



### Minutes of the Planning and Related Matters Meeting

Held via video conference on Wednesday 25 August 2021

The Acting Mayor opened the meeting at 6.33 pm and stated the Council meeting is being held on the traditional country of the Wurundjeri Woi Wurrung people and acknowledged them as Traditional Owners. The Mayor paid respects to their Elders, past, present and emerging, and the Elders from other communities who may be here today.

Present	Time In	Time Out
Cr Annalivia Carli Hannan, Mayor	Leave of absence	
Cr Mark Riley, Acting Mayor/ Deputy Mayor	6.33 pm	7.25 pm
Cr Adam Pulford	6.33 pm	7.25 pm
Cr Angelica Panopoulos	6.33 pm	7.25 pm
Cr Helen Davidson	6.33 pm	7.25 pm
Cr Helen Pavlidis	6.33 pm	7.25 pm
Cr James Conlan	6.33 pm	7.25 pm
Cr Lambros Tapinos	6.33 pm	7.25 pm
Cr Milad El-Halabi	6.33 pm	7.25 pm
Cr Oscar Yildiz JP	6.33 pm	7.25 pm
Cr Sue Bolton	6.33 pm	7.25 pm

#### **APOLOGIES/LEAVE OF ABSENCE**

Leave of absence has been granted to:

Cr Carli Hannan - 5 July 2021 to 25 August 2021 inclusive.

#### **OFFICERS**

Group Manager City Development – Narelle Jennings

Planning Coordinator – Kylie Sullivan

Urban Planner - Michael Alexander

Manager Governance and Strategy – Yvonne Callanan

Unit Manager Governance and Civic Protocols – Sapphire Christofilos

Team Leader Governance – Naomi Ellis

## DISCLOSURES OF CONFLICTS OF INTEREST

Nil

## MINUTE CONFIRMATION

### Resolution

Cr Bolton moved, Cr Pulford seconded -

The minutes of the Planning and Related Matters Meeting held on 28 July 2021 be confirmed.

Carried

## COUNCIL REPORTS

### 5.1 CITY DEVELOPMENT ACTIVITY REPORT - JUNE QUARTER 2021

#### Executive Summary

The City Development Urban Planning and Planning Enforcement teams are managing to produce reasonably good results in the face of high numbers of incoming applications, increased compliance requests, and a high outstanding caseload. The planning application outstanding caseload, and the planning compliance caseloads are areas to continue to monitor closely.

Planning applications lodged with Council increased again in the June quarter with the highest number of applications lodged for some years. Decision making improved but could not keep pace with the number of incoming applications resulting in an increased backlog of applications awaiting a decision. The data clearly indicates that planning activity levels are once again increasing after remaining steady throughout the majority of the COVID 19 pandemic.

Timeframes to determine most planning applications were below the metropolitan average largely due to staff vacancies however VicSmart applications improved. 80 per cent of Vic Smart applications were determined within a timeframe of 10 days nearly on par with the metropolitan average as new staff have started in this area.

Planning compliance had new case numbers more around the average expected for the quarter. The 125 cases closed in the quarter represents the largest number of cases closed in a quarter for many years. This has had a positive impact on the outstanding caseload which is starting to drop but is still not at a manageable level.

VCAT activity was slightly higher in the June 2021 quarter compared to the previous year but is still not back to pre-COVID-19 levels.

#### Officer Recommendation

That Council:

1. Notes the City Development Activity Report – June Quarter 2021

### Resolution

Cr Riley moved, Cr El-Halabi seconded -

That Council:

1. Notes the City Development Activity Report – June Quarter 2021

Carried

## 5.2 108A NICHOLSON STREET, BRUNSWICK EAST - MPS/2020/619



<b>Property:</b>	108A Nicholson Street, Brunswick East				
<b>Proposal:</b>	Building and works to construct a four-storey building that comprises a shop at ground floor and five dwellings, a reduction to the statutory car parking rate and to alter access to a road in a Road Zone, (Category 1).				
<b>Zoning and Overlay/s:</b>	<ul style="list-style-type: none"> <li>• Mixed Use Zone (MUZ)</li> <li>• Development Contributions Plan Overlay (DCPO)</li> <li>• Design and Development Overlay (DDO20)</li> <li>• Parking Overlay (PO1)</li> </ul>				
<b>Strategic setting:</b>	<table border="1"> <tr> <td>Minimal housing growth</td> <td>Incremental housing growth</td> <td>Increased house densities encouraged</td> <td>Significant housing growth</td> </tr> </table>	Minimal housing growth	Incremental housing growth	Increased house densities encouraged	Significant housing growth
Minimal housing growth	Incremental housing growth	Increased house densities encouraged	Significant housing growth		
<b>Objections:</b>	<p>A total of 13 objections. The key issues raised include:</p> <ul style="list-style-type: none"> <li>• Off-site amenity impacts (overshadowing and overlooking)</li> <li>• Building height and visual bulk.</li> <li>• Car parking impacts.</li> </ul>				
<b>Planning Information and Discussion (PID) Meeting:</b>	<p>Date: 6 July 2021</p> <p>Attendees: 3 objectors, the applicant, 2 Council officers, and Deputy Mayor Cr Mark Riley, Cr James Conlan and Cr Helen Pavlidis-Mihalakos.</p> <p>The permit applicant prepared sketch plans showing the deletion of the fourth level and increased setbacks from the south boundary to reduce amenity impacts to neighbours.</p>				
<b>ESD:</b>	<ul style="list-style-type: none"> <li>• Minimum average NatHERS rating of 6.6 stars.</li> <li>• 10-15kW solar PV on the roof space.</li> <li>• 6,000L rainwater tank</li> </ul>				
<b>Accessibility:</b>	Adaptable apartments comprise 50 percent of the proposal.				
<b>Key reasons for support</b>	<ul style="list-style-type: none"> <li>• Design response that complies with the objectives of DDO20 subject to conditions.</li> <li>• Amenity impacts reduced to a reasonable level, subject to conditions.</li> <li>• Good quality façade detailing.</li> <li>• Car parking reduction of one space justified in this location.</li> </ul>				
<b>Recommendation:</b>	Notice of Decision to Grant a Planning Permit be issued for the proposal subject to conditions.				

## Officer Recommendation

That a Notice of Decision to Grant a Planning Permit No. MPS/2020/619 be issued for Building and works to construct a three storey building comprising a shop and dwellings, a reduction to the statutory car parking rate and to alter access to a road in a Road Zone, Category 1 at 108A Nicholson Street, Brunswick East, 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 must be generally in accordance with the plans advertised on 21 April 2021, but modified to show:
  - a) The changes (including the deletion of one level and increased setbacks) as detailed on the plans lodged with Council on 6 July 2021 and referenced as TP04 to TP11 and TP15a to TP17, Revision D, dated 02 July 2021, and TP12 to TP15, Revision E, dated 2 July 2021 and prepared by Peter Brown Architects Pty Ltd with the following additional changes:
    - i. The wall on the south boundary shortened at first and second floor levels (associated with Apartments 1.01 and 2.01) so that it does not extend past the western-most north facing ground floor window at 108 Nicholson Street to the south.
    - ii. the south elevation walls of Apartments 1.02 and 2.02 modified to fully comply with Standard B20 at Clause 55.04-4 (North facing windows objective).
    - iii. Provision of planter boxes to the balcony areas of Apartments 1.01 and 2.01.
  - b) A Landscape Plan as required by condition 3.
  - c) The environmentally Sustainable Design initiatives that are required to be shown plans, as contained within Condition 6 of this permit.
  - d) Any modifications arising from the amended Acoustic Report as required by Condition 8 of this permit clearly annotated on the plans.
  - e) Any modification arising from the Waste Management Plan as required by Condition 13 of this permit clearly annotated on the plans.
  - f) A 7.0 metre separation between the Nicholson Street carriageway and the garage door, as required by Transport for Victoria under Condition 33 of this permit.
  - g) Each bicycle parking device dimensioned with all spaces 500mm wide and the horizontal and vertical bicycle spaces 1800mm and 1200mm long respectively, with every space accessed from a 1500mm wide access aisle as required by the Australian Standard for Parking Facilities – Bicycle Parking (AS2890.3).
  - h) The verandah above the commercial tenancy modified to become a continuous form with the same design detail as the verandah proposed above the residential entry. The must be off-set from the kerb by at least 750mm and not less than 3.0 metres in height.
  - i) The bedroom windows shown on section B-B and section C-C, to have a minimum sill height of 1.7 metres from finished floor level, to limit overlooking, and delete the notation on the floor plans stating that these windows are “opaque to 1.7 metres”.
  - j) The north and south edge of the rear balconies associated with Apartments 1.02 and 2.02 screened up to 1.7 metre-high. A screen diagram drawn at a

scale of 1:50 must be prepared that details the screens and includes:

- i. All dimensions, including the width of slats and the gap between slats.
- ii. Confirmation that no more than 25 per cent transparency is provided.

### **Compliance with Endorsed Plans**

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

### **Landscaping**

3. Prior to the endorsement of plans, a Landscape Plan must be submitted to the Responsible Authority. The landscape plan must be generally in accordance with the plan prepared by People Landscape Architecture Pty Ltd, Revision B, dated 31 July 2021 with the following inclusions:

- a) Addition of planter boxes to the balcony areas to Apartments 1.01 and 1.02.
- b) Full details of plant species and irrigation provided to planter boxes.

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

4. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all landscaping works, including installation of automatic irrigation, must be completed in accordance with the endorsed landscape plan to the satisfaction of the Responsible Authority.
5. All landscaping and irrigation systems must be maintained to the satisfaction of the Responsible Authority in accordance with the endorsed landscape plans. Any dead, diseased or damaged plants must be replaced with a suitable species to the satisfaction of the Responsible Authority.

### **Environmentally Sustainable Design (ESD)**

6. Prior to the endorsement of plans, an amended Sustainable Design Assessment (SDA) and plans must be submitted to the satisfaction by the Responsible Authority. The Sustainable Design Assessment must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the SDA by *LID advertised 21/04/2021* but modified to include the following changes:

- a) Provide preliminary NatHERS ratings assessments for at least all thermally dissimilar dwellings; 1.01, 1.02, 2.02 and 3.01 demonstrating a minimum 6.5 NatHERS star rating average across all dwellings
- b) An improved response to the 'IEQ objectives of Clause 15.02-1L Environmentally sustainable development which includes:
  - i. A daylight modelling report which demonstrates that the living areas achieve a daylight factor greater than 1% to 90% of the floor area of each living area, including kitchens and bedrooms achieve a daylight factor greater than 0.5% to 90% of the floor area in each room; the daylight modelling must include all daylight obstructions and future equitable development and include clear daylight maps and complaint area calculations.
- c) Amend the SDA and BESS report (and any other corresponding documentation) to:
  - i. Enter the preliminary NatHERS data into the Dwelling Energy Profiles
  - ii. The SDA updated to include the increased PV system capacity as per

- the maximised number of PV panels shown in the roof plans
  - iii. Amend the BESS report and SDA to include all apartments.
  - iv. Reference WSUD initiatives that are consistent with plans, STORM and stormwater catchment plan.
  - v. Optimise the west façade glazing for both thermal performance and daylight penetration, which can include a combination of optimised glazing specifications (U-value SHGC) and external adjustable shading to minimise peak summer radiant heat gain and improve passive winter heat gain whilst not diminishing daylight penetration.
- d) Show the following ESD initiatives on the development plans:
- i. A minimum 10 KW proposed photovoltaic system including the location, approximate size and number of individual panels, orientation and tilt angle
  - ii. Double glazing or better to all habitable/conditioned spaces to be annotated on each individual glazing unit on elevation plans and specified on the material/colour schedule.
  - iii. Materials & colour schedule to include the materials discussion as per the SDA
- e) A STORM report and stormwater management response that maintains a minimum STORM score of 100% but is modified so that:
- i. The rainwater tank size increased to 6000L;
  - ii. All impervious areas included
- f) An amended stormwater catchment plan that is consistent with the STORM report, clearly showing:
- i. The entire site area based on the roof plan;
  - ii. All stormwater catchment areas (impervious areas and roofs) clearly marked and dimensioned and connected to corresponding Water Sensitive Urban Design (WSUD) treatment measures;
  - iii. Any untreated roofs/balconies/impervious surfaces clearly identified.

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

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

7. Prior to the issue of a Statement of Compliance or Certificate(s) of Occupancy whichever occurs first, all works must be undertaken in accordance with the endorsed Sustainable Design Assessment report to the satisfaction of the Responsible Authority. No alterations to these plans may occur without the written consent of the Responsible Authority

### **Acoustic Attenuation**

8. Prior to the endorsement of plans, an amended Acoustic Report prepared by a qualified Acoustic Engineer must be submitted to the satisfaction of the Responsible Authority. The Report must be generally in accordance with the Acoustic Report prepared by SLR Consulting Australia Pty Ltd (dated August 2020) but updated to address the current regulations under the EPA Act 2021. The report must consider

the following matters specifically:

- a) Noise impacts from the proposed car stacker as specified for this development.
- b) Whether any noise will pass through the car park area and ventilation vents at the rear of the building.
- c) Noise impacts from Nicholson Street traffic.
- d) Noise impacts between walls and floors associated with mechanical plant and equipment, including the lift and car stackers.

When submitted and approved to the satisfaction of the Responsible Authority, the Acoustic Report will be endorsed to form part of this permit. No alterations to the Acoustic Report may occur without the written consent of the Responsible Authority.

9. The building must be constructed and thereafter maintained in accordance with the recommendations contained within the approved Acoustic Report to the satisfaction of the Responsible Authority, unless with the further written approval of the Responsible Authority.
10. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, a report from the author of the Acoustic Report approved pursuant to this permit or similarly qualified person or company must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Acoustic Report have been implemented in accordance with the approved Acoustic Report.
11. If the testing required by Condition 10 concludes that the nominated decibel levels cannot be met, the acoustic expert must recommend further noise attenuation measures to ensure compliance with the condition. These additional measures must be implemented prior to the occupation of the building.
12. That upon request an acoustic review will be undertaken at the land owner's cost to verifying ongoing compliance with the endorsed acoustic report. In the event that the nominated decibel levels are not being met, the acoustic expert must recommend further noise attenuation measures to ensure compliance with the condition. These additional measures must be implemented within a three month period.

### **Waste Management**

13. Prior to the endorsement of plans, a Waste Management Plan (WMP) must be submitted to the satisfaction of the Responsible Authority. The plan must be generally in accordance with the report prepared by Peter Brown Architects Pty Ltd and dated February 2021. Revision 1, but modified to:
  - a) specify the separation of garbage waste & FOGO (Food & Garden Organics) waste.
14. When submitted and approved to the satisfaction of the Responsible Authority, the WMP will be endorsed to form part of this permit. No alterations to the WMP may occur without the written consent of the Responsible Authority.
15. The Waste Management Plan approved under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.

### **Development Contributions**

16. Prior to the issue of a Building Permit in relation to the development approved by this permit, a Development Infrastructure Levy must be paid to Moreland City Council in accordance with the approved Development Contributions Plan. The Development Infrastructure Levy is charged per 100 square metres of leasable floor space.  
  
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) a maximum of 12 months from the date of issue of the Building Permit; 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.

### **Engineering Matters**

17. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, access to the site, any ancillary road and road drainage works must be constructed in accordance with any requirement of the Responsible Authority (Moreland City Council, City Infrastructure Department).
18. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land must be underground to the satisfaction of the Responsible Authority.
19. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, the car park garage roller door must be automatic and remote controlled.
20. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, bicycle signage that directs the cyclists to the bicycle facilities must be provided to the satisfaction of the Responsible Authority. Bicycle signage should be at least 0.3 metres wide and 0.45 metres high; display a white bicycle on a blue background on the top half of the sign and display information about the direction of facilities on the bottom half of the sign.
21. The public footpath is to be reinstated with the standard crossfall slope of 1 in 40 from the top of roadside kerb to the property boundary, with any level difference made up within the site.

### **Stormwater**

22. All stormwater from the land, where it is not collected in rainwater tanks for re-use, must be collected by an underground pipe drain approved by and to the satisfaction of the Responsible Authority (Note: Please contact Moreland City Council, City Infrastructure Department).
23. The surface of all balconies are to be sloped to collect the stormwater run-off into stormwater drainage pipes that connect into the underground drainage system of the development to the satisfaction of the Responsible Authority.

### **Car Parking**

24. The area set aside for the parking of vehicles and access lanes shown on the endorsed plan must, to the satisfaction of the Responsible Authority:
  - a) Be completed prior to issue of an Occupancy Permit or issue of a Statement of Compliance, whichever occurs first.
  - b) Be maintained.
  - c) Be properly formed to such levels that it can be used according to the endorsed plan.
  - d) Have the boundaries of all vehicle parking spaces clearly marked on the ground to accord with the endorsed plan.
  - e) Not be used for any other purpose other than the parking of vehicles, unless

with the prior written consent of the Responsible Authority.

- f) Be numbered to facilitate management of the car park.

### **General**

- 25. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.
- 26. 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.
- 27. The shopfront window must not be painted or blocked out in any way to the satisfaction of the Responsible Authority.
- 28. All lighting of external areas (including balconies) must be designed not to emit direct light onto adjoining property to the satisfaction of the Responsible Authority.
- 29. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all visual screening measures shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. All visual screening and measures to prevent overlooking must be maintained to the satisfaction of the Responsible Authority. Any screening measure that is removed or unsatisfactorily maintained must be replaced to the satisfaction of the Responsible Authority.

### **Head, Transport for Victoria**

- 30. Prior to the commencement of use, all disused or redundant vehicle crossings must be removed, and the area reinstated kerb and channel to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.
- 31. Prior to the commencement of use, the crossover and driveway are to be constructed to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.
- 32. Vehicles must enter and exit the site in a forward direction.
- 33. The garage door must be installed by providing 7m gap between the Nicholson Street carriageway and the garage door.

### **Permit Expiry**

- 34. This permit will expire if one of the following circumstances applies:
  - a) the development is not commenced within three (3) years from the date of issue of this permit;
  - b) the development is not completed within five (5) 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;

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

### **Notes**

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

**Note 1:** This permit contains a condition requiring payment of Development Contributions. The applicable development contribution levies are indexed annually. To calculate the approximate once off levy amount, please <https://www.moreland.vic.gov.au/building-and->

[business/planning-and-building/planning/development-contributions/](#) and click on 'Moreland Development Contributions Plan (DCP)'. Alternatively, please contact Moreland City Council on 9240 1111 and ask to speak to the DCP Officer.

**Note 2:** Should Council impose car parking restrictions in this street, the owners and/or occupiers of the dwellings would not be eligible for resident parking permits to park on the street. Occupiers are eligible for the resident A parking permit which only permits parking in limited areas. The resident parking permits and Resident A parking permit are subject to future reviews and change. See Council's website for more information:

<https://www.moreland.vic.gov.au/living-in-moreland/parking-and-roads/parking-permits-and-fines/residential-parking-permits/>

**Note 4:** Moreland City Council is committed to increasing the amount of affordable housing in the municipality. One way to do this, is through Homes for Homes, a social enterprise founded by the Big Issue that aims to raise new funds via voluntary tax-deductible donations on property transactions and invest those funds in building and managing new social and affordable dwellings. If you would like to help build homes for those in need, visit [Homes for Homes](#) and register your commitment to donate 0.1% of the sale price of your dwelling.

6.42 pm            *Cr Conlan left the meeting.*

6.43 pm            *Cr Conlan returned to the meeting.*

## Motion

Cr Bolton moved, Cr Davidson seconded –

That a Refusal to Grant Planning Permit No. MPS/2020/619 be issued for Building and works to construct a four-storey building that comprises a shop at ground floor and five dwellings, a reduction to the statutory car parking rate and to alter access to a road in a Road Zone (category 1) at 108A Nicholson Street, Brunswick East, on the following grounds:

1. The proposal results in unreasonable external amenity impacts to existing dwellings, including an unreasonable loss of sunlight to habitable room windows and secluded private open space, privacy and noise impacts, and fails to comply with the following objectives and standards of Clause 55 of the Moreland Planning Scheme:
  - a) Daylight to existing windows objectives Standard B19 at Clause 55.04-3.
  - b) North-facing windows objective and Standard B20 at Clause 55.04-4.
  - c) Overshadowing open space objective and Standard B21 at Clause 55.04-5.
  - d) Overlooking objective and Standard B22 at Clause 55.04-6.
  - e) Noise impacts objectives and Standard B40 at Clause 55.07-6.
2. The proposal exceeds the preferred maximum building height of 11.0 metres under the Design and Development Overlay (Schedule 20), and therefore, fails to satisfy the Design objectives at Clause 1.0 of Schedule 20 to the Design and Development Overlay, including that:
  - a) The building does not provide an acceptable transition from the Nicholson Street Activity Corridor to the adjoining low rise residential area to the east.
  - b) The building does not maintain reasonable amenity for residential properties adjacent to and within the activity centre.
3. The proposal fails to provide sufficient car parking as required by Clause 52.06 Car Parking and will result in detrimental impacts to nearby residential streets.

7.11 pm            *In accordance with the Ministerial Good Practice Guideline for Virtual Meetings, the meeting was automatically adjourned to resolve a technical*

issue.

7.13 pm The meeting resumed.

Lost on the casting vote of the Chair

Cr Riley called for a division.

<b>For</b>	<b>Against</b>
Cr Davidson	Cr Riley
Cr Tapinos	Cr Pulford
Cr Bolton	Cr Panopoulos
Cr Yildiz	Cr Conlan
Cr Pavlidis	Cr El-Halabi
<b>Total For (5)</b>	<b>Total Against (5)</b>

## **Resolution**

**Cr Conlan moved, Cr Pulford seconded –**

**That a Notice of Decision to Grant Planning Permit No. MPS/2020/619 be issued for Building and works to construct a four-storey building that comprises a shop at ground floor and five dwellings, a reduction to the statutory car parking rate and to alter access to a road in a Road Zone (category 1) in at 108A Nicholson Street, Brunswick East, 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 must be generally in accordance with the plans advertised on 21 April 2021, but modified to show:**
  - a) **The changes (including the deletion of one level and increased setbacks) as detailed on the plans lodged with Council on 6 July 2021 and referenced as TP04 to TP11 and TP15a to TP17, Revision D, dated 02 July 2021, and TP12 to TP15, Revision E, dated 2 July 2021 and prepared by Peter Brown Architects Pty Ltd with the following additional changes:**
    - i. **The wall on the south boundary shortened at first and second floor levels (associated with Apartments 1.01 and 2.01) so that it does not extend past the western-most north facing ground floor window at 108 Nicholson Street to the south.**
    - ii. **The eastern-most bedroom of apartment 2.01 also setback 1 metre from the south boundary of the site.**
    - iii. **the south elevation walls of Apartments 1.02 and 2.02 modified to fully comply with Standard B20 at Clause 55.04-4 (North facing windows objective).**
    - iv. **Provision of planter boxes to the balcony areas of Apartments 1.01 and 2.01.**
  - b) **A Landscape Plan as required by condition 3.**
  - c) **The environmentally Sustainable Design initiatives that are required to be shown plans, as contained within Condition 6 of this permit.**
  - d) **Any modifications arising from the amended Acoustic Report as required by Condition 8 of this permit clearly annotated on the plans.**
  - e) **Any modification arising from the Waste Management Plan as required by Condition 13 of this permit clearly annotated on the plans.**

- f) A 7.0 metre separation between the Nicholson Street carriageway and the garage door, as required by Transport for Victoria under Condition 33 of this permit.
- g) Each bicycle parking device dimensioned with all spaces 500mm wide and the horizontal and vertical bicycle spaces 1800mm and 1200mm long respectively, with every space accessed from a 1500mm wide access aisle as required by the Australian Standard for Parking Facilities – Bicycle Parking (AS2890.3).
- h) The verandah above the commercial tenancy modified to become a continuous form with the same design detail as the verandah proposed above the residential entry. The must be off-set from the kerb by at least 750mm and not less than 3.0 metres in height.
- i) The bedroom windows shown on section B-B and section C-C, to have a minimum sill height of 1.7 metres from finished floor level, to limit overlooking, and delete the notation on the floor plans stating that these windows are “opaque to 1.7 metres”.
- j) The balconies associated with Apartments 1.02 and 2.02 modified as follows:
  - i. A 1.7 metre high slat type screen applied to the north and south sides; and
  - ii. The external wall to the planter boxes along the east elevation raised to 1.5 metres high above the finished floor level.

A screen diagram drawn at a scale of 1:50 must be prepared that details the screens to the north and south sides including:

  - i. All dimensions, including the width of slats and the gap between slats.
  - ii. Confirmation that no more than 25 per cent transparency is provided.

#### **Compliance with Endorsed Plans**

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

#### **Landscaping**

- 3. Prior to the endorsement of plans, a Landscape Plan must be submitted to the Responsible Authority. The landscape plan must be generally in accordance with the plan prepared by People Landscape Architecture Pty Ltd, Revision B, dated 31 July 2021 with the following inclusions:

- a) Addition of planter boxes to the balcony areas to Apartments 1.01 and 1.02.
- b) Full details of plant species and irrigation provided to planter boxes.

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

- 4. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all landscaping works, including installation of automatic irrigation, must be completed in accordance with the endorsed landscape plan to the satisfaction of the Responsible Authority.

5. All landscaping and irrigation systems must be maintained to the satisfaction of the Responsible Authority in accordance with the endorsed landscape plans. Any dead, diseased or damaged plants must be replaced with a suitable species to the satisfaction of the Responsible Authority.

#### Environmentally Sustainable Design (ESD)

6. Prior to the endorsement of plans, an amended Sustainable Design Assessment (SDA) and plans must be submitted to the satisfaction by the Responsible Authority. The Sustainable Design Assessment must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the SDA *by LID advertised 21/04/2021* but modified to include the following changes:
  - a) Provide preliminary NatHERS ratings assessments for at least all thermally dissimilar dwellings; 1.01, 1.02, 2.02 and 3.01 demonstrating a minimum 6.5 NatHERS star rating average across all dwellings
  - b) An improved response to the 'IEQ objectives of Clause 15.02-1L Environmentally sustainable development which includes:
    - i. A daylight modelling report which demonstrates that the living areas achieve a daylight factor greater than 1 per cent to 90 per cent of the floor area of each living area, including kitchens and bedrooms achieve a daylight factor greater than 0.5 per cent to 90 per cent of the floor area in each room; the daylight modelling must include all daylight obstructions and future equitable development and include clear daylight maps and complaint area calculations.
  - c) Amend the SDA and BESS report (and any other corresponding documentation) to:
    - i. Enter the preliminary NatHERS data into the Dwelling Energy Profiles
    - ii. The SDA updated to include the increased PV system capacity as per the maximised number of PV panels shown in the roof plans
    - iii. Amend the BESS report and SDA to include all apartments.
    - iv. Reference WSUD initiatives that are consistent with plans, STORM and stormwater catchment plan.
    - v. Optimise the west façade glazing for both thermal performance and daylight penetration, which can include a combination of optimised glazing specifications (U-value SHGC) and external adjustable shading to minimise peak summer radiant heat gain and improve passive winter heat gain whilst not diminishing daylight penetration.
  - d) Show the following ESD initiatives on the development plans:
    - i. A minimum 10 KW proposed photovoltaic system including the location, approximate size and number of individual panels, orientation and tilt angle
    - ii. Double glazing or better to all habitable/conditioned spaces to be annotated on each individual glazing unit on elevation plans and specified on the material/colour schedule.
    - iii. Materials & colour schedule to include the materials discussion as per the SDA
  - e) A STORM report and stormwater management response that maintains a minimum STORM score of 100 per cent but is modified so that:

- i. The rainwater tank size increased to 6000L;
  - ii. All impervious areas included
- f) An amended stormwater catchment plan that is consistent with the STORM report, clearly showing:
- i. The entire site area based on the roof plan;
  - ii. All stormwater catchment areas (impervious areas and roofs) clearly marked and dimensioned and connected to corresponding Water Sensitive Urban Design (WSUD) treatment measures;
  - iii. Any untreated roofs/balconies/impervious surfaces clearly identified.

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

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

7. Prior to the issue of a Statement of Compliance or Certificate(s) of Occupancy whichever occurs first, all works must be undertaken in accordance with the endorsed Sustainable Design Assessment report to the satisfaction of the Responsible Authority. No alterations to these plans may occur without the written consent of the Responsible Authority

#### Acoustic Attenuation

8. Prior to the endorsement of plans, an amended Acoustic Report prepared by a qualified Acoustic Engineer must be submitted to the satisfaction of the Responsible Authority. The Report must be generally in accordance with the Acoustic Report prepared by SLR Consulting Australia Pty Ltd (dated August 2020) but updated to address the current regulations under the EPA Act 2021. The report must consider the following matters specifically:
- a) Noise impacts from the proposed car stacker as specified for this development.
  - b) Whether any noise will pass through the car park area and ventilation vents at the rear of the building.
  - c) Noise impacts from Nicholson Street traffic.
  - d) Noise impacts between walls and floors associated with mechanical plant and equipment, including the lift and car stackers.
  - e) Noise impacts associated with the garage entry gate.
  - f) Air conditioning units on the balconies to the apartments at the rear.

When submitted and approved to the satisfaction of the Responsible Authority, the Acoustic Report will be endorsed to form part of this permit. No alterations to the Acoustic Report may occur without the written consent of the Responsible Authority.

9. The building must be constructed and thereafter maintained in accordance with the recommendations contained within the approved Acoustic Report to the satisfaction of the Responsible Authority, unless with the further written approval of the Responsible Authority.

10. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, a report from the author of the Acoustic Report approved pursuant to this permit or similarly qualified person or company must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Acoustic Report have been implemented in accordance with the approved Acoustic Report.
11. If the testing required by Condition 10 concludes that the nominated decibel levels cannot be met, the acoustic expert must recommend further noise attenuation measures to ensure compliance with the condition. These additional measures must be implemented prior to the occupation of the building.
12. That upon request an acoustic review will be undertaken at the land owner's cost to verifying ongoing compliance with the endorsed acoustic report. In the event that the nominated decibel levels are not being met, the acoustic expert must recommend further noise attenuation measures to ensure compliance with the condition. These additional measures must be implemented within a three month period.

#### **Waste Management**

13. Prior to the endorsement of plans, a Waste Management Plan (WMP) must be submitted to the satisfaction of the Responsible Authority. The plan must be generally in accordance with the report prepared by Peter Brown Architects Pty Ltd and dated February 2021. Revision 1, but modified to:
  - a) specify the separation of garbage waste and FOGO (Food and Garden Organics) waste.
14. When submitted and approved to the satisfaction of the Responsible Authority, the WMP will be endorsed to form part of this permit. No alterations to the WMP may occur without the written consent of the Responsible Authority.
15. The Waste Management Plan approved under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.

#### **Development Contributions**

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

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) a maximum of 12 months from the date of issue of the Building Permit;  
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.

## **Engineering Matters**

- 17. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, access to the site, any ancillary road and road drainage works must be constructed in accordance with any requirement of the Responsible Authority (Moreland City Council, City Infrastructure Department).**
- 18. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land must be underground to the satisfaction of the Responsible Authority.**
- 19. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, the car park garage roller door must be automatic and remote controlled.**
- 20. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, bicycle signage that directs the cyclists to the bicycle facilities must be provided to the satisfaction of the Responsible Authority. Bicycle signage should be at least 0.3 metres wide and 0.45 metres high; display a white bicycle on a blue background on the top half of the sign and display information about the direction of facilities on the bottom half of the sign.**
- 21. The public footpath is to be reinstated with the standard crossfall slope of 1 in 40 from the top of roadside kerb to the property boundary, with any level difference made up within the site.**

## **Stormwater**

- 22. All stormwater from the land, where it is not collected in rainwater tanks for re-use, must be collected by an underground pipe drain approved by and to the satisfaction of the Responsible Authority (Note: Please contact Moreland City Council, City Infrastructure Department).**
- 23. The surface of all balconies are to be sloped to collect the stormwater run-off into stormwater drainage pipes that connect into the underground drainage system of the development to the satisfaction of the Responsible Authority.**

## **Car Parking**

- 24. The area set aside for the parking of vehicles and access lanes shown on the endorsed plan must, to the satisfaction of the Responsible Authority:**
  - a) Be completed prior to issue of an Occupancy Permit or issue of a Statement of Compliance, whichever occurs first.**
  - b) Be maintained.**
  - c) Be properly formed to such levels that it can be used according to the endorsed plan.**
  - d) Have the boundaries of all vehicle parking spaces clearly marked on the ground to accord with the endorsed plan.**
  - e) Not be used for any other purpose other than the parking of vehicles, unless with the prior written consent of the Responsible Authority.**
  - f) Be numbered to facilitate management of the car park.**

## **General**

- 25. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.**

26. 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.
27. The shopfront window must not be painted or blocked out in any way to the satisfaction of the Responsible Authority.
28. All lighting of external areas (including balconies) must be designed not to emit direct light onto adjoining property to the satisfaction of the Responsible Authority.
29. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all visual screening measures shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. All visual screening and measures to prevent overlooking must be maintained to the satisfaction of the Responsible Authority. Any screening measure that is removed or unsatisfactorily maintained must be replaced to the satisfaction of the Responsible Authority.

#### Head, Transport for Victoria

30. Prior to the commencement of use, all disused or redundant vehicle crossings must be removed, and the area reinstated kerb and channel to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.
31. Prior to the commencement of use, the crossover and driveway are to be constructed to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.
32. Vehicles must enter and exit the site in a forward direction.
33. The garage door must be installed by providing 7m gap between the Nicholson Street carriageway and the garage door.

#### Permit Expiry

34. This permit will expire if one of the following circumstances applies:
  - a) the development is not commenced within three (3) years from the date of issue of this permit;
  - b) the development is not completed within five (5) 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;

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

#### Notes

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

Note 1: This permit contains a condition requiring payment of Development Contributions. The applicable development contribution levies are indexed annually. To calculate the approximate once off levy amount, please <https://www.moreland.vic.gov.au/building-and-business/planning-and-building/planning/development-contributions/> and click on 'Moreland Development Contributions Plan (DCP)'. Alternatively, please contact Moreland City Council on 9240 1111 and ask to speak to the DCP Officer.

**Note 2: Should Council impose car parking restrictions in this street, the owners and/or occupiers of the dwellings would not be eligible for resident parking permits to park on the street. Occupiers are eligible for the resident A parking permit which only permits parking in limited areas. The resident parking permits and Resident A parking permit are subject to future reviews and change. See Council's website for more information: <https://www.moreland.vic.gov.au/living-in-moreland/parking-and-roads/parking-permits-and-fines/residential-parking-permits/>**

**Note 3: Moreland City Council is committed to increasing the amount of affordable housing in the municipality. One way to do this, is through Homes for Homes, a social enterprise founded by the Big Issue that aims to raise new funds via voluntary tax-deductible donations on property transactions and invest those funds in building and managing new social and affordable dwellings. If you would like to help build homes for those in need, visit [Homes for Homes](#) and register your commitment to donate 0.1 per cent of the sale price of your dwelling.**

**Carried**

Cr Panopoulos called for a division.

**For**

Cr Tapinos  
Cr Riley  
Cr Pulford  
Cr Panopoulos  
Cr Conlan  
Cr El-Halabi  
**Total For (6)**

**Against**

Cr Davidson  
Cr Bolton  
Cr Yildiz  
Cr Pavlidis

**Total Against (4)**

## **URGENT BUSINESS REPORTS**

Nil

The meeting closed at 7.25 pm.

**Confirmed**

Cr Annalivia Carli Hannan  
**MAYOR**