the strategic and physical context.

The proposed consent agreement has adequately addressed the factors identified in report DED29/16 that were identified to weigh against the likelihood of a permit issuing if a fresh application were made including:

- Removal of the two storey car park to Urquhart Street which resulted in a poor streetscape outcome inconsistent with the objectives of the ACZ1.
• An increase to the southern setbacks to building ‘E1’ which ensure that these dwellings will have adequate long term access to daylight and outlooks required by MADC. This also ensures that 29 and 30 Urquhart Street have equitable development potential sought by MADC. The agreement will not require a change to the northern setbacks of this building. This is acceptable as the layout of dwellings facing north within building ‘E1’ have adequate outlooks across Pentridge Boulevard and daylight access as a consequence of the break between buildings. Similarly south facing dwellings within building ‘D’ have an outlook across their own land and the open space at the rear of building ‘E1’.

• An assessment of building ‘G’ at 27 Urquhart Street identifies that the current setback from the 29 Urquhart Street property boundary complies with the building separation required by MADC. No change from the current design is anticipated as a consequence of the proposed consent agreement.

• Both building ‘C’ and ‘D’ have minimal setbacks to their respective south and north property boundaries of between 1.5 – 2.5 metres. However the simultaneous development of both of these buildings will ensure that the development opportunity of either lot is not compromised. If an amendment seeks to further reduce these setbacks then the requirements of MADC can be considered as part of any subsequent application. The current siting of these buildings, whilst technically not providing the 12 – 18 metre building separation distance required by MADC, provides adequate daylight access and outlooks as dwellings can obtain oblique views with outlooks of 18 metres. Additionally, the non-compliance relates to 26 dwellings which represents 12 per cent of the total building stock of buildings ‘C’ and ‘D.’ Given the minimal number of dwellings affected by this non-compliance, this does not warrant refusal of this request on this matter.

• Building ‘B’ is proposed to be built onto its northern boundary. However, similar to the above point, the simultaneous development of both of these buildings will ensure that the development opportunity of either lot is not compromised. Noting that if an amendment seeks to further reduce these setbacks then the requirements of MADC can be considered as part of any subsequent application. The current siting of these buildings, whilst technically not providing the 12 – 18 metre building separation distance required by MADC (with 9 metres provided in lieu of the 18 metres) nevertheless provides adequate daylight access and outlooks. From a contextual perspective the perpendicular siting of the buildings ensure that dwellings can obtain oblique views with outlooks in excess of 18 metres. The non-compliance relates to provision of 8 dwellings facing south within building ‘A’ which relates to approximately 10 per cent of the 78 dwellings proposed in this building. Given the minimal number of dwellings affected by this non-compliance, this does not warrant refusal of this request on this matter.

• Conditions 1.A – 1.E1 and 1.G require the submission of this further detail which provides Council with an opportunity to assess the suitability of dwellings with respect to the layout, size, daylight access and ventilation of dwellings prior to the endorsement of plans.

• Whilst the proposal still seeks some departure from MADC in relation to building separation distances, given that the proposed consented agreement has addressed the chief concerns and key non-compliances with MADC, the remaining non-compliances do not warrant refusal of the permit extension request.

5. **Response to Objector Concerns**

Not applicable.
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**

Nil.

8. **Conclusion**

On the basis that the proposed consent agreement removes Council land from forming part of the permit and addresses the key MADC non-compliances, it is recommended that Council resolve to support an extension to Planning Permit No. Planning Permit No. 2011/012837A subject to a consented agreement that requires the execution of a section 173 agreement as detailed in the recommendation of this report.

**Attachment/s**

1. Location Plan - 22, 24-26 and 30 Pentridge Boulevard, Coburg [D16/274575]
2. Planning Permit - 22, 24-26 and 30 Pentridge Boulevard, Coburg [D16/274579]
3. Development Plans - 22, 24-26 and 30 Pentridge Boulevard (S10, S12 and S14 Urquhart Street) - 2011/012837A [D16/274584]