



Moreland
City Council

COUNCIL AGENDA

PLANNING AND RELATED MATTERS

Wednesday 22 September 2021

Commencing 6.30 pm

Council Chamber, Moreland Civic Centre, 90 Bell Street,
Coburg

Language Link

This is the Agenda for the Council meeting.
For assistance with any of the agenda items,
please telephone 9240 1111.

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Đây là Nghị Trình cuộc họp của Ủy Ban Quy Hoạch
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9280 1915.

यह कौंसिल की बैठक का कार्यक्रम है। कार्यक्रम के किसी
भी विषय के बारे में सहायता के लिए कृपया 9280 1918
पर फोन कीजिए।

这是市政府例会的议题安排，如果需要协助
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ਇਹ ਕੌਂਸਲ ਦੀ ਮੀਟਿੰਗ ਦਾ ਏਜੰਡਾ ਹੈ।
ਏਜੰਡੇ ਦੀ ਕਿਸੇ ਆਈਟਮ ਬਾਰੇ ਮਦਦ ਲਈ,
ਕੌਂਸਲ ਕਰਕੇ 9280 0751 ਤੇ ਟੈਲੀਫੋਨ ਕਰੋ।

Acknowledgement of the traditional custodians of the City of Moreland

Moreland City Council acknowledges the Wurundjeri Woi Wurrung people as the Traditional Custodians of the lands and waterways in the area now known as Moreland, and pays respect to their elders past, present, and emerging, as well as to all First Nations communities who significantly contribute to the life of the area.

- 1. WELCOME**
- 2. APOLOGIES**
- 3. DISCLOSURES OF CONFLICTS OF INTEREST**
- 4. MINUTE CONFIRMATION**

The minutes of the Planning and Related Matters Meeting held on 25 August 2021 be confirmed.

- 5. COUNCIL REPORTS**

5.1 9A-9D ANDERSON STREET AND 80 WESTGATE STREET,
PASCOE VALE SOUTH VIC 3044 - PLANNING APPLICATION
MPS/2021/202

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- 6. URGENT BUSINESS**

5. COUNCIL REPORTS

5.1 9A-9D ANDERSON STREET AND 80 WESTGATE STREET, PASCOE VALE SOUTH VIC 3044 - PLANNING APPLICATION MPS/2021/202

Director City Futures Kirsten Coster

City Development

Executive Summary



Property:	9A-9D Anderson Street & 80 Westgate Street, Pascoe Vale South VIC 3044				
Proposal:	Construction of 19 dwellings (mix of two and three storey) and three shops above a basement car park, use of the land for dwellings and reduction to the statutory car parking rate				
Zoning and Overlay/s:	<ul style="list-style-type: none"> Commercial 1 Zone (C1Z) General Residential Zone Schedule 1 (GRZ1) Development Contributions Plan (DCPO) Parking Overlay Schedule 1 (PO1) 				
Strategic setting:	<table border="1"> <tr> <td>Minimal housing growth</td> <td style="background-color: #00AEEF; color: white;">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		
Objections:	<ul style="list-style-type: none"> 22 objections Key issues: <ul style="list-style-type: none"> Commercial land use Car parking and traffic Neighbourhood character Overdevelopment Amenity impacts, including overshadowing and overlooking Property values Increased crime Architectural design Construction issues Impact on infrastructure 				
Planning Information and Discussion (PID) Meeting:	<ul style="list-style-type: none"> Date: 17 August 2021 Attendees: 9 objectors, the applicant, 2 Council officers, and Cr Panopoulos and Cr El-Halabi No changes were agreed to however the meeting provided an opportunity for the objectors concerns to be discussed and helped inform the preparation of this report. 				
ESD:	<ul style="list-style-type: none"> Minimum average NatHERS rating of 6.5 stars. 				

Key reasons for support:	<ul style="list-style-type: none"> • Appropriate building envelope and design response. • Delivery of employment floorspace. • Public realm improvements will be added into the development outcome with additional landscaping.
Recommendation:	Council's submission to VCAT be one of support for the application, subject to the conditions outlined in the recommendation.

Officer Recommendation

That Council's submission to VCAT be one of support for the construction of 19 dwellings (mix of two and three storey) and three shops above a basement car park, use of the land for dwellings and reduction to the statutory car parking rate at 9A-9D Anderson Street and 80 Westgate Street, subject to the following conditions:

Amended plans required

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 development plans (advertised 28 June 2021) but modified to show:
 - a) Provision of a lift from the communal area to the basement level.
 - b) The render on the northern boundary wall replaced with a higher quality and durable material.
 - c) Provision of at least three dwellings that meet the Silver Level requirements of the Liveable Housing Design Guidelines.
 - d) Dwelling 1 designed to meet the Gold Level requirements of the Liveable Housing Design Guidelines with respect to the ground floor bedroom and kitchen.
 - e) A minimum 2 metres setback to Dwellings 17-19 from the northern property boundary to improve daylight.
 - f) Reduction to the Dwelling 1 arbor so that a 4.5 x 4.5 metre permeable area is provided for canopy tree planting.
 - g) The street integration improved to Westgate Street, by:
 - i. Larger or multiple ground level windows to Dwelling 10 to both the splayed edge and southern wall; and
 - ii. Lower the height of the hit and miss brick front wall to a maximum of 1.5 metres, or making the hit and miss brick wall 25% permeable for Dwellings 7-9.
 - iii. Delete the hit and miss brick wall privacy screens for Dwellings 5 & 6.
 - h) Provision of screening to the Dwelling 3 and 4 first floor western bedroom windows in accordance with Clause 55.04-6 (Overlooking).
 - i) Re-allocation of the two shop car parking spaces to the dwellings and notation of parking spaces with association apartment number.
 - j) A notation to confirm that no additional columns are to be placed in the car park.
 - k) Dimension the vehicle crossing width (measured at the footpath), to match the width and location of the accessway.
 - l) The removal of the proposed refuge from the vehicle crossing.

- m) A 1 metre straight splay on the eastern side of the vehicle crossing, commencing where the footpath meets the nature strip and finishing at the kerb in accordance with Council's Standard Vehicle Crossing design.
- n) Details of the ventilation to the bin storage area for the ground floor shops fronting Anderson Street.
- o) Dimension of the second-floor projections beyond the Anderson and Westgate Street alignment, ensuring the projection is limited to architectural features and no more than 300mm outside the Title boundary.
- p) Canopy to Anderson Street that must not project beyond the street alignment unless it is setback not less than 750mm from the kerb and at a height less than 3 metres above the level of the footpath in accordance with Regulation 103 of the Building Regulations 2018.
- q) Any changes to the plans arising from the amended:
 - i. Sustainability Management Plan in accordance with Condition 3 of this permit.
 - ii. Waste Management Plan in accordance with Condition 6 of this permit.
 - iii. Amended landscape plan in accordance with Condition 7 of this permit.

Compliance with endorsed plans

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

Sustainability Management Plan

3. Prior to the endorsement of plans, an amended Sustainability Management Plan (SMP) and associated 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 SMP prepared by Sustainable Design Consultants, revision reference S4372 SMP.V3 but modified to include the following changes:
 - a) A minimum 30kW solar PV system to meet energy demand of the site.
 - b) Amend the BESS report (and any other corresponding documentation) to:
 - i. Include commitment to minimum 30kW solar PV.
 - c) Show the following ESD initiatives on the development plans:
 - i. The size and location of the rainwater tank(s) with at least 37,000L total capacity for reuse. The rainwater tank(s) cannot obstruct glazing or access to private open spaces.
 - ii. External operable shading devices to the dwelling 1, 17, 18 & 19 north facing ground floor habitable room glazing, to block peak summer sun. A product diagram or section of the proposed device must be provided must not be roller shutters).
 - iii. The solar PV system, including photovoltaic array location, approximate size and number of individual panels, orientation and tilt angle.
 - iv. The location of at least one designated electric vehicle parking bay and location of charging infrastructure.
 - v. Annotate that 32-40 Amps dedicated circuits are provided for the charging of electric vehicles for all car spaces.
4. 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

5. When submitted and approved to the satisfaction of the Responsible Authority, the amended Sustainability Management Plan and associated notated plans will be endorsed to form part of this permit. No alterations to the plan may occur without the written consent of the Responsible Authority.
6. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all works must be undertaken in accordance with the endorsed Sustainability Management Plan to the satisfaction of the Responsible Authority.
7. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, a report (or reports) from the author of the Sustainability Management Plan (SMP) 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 SMP report have been implemented in accordance with the approved report.

Waste Management Plan

8. Prior to the endorsement of plans, an amended Waste Management Plan (WMP) must be submitted to the satisfaction of the Responsible Authority. When to the satisfaction of the Responsible Authority, the report will be endorsed and will form part of this permit. The plan must be generally in accordance with the advertised WMP prepared by Ratio dated 7 April 2021 but amended to make reference to the basement lift, provision of a third shop, and any other subsequent design layout changes required at Condition 1.
9. 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.
10. 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.

Landscaping

11. Prior to the endorsement of plans, an amended landscape plan must be submitted to the Responsible Authority. The landscape plan must be generally in accordance with the plan prepared by Tract dated 22 April 2021 but amended to show:
 - a) Any changes required to align with the plans for endorsement.
 - b) Provision of one canopy tree within the front setback of Dwellings 5 and 6 and rear secluded private open space of Dwelling 1, in accordance with Clause 55.03-8 (Landscaping).
 - c) A schedule of all proposed trees, shrubs and ground covers (including numbers, size at planting, size at maturity and botanical names) and notation on the plans to confirm which species is proposed in which location.
12. 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.
13. 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.

Street Tree Removal

14. Prior to the commencement of occupation or at a later date with the prior written consent of the Responsible Authority, the owner must pay Council to remove and provide advanced replacement tree(s) in an appropriate location in a nature strip nearby in accordance with the Moreland Street Landscape Strategy for each street tree removed for the vehicle crossing, to the satisfaction of the Responsible Authority.

Public Works Plan

15. Prior to the commencement of the development, a Public Works Plan and associated construction drawing specifications detailing the works to the land must be submitted to the satisfaction of the Responsible Authority. The Plan must include:
 - a) All construction details in accordance with the *Moreland City Council Technical Notes July 2019* (or any updated version);
 - b) A detailed level and feature survey of the footpaths and roads.
 - c) The reinstatement of the vehicle crossings on Westgate Street.
 - d) The conversion of indented parking bays to nature strip on Westgate Street.
 - e) Public footpaths are to be reinstated to the previous levels with a maximum cross fall slop of 1 in 40 (2.5 per cent).
 - f) For any vehicle crossing not being used, the kerb, channel and footpath reinstated.
 - g) Any necessary drainage works.
 - h) Tree(s) and other landscaping in the street frontages adjacent to or near the development.
 - i) Any other works and street furniture to the public land adjacent to the development.
16. When submitted and approved to the satisfaction of the Responsible Authority, the Public Works Plan will be endorsed to form part of the permit. No alterations to the Public Works Plan may occur without the written consent of the Responsible Authority
17. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all public works shown on the endorsed public works plan must be implemented to the satisfaction of the Responsible Authority at the expense of the owner of the land, unless otherwise agreed with prior written consent of the Responsible Authority.

Development Contributions

18. Prior to the issue of a Building Permit in relation to the development approved by this permit, a Development Infrastructure Levy and Community Infrastructure Levy must be paid to Moreland City Council in accordance with the approved Development Contributions Plan. The Development Infrastructure Levy is charged per 100 square metres of leasable floor space and the Development and Community Infrastructure Levy is charged per dwelling.
19. 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;
20. 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.

Baffled Lighting

21. Lighting on each balcony must be designed to not emit light direct onto adjoining property to the satisfaction of the Responsible Authority.

General

22. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, any Council or service authority pole or pit within 1 metre of a proposed vehicle crossing must be relocated or modified at the expense of the permit holder to the satisfaction of the Responsible Authority and the relevant service authority.
23. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, a vehicle crossing must be constructed in every location shown on the endorsed plans to a standard satisfactory to the Responsible Authority (Moreland City Council, City Infrastructure Department).
24. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority (Moreland City Council, City Infrastructure Department).
25. 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.
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 (Note: Please contact Moreland City Council, City Infrastructure Department).
27. The surface of all balconies and terraces 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.
28. A letterbox must be provided for each of the premises at the street frontage. The dimensions, placement and numbering must comply with the Australia Post – Letterbox Security and Specification as published on its website to the satisfaction of the Responsible Authority.

Time Limit

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

- 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 notice of decision.

Note 1: Should Council impose car parking restrictions in this street, the owners and/or occupiers of the land would generally not be eligible for any Council parking permits to allow for on street parking. See Council's website for more information:
<https://www.moreland.vic.gov.au/parking-roads/parking-permits/residential-parking-permits/>

Note 2: 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 3: 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 4: 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 visit <http://www.moreland.vic.gov.au/planning-building/> 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 5: This permit for the development of the land includes the construction of buildings and works over an easement. It is the responsibility of the owner, through the services of the relevant building surveyor, to determine any necessary consent(s) from all those parties who may have a legal right over the easement and from any other appropriate authority to whom the easement may be vested in.

This planning permit does not provide the consent from Council, service authorities or other persons or bodies for the construction of the building and works over the easement within the property.

1. Background

Subject site

The subject site is the amalgamation of two properties, being 9A-9D Anderson Street and 80 Westgate Street, Pascoe Vale South.

9A-9D Anderson Street is located on the north-west corner of Anderson and Westgate Streets, in a Commercial 1 Zone. It contains a one to two storey commercial building built to both street frontages with vehicle access from Westgate Street.

80 Westgate Street is located on the northern side of Westgate Street and is in a General Residential Zone. It contains a single storey weatherboard dwelling with tiled hipped roof. This dwelling features a front setback of approximately 9 metres and a single width crossover located on the eastern side of the site.

The amalgamated sites have an area of 1418 square metres, a 42-metre frontage to Westgate Street, 30-metre frontage to Anderson Street and 41-metre maximum depth.

The titles contain restrictive covenants which prohibit quarrying operations and removal of stone, earth, clay, gravel or sand other than for excavation for the foundation of a building. The application does not breach the restrictive covenants.

Surrounds

There is a small commercial strip to Anderson Street which includes the site, which is nominated as the Westgate/Anderson Street, Pascoe Vale Local Centre. Beyond this, land is zoned General Residential. Within the immediate context, sites are residential and comprise mainly of older building stock, typically single storey in scale. There are some examples of newer infill development ranging from one to two storeys in scale.

The immediate context includes:

- A single storey brick commercial premises to the immediate north of the site (within the Commercial 1 Zone and fronting Anderson Street). This building is tenanted by a restricted recreation facility (Pilates studio).
- Two single storey dwellings further to the north, with the common boundary having a carport and secluded private open spaces abutting 80 Westgate Street.
- To the east of the site is Anderson Street, a local access road. Eight unrestricted 90-degree angle car spaces sit directly in front of the site.
- To the south of the site is Westgate Street, a local access road with part restricted parallel parking provided on the northern side of the road.
- A single storey weatherboard dwelling to the immediate west of the site. Several habitable room windows have an outlook towards the site.

A location plan forms **Attachment 1**.

The proposal

The proposal is summarised as follows:

- Construction of two and three-storey buildings, containing:
 - 17 three-bedroom dwellings
 - 2 two-bedroom dwellings; and
 - Three shops at the ground floor Anderson Street frontage with a net leasable floor area of 44.06 square metres each.

- Provision of 36 car parking spaces within the basement, to be accessed via Westgate Street.
- Provision of 24 bicycle spaces (20 resident and 4 visitor spaces).
- A maximum building height of 10.4 metres.
- Materials comprising of a mix of whitewash brick, timber cladding and render.

The development plans form **Attachment 2**.

Statutory Controls – why is a planning permit required?

Control	Permit Requirement
Commercial 1 Zone	<p>Clause 34.01-1: a planning permit is required to use the land for dwellings, as the frontage at ground floor level exceeds 2 metres. No permit is required to use the land for shops.</p> <p>Clause 34.01-4: a planning permit is required to construct a building or construct or carry out works.</p>
General Residential Zone Schedule 1	Clause 32.08-6: a planning permit is required to construct two or more dwellings on a lot.
Particular Provisions	Clause 52.06-3: a planning permit is required to reduce the number of car parking spaces from 40 to 36.

*Note: within the General Residential Zone, a Retail Premises (other than Convenience shop, Food and drink premises, market and plant nursery) is prohibited.

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

- Clause 45.06: Development Contributions Plan Overlay
- Clause 45.09: Parking Overlay
- Clause 53.18: Stormwater Management in Urban Development
- Clause 55: Two or more dwellings and residential buildings

Procedural Matters

On 26 August 2021, the applicant lodged a review at the Victorian Civil and Administrative Tribunal (VCAT) against Council's failure to determine this application within 60 statutory days. This means that the decision will ultimately be made by VCAT. Objectors will receive notice of this appeal in due course.

While a permit is required to use the commercially zoned land for dwellings, this was not a matter that was included on the application form and subsequently did not form part of the proposal description during public notice. Nevertheless, it is clear from the application documents that the intended purpose is to use the land for dwellings. It is recommended that this procedural matter be addressed through the VCAT review process.

2. Internal/External Consultation

Public notification

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

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

Council has received 22 objections to date. A map identifying the zone boundaries location of objectors forms **Attachment 3**.

The key issues raised in objections are:

- Commercial land use.
- Car parking and traffic.
- Neighbourhood character.
- Overdevelopment.
- Amenity impacts, including overshadowing and overlooking.
- Property values.
- Increased crime.
- Architectural design.
- Construction issues.
- Impact on infrastructure.

A Planning Information and Discussion meeting was held on 17 August 2021 and attended by Cr Panopoulos and Cr El-Halabi, two Council Planning Officers, the applicant and approximately 9 objectors. The meeting provided an opportunity to explain the application, for the objectors to elaborate on their concerns, and for the applicant to respond.

No changes were made to the proposal as a result of the meeting.

Internal referrals

Internal Branch/Business Unit	Comments
Urban Design Unit	Supports the proposal, including ground level activation through the provision of three shops and ground level home offices, use of high-quality materials and finishes and overall massing and the stepping down of the development to two storeys at the south-west and north-west corners of the site
Sustainable Built Environment - Development Engineering Team	Supports the proposal, particularly the provision of bicycle parking. Concern was raised in relation to the waste storage arrangement and accessibility which is considered further in Section 4 of this report.
Sustainable Built Environment - ESD Team	Supports the proposal, however has concern with the daylight access to dwellings 17-19 and the size and location of rainwater tanks. Recommended changes are addressed by conditions of the recommendation and are considered further in Section 4 of this report.
Open Space Design and Development Unit	Supports the removal of the existing street tree subject to the applicant paying the relevant removal and replacement costs. Confirmed that enough space had been made available for deep soil planting

3. Policy Implications

Planning Policy Framework (PPF):

The following policies are of most relevance to this application:

- Municipal Planning Strategy (Clause 2), including:

- Vision (Clause 2.02)
- Settlement (Clause 2.03-1)
- Environmental and Landscape Values (Clause 2.03-2)
- Built Environment and Heritage (Clause 2.03-4)
- Housing (Clause 2.03-5)
- Economic Development (Clause 2.03-6)
- Transport (Clause 2.03-7)
- Infrastructure (Clause 2.03-8)
- Settlement (Clause 11)
- Environmental and Landscape Values (Clause 12), including:
 - Biodiversity in Moreland (12.01-1L)
- Built Environment (Clause 15.01), including:
 - Urban Design (Clause 15.01-1S, 15.01-1R & 15.01-1L)
 - Vehicle Access Design in Moreland (Clause 15.01-1L)
 - Building Design (Clause 15.01-2S & 15.01-2L)
 - Building Design in Neighbourhood and Local Centres (Clause 15.01-2L)
 - Healthy Neighbourhoods (Clause 15.01-4S and 15.01-4R)
 - Neighbourhood Character (Clause 15.01-5S)
 - Minimal and Incremental Change Areas (Clause 15.01-5L)
 - Sustainable Development (Clause 15.02), including:
 - Energy and resource efficiency (Clause 15.02-1S)
 - Environmentally Sustainable Development (Clause 15.02-1L)
 - Energy efficiency in Moreland (Clause 15.02-1L)
- Residential Development (Clause 16.01), including:
 - Housing Supply (Clause 16.01-1S and 16.01-1R)
 - Homes in Moreland (Clause 16.01-2L)
 - Housing for People with Limited Mobility (Clause 16.01-1L)
 - Housing Affordability (Clause 16.01-2S & 16.01-2L)
- Economic Development (Clause 17), including:
 - Diversified economy (Clause 17.01-1S & 17.01-1R)
 - Business (Clause 17.02-1S)
- Transport (Clause 18), including:
 - Sustainable Personal Transport (Clause 18.02-1S & 18.08-1R)
 - Sustainable Transport in Moreland (Clause 18.02-1L)
 - Car parking (Clause 18.02-4S & 18.02-4L)
- Infrastructure (Clause 19.02), including:
 - Energy supply (Clause 19.01-1S & 19.01-1L)
 - Open Space (Clause 19.02-6S, 19.02-6R & 19.02-6L)

- Development infrastructure (Clause 19.03)

Planning Scheme Amendments

Amendment C189more seeks to direct specific canopy tree planting outcomes for medium density housing throughout Moreland’s residential zones by varying Standard B13 of Clause 55.03-8 within the Schedules.

Within the General Residential Zone, the amended Standard B13 will seek:

- At least one canopy tree in the front setback and one within the secluded private open space of each dwelling, with the size of the trees and the area of permeable space to support each tree nominated;
- A preference for the shading of driveways by trees; and landscaping along any driveway.

The amendment was incorporated into the Planning Scheme on 1 September 2021 and forms part of assessment of the application

Human Rights Consideration

This application has been processed 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, including Section 18 (Taking part in public life). In addition, the assessment of the application has had particular regard to:

- Section 12: Freedom of movement - The proposed redevelopment of private land does not present any physical barrier preventing freedom of movement.
- Section 13: Privacy and Reputation – An assessment of whether there is any potential for unreasonable overlooking has been undertaken in Section 4 of this Report.
- Section 20: Property rights - The right of the landowner to develop and use their land has been considered in accordance with the Moreland Planning Scheme.

4. Issues

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

Does the proposal have strategic policy support?

The proposal lies within an established residential area. The Strategic Directions at Clause 2.03 of the Moreland Planning Scheme identifies the land at 9A-9D Anderson Street as a Local Centre. The following role and function applies:

“Serve the daily convenience needs of the local community, and generally include small supermarket/grocery store and services such as bakeries, newsagents, chemists and cafes”

The subject site is commercially zoned and located within the Local Centre. The proposed development is therefore consistent with the policy objectives which seek to encourage small scale commercial uses within the Local Centre.

The proposal provides three shops fronting Anderson Street and a home office on the corner of Westgate Street, which provides a transition to the residential uses on Westgate Street. This is an acceptable response to the role of the Local Centre.

Concern was raised by objectors regarding the proposed shops, some citing that there is no demand for commercial uses in this location, and others questioning whether the space provided was fit for purpose.

The applicant has provided detail to confirm that the spaces have been designed for more niche commercial uses and will appeal to businesses who need a dedicated space, but do not require large levels of passing trade. It is not anticipated that potential users of these spaces will require extensive back of house facilities. A condition of permit will be included requiring further detail in relation to the ventilation of the bin storage area. Subject to the provision of ventilation, the proposal is an acceptable response and is supported.

The subject site is also located within the General Residential Zone. The purposes of the General Residential Zone include encouraging a diversity of housing types and growth, particularly in locations offering good access to transport and services. Clause 16.01-1R also seeks to facilitate increased housing in established urban areas to create a city of 20-minute neighbourhoods.

Council's Housing Framework Plan at Clause 2.04 designates this location for incremental housing growth. In these areas, Clause 16.01-2L encourages medium density development that contributes to an enhanced landscape.

Concern was raised by many objectors in relation to the scale of the development within a predominantly residential area. The proposal for 19 dwellings represents an incremental level change that is expected in an established urban area and has strategic policy support. The proposal has been designed to locate most of the three-storey form within the commercially zoned land, with a transition in scale provided to the west to respond to the residential interface. This is an appropriate response and is supported.

Does the proposal respond to neighbourhood character, positively contribute to the local context and enhance the public realm?

The Commercial 1 Zone seeks to create vibrant mixed-use commercial centres, while providing for residential uses at densities complementary to the role and scale of the commercial centre. The General Residential Zone seeks to encourage development that respects the neighbourhood character of the area. However, respecting character does not mean preventing change. Furthermore, State policy seeks building design outcomes that contribute positively to the local context and enhance the public realm.

As mentioned above, the site is located within an incremental change area. Within incremental change areas, Clause 15.01-5L states that where the prevailing height of surrounding buildings is not three or more storeys, three storey developments should be designed to have a visually recessive third storey and have a building height of no more than two storeys at the interface with adjoining properties and the public realm.

However, Clause 15.01-2L (Building design in Neighbourhood and Local Centres), which is relevant to the commercially zoned land, provides support for three storey forms at street frontages. Further, the Anderson Street commercial strip would be improved by the introduction of a canopy for weather protection, which is a condition of this recommendation.

The development, which will be three storey in scale, will hold the commercially zoned corner, whilst providing a landscaped front setback and a visually recessive third storey within the western portion of the development. This allows for a transition to existing dwelling stock located in Westgate Street.

Whilst contemporary in design, the proposal presents a high-quality architectural response. The design is considered to contribute positively to the character of the street and the neighbourhood more broadly, with activated frontages and provision of casual surveillance to the intersection of Anderson and Westgate Streets. Along the Westgate Street frontage, ground floor windows to dwellings are screened by a high hit and miss brick wall, generally to provide privacy to the habitable room windows behind. This results in a low level of activation and minimises the space available for landscaping along the street front. A condition will be included requiring deletion of these screens from dwellings 5 & 6 that have a front setback for more than 4 metres and a reduction to the height and/or width of the hit and miss brick wall of dwellings 7-9 to ensure that views to and from the habitable room window are possible. There is also a condition to increase the size of ground floor windows of the home office (Dwelling 10), to further improve activation.

Does the proposal satisfy the requirements of Clause 55?

The Planning Scheme sets different expectations for compliance with Clause 55 depending on whether the land is zoned commercial or residential. The site contains two zones, which technically means Clause 55 compliance only needs to be achieved for the portion of the site in a General Residential Zone. It is not practical to assess the proposal based on zone boundaries given the integrated nature of the development. Therefore, the more conservative assessment of the entire development against the relevant Standards of Clause 55 follows:

Street Setback (Standard B6)

The development will be partially constructed to the east and south boundaries at the corner of Anderson Street and Westgate Street. A 4.2 metre setback will be provided to Dwellings 5 and 6 from the western end of the Westgate Street frontage.

The neighbouring property to the north is constructed to the street front, as such the proposed zero lot setback within the Commercial Zone to Anderson Street complies with the Standard and is appropriate for a commercial shopping strip.

At the Westgate Street frontage, the neighbouring is setback 7 metres from the street. The proposal seeks a variation to this setback.

The proposed setbacks are considered to provide an appropriate transition between the corner of Anderson and Westgate Streets and the broader setback pattern seen to the west of the site. The vehicle access has been sited to the west of Dwellings 5 and 6 and will provide a further visual transition and break between the new form and the existing streetscape.

Site Coverage (Standard B8)

The development proposes a site coverage of 920.46 square metres (64.91%). When considering the land within the General Residential Zone, the site coverage equates to 333.14 square metres (56.75%) which complies with the Standard.

The site has an existing total site coverage of 972.46 square metres (68.58%). The proposal therefore will result in a reduction to the total site coverage by 7 square metres. This is an improvement and is supported. The variation of 4.91% from the Standard is acceptable having regard to the commercial zoning of part of the site.

Permeability (Standard B9)

The development proposes 142.75 square metres (10.07%) of permeable surfaces. When considering the land only within the General Residential Zone, the permeability equates to 108.12 (18.42%).

While lesser than the standard, which seeks 20% of the site to include permeable surfaces, the development will incorporate water sensitive urban design including a 26,000-litre water tank and landscaped garden areas. The variation of 9.93% from the Standard is acceptable having regard to the commercial zoning of part of the site.

Landscaping (Standard B13)

The proposal was accompanied by a landscape plan which shows space provided on site for landscaping, including deep soil canopy tree planting, shrubs and groundcovers.

Concern was raised by objectors in relation to a lack of landscaped setback along the Anderson Street and Westgate Street corner, noting that it would assist in minimising the bulk of the development.

Given the commercial zoning of this portion of the site and existing context (building built to both street frontages), the lack of landscaped setback is generally considered acceptable. The development will incorporate planter beds with climbing plants to the dwellings fronting Westgate Street, a landscaped setback in the transitional area in front of Dwellings 5 and 6 and landscaping along the edges of the garage entry. Landscaping will also be provided along the northern and western boundary to buffer the bulk of the development from the adjoining residential zone with several canopy trees proposed. In addition, a condition of the recommendation requires that the ¼ hour indented parking on Westgate Street be replaced with landscaping (subject to the necessary separate approvals). This will improve the landscaping and potential for street tree planting in the public realm while still providing for on-street parallel parking.

The proposal that is in the General Residential Zones does not comply with the applicable standard because Dwellings 1-6 do not have the required 4.5x4.5 metre permeable area in each secluded open space for canopy tree planting. This application was lodged before introduction of the provisions, which have been with the Minister for Planning for considerable time. In recognition of this timing and implications for basement parking provision total compliance with the revised standard has not been conditioned in this instance. The proposed development provides space for the planting of canopy trees within the front setback of Dwellings 5 and 6 and rear SPOS of Dwellings 1-4. A condition will be included requiring a reduction to part of the Dwelling 1 arbor to allow for a 4.5x4.5 metre permeable area for canopy tree planting. On balance this is acceptable.

Walls on Boundaries (Standard B18)

The development seeks to construct a three-storey wall on the northern boundary. This wall will sit adjacent an existing wall on boundary associated with the adjoining commercial premise. As such, the wall will not impact upon the amenity of any adjoining residential property.

The wall is currently proposed to be treated with a rendered finish in a grey colour. Render typically does not age well. Given this wall will be readily visible from Anderson Street (when approaching from the south), a higher quality material should be used. A condition has been included within the recommendation regarding this.

Overlooking (Standard B22)

Standard B22 seeks to limit views into existing secluded open space and habitable windows within 9 metres. The standard does not prevent all overlooking.

Dwellings 1-5 are oriented to have outlook towards adjoining residential properties to the north and west of the site.

Shrouded windows and planter ledges limit the ability for downward views onto secluded private open space within a distance of 9 metres, as confirmed by sectional diagrams provided by the applicant. The overlooking diagrams provided have taken the measurement with a person standing back from the window. If measuring from the window itself, there appears to be overlooking from the Dwelling 3 and 4 first floor bedroom windows into the neighbouring habitable room windows of 82 Westgate Street. A condition of permit will be included requiring these windows to be screened in accordance with the Standard.

Private Open Space (Standard B28)

Dwellings will be provided with a variety of private open spaces including traditional ground level SPOS (Dwellings 1-4) ranging from 24sqm to 92sqm, balconies (Dwellings 5-6 and 11-16) ranging from 8sqm to 8.55sqm and rooftop terraces (Dwellings 7-9 and 17-19).

A variation is sought in relation to Dwellings 2-4, which do not include an additional 15 square metres of private open space in addition to the 25sqm of secluded private open space. This is acceptable given the dwellings will have access to 75 square metres of communal open space provided on site (which is beyond what the Planning Scheme requires) and several nearby parks.

Has adequate car parking been provided?

Pursuant to Clause 52.06, a total of 36 spaces are required for the dwellings plus 4 spaces for the commercial premises. The development provides 36 on-site spaces (34 for dwellings and 2 for the commercial spaces). No visitor parking is required because the site is within the Parking Overlay.

As mentioned in Section 1 of this Report, a retail premises (other than convenience shop, food and drink premises, market and plant nursery) is prohibited. The current proposal provides access to the car spaces associated with the shops via the General Residential Zone. As a result, this limits the types of land uses that can occur on site. In order to provide future flexibility in relation to the uses of the spaces, it is considered appropriate to remove the car spaces within the residentially zoned land.

There are currently 10 car parking spaces provided within an indented parking bay on Anderson Street. These will sufficiently service the three new shops. The two spaces should be re-allocated to the dwellings. A condition of permit will be included requiring this change.

Clause 52.34, while not applicable to a development of less than four storeys, would generate a requirement to provide 4 bicycle spaces.

Whilst the site does not have good access to public transport, it has access to a range of public and sustainable transport options and will provide excellent bicycle parking with 24 spaces proposed. A reduction of 4 car spaces is therefore considered to be appropriate.

Vehicles, whether related to this or other developments in the street, can only park on the street in accordance with any parking regulations. The number of vehicles that can park on the street and at what time will be dictated by the parking restrictions and the availability of on-street car spaces. It is expected that the level of parking provided will cater for car ownership levels of the occupiers.

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

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

Traffic generation and the existing safety issues at the Anderson Street and Westgate Street intersection were raised in a number of objections and during the Planning Information and Discussion meeting.

Council's Development Engineers have assessed the proposal and consider that the development will result in 140 additional vehicle movements per day on Anderson Street and Westgate Street. This remains within the street's design capacity and is not expected to cause traffic problems.

In addition, a review of Council records indicate that several measures have been undertaken in the past 5 years to improve the safety of the intersection. This includes the installation of additional stop signs on Anderson Street (two signs for each side of the intersection), no standing signs along the southern sides of Westgate Street and advanced intersection warning signs on Westgate Street.

Existing traffic congestion and safety issues in the area cannot be addressed through the current application, nor should the burden of relieving these existing problems be imposed on the developer of the subject land. The proposal is not expected to worsen traffic safety, noting that the accessway is well away from the intersection and has appropriate sightlines for exiting vehicles.

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

Concern has been raised by Council's ESD Team in relation to daylight access to Dwellings 17-19. Should the neighbouring commercially zoned property to the north be redeveloped with a wall on the shared boundary, the level of daylight to these spaces will be highly compromised.

While not directly applicable to a townhouse development, Clause 15.01-2L is a helpful tool in ensuring amenity is provided for on site, with the provision of an appropriately sized light well. For a development of up to four storeys, a light well should have a minimum width of 2 metres and a minimum area of 9 square metres. The current design features a width of 1.65 metres and an area of 22.23 square metres. It is considered appropriate to increase the setback of Dwellings 17-19 from the northern property boundary to a minimum of 2 metres to safeguard the future amenity of these spaces. A condition of permit will be included requiring this change.

Is the proposal accessible to people with limited mobility?

Clause 16.01-3L (Housing diversity in Moreland) encourages the provision of housing that can be lived in by people with limited mobility (or easily adapted to be lived in). Clause 55.02-3 also seeks to ensure that in developments of ten or more dwellings, at least one dwelling contains a kitchen, bath or shower, and a toilet and wash basin at ground floor level.

Entrances to dwellings are at the ground floor and are flush with the finished surface level surrounding the development. Dwelling 1 also provides a bedroom, living area, kitchen, private open space, bathroom and toilet on entry level.

However, for a development of this scale, it is reasonable to expect that greater consideration be given to provision of accessible features. Conditions of the recommendation require at least three dwellings to meet the Silver Level requirements of the Liveable Housing Design Guidelines (which primarily relate to door and hallway widths and bathroom design) and that Dwelling 1 also achieve the Gold Level requirements with respect to its bedroom and kitchen.

Consideration for access for persons with limited mobility has also not been given to the basement car parking area and waste facilities. A condition will be included requiring the provision of a lift into the basement area to ensure universal access to all areas of the development.

5. Response to Objector Concerns

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

- Neighbourhood character
- Overlooking
- Architectural design
- Commercial land use.

- Car parking and traffic

Overdevelopment

The planning assessment and issues in Section 4 of this report has confirmed that the building height, setbacks and the provision of car parking are acceptable when considered against the requirements of the planning scheme and therefore the proposal is not considered to be an overdevelopment of the site.

Overshadowing

Concern has been raised in a number of objections in relation to overshadowing adjoining single and double storey dwellings.

The shadow diagrams submitted by the applicant have been checked. Shadows cast by the development will be largely contained within the development site itself or are cast onto the adjoining road reserve. The expected shadowing is within the requirement of the relevant Clause 55 Standard.

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. 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.

Increased crime

There is no evidence to link the development of private residential apartments with increased crime rates or reduced safety for residents.

Construction issues

Concern has been raised in relation to damage of the adjoining buildings during construction and disruption due to construction activity.

Building work can sometimes affect adjoining properties. An owner who is proposing building work has obligations under the Building Act 1993 to protect adjoining property from potential damage from their work. This process is not controlled or overseen via the planning process and regulations. It is a matter addressed at the building permit stage.

Some noise and other off-site impacts are inevitable when any construction occurs. The developer will be required to meet relevant Local Laws and EPA regulations regarding construction practices to ensure these impacts are mitigated.

Impact on infrastructure

One objector concern was the impact of the dwellings on infrastructure, particularly increased pressure on local schools, community services, public transport and drainage infrastructure.

The existing availability of schools and community services and frequency of public transport cannot be addressed through the current application. The site is within an established urban area where increased housing density is expected.

In relation to drainage infrastructure, the site owner will be required to address infrastructure servicing demands of the additional dwellings as required by the various service agencies at the time of subdivision or connection of the development, including any service authorities' requirements to contribute to the cost of upgrading trunk infrastructure.

6. Officer Declaration of Conflict of Interest

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

7. Financial and Resources Implications

There are no financial or resource implications.

8. Conclusion

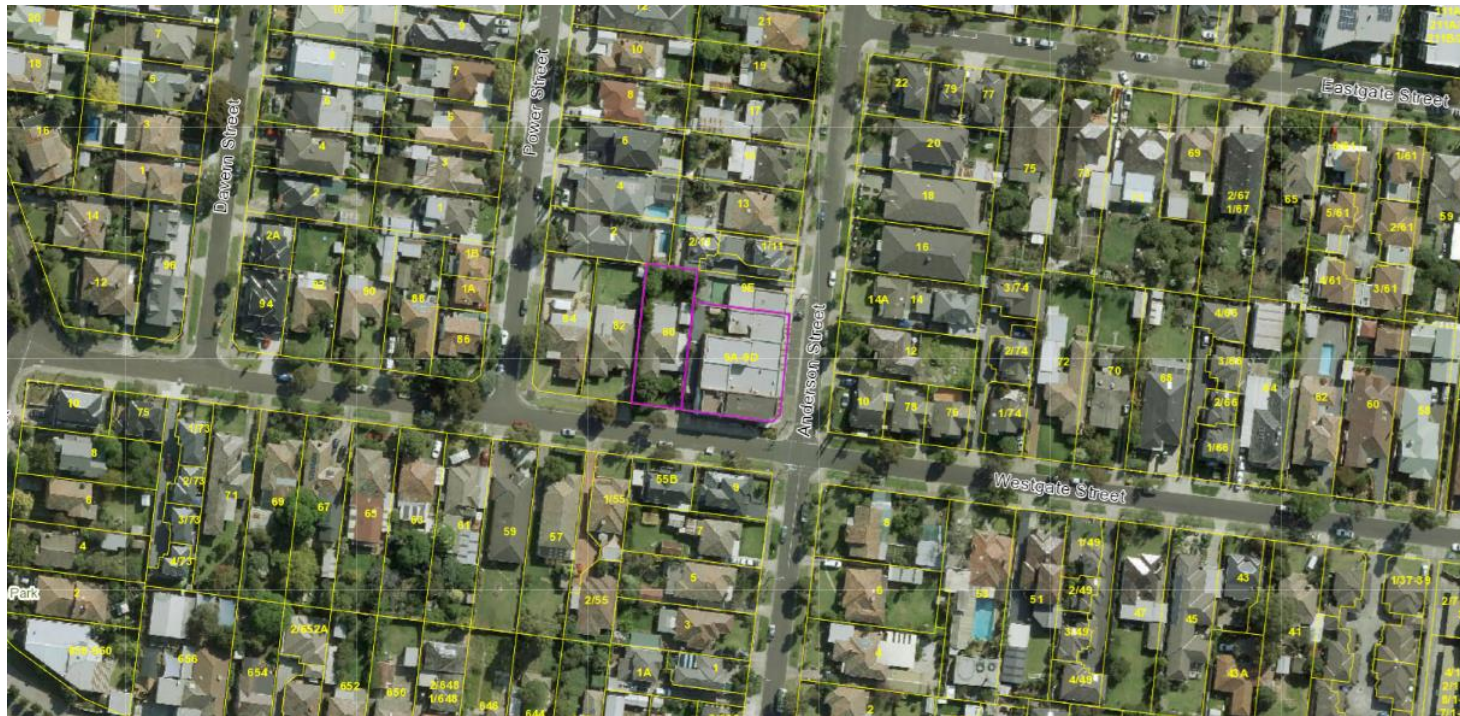
On the balance of policies and controls within the Moreland Planning Scheme and objections received, it is considered Council's submission to VCAT be one of support for the application, subject to the conditions included in the recommendation of this report.

Attachment/s

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|-------------------|--|------------|
| 1 | Location Map - 9A-9D Anderson Street, Pascoe Vale South | D21/378388 |
| 2 | Development Plans - 9A-9D Anderson Street, Pascoe Vale South | D21/351501 |
| 3 | Objector Location Map - 9A-9D Anderson Street, Pascoe Vale South | D21/383357 |

A-9D Anderson Street and 80 Westgate Street, Pascoe Vale South – MPS/2021/202

Location Map



Subject Site

