



**Moreland**  
City Council

## **COUNCIL AGENDA**

### **PLANNING AND RELATED MATTERS**

Wednesday 25 May 2022

Commencing 6.30 pm

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

#### **Language Link**

This is the Agenda for the Council meeting.  
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ਇਹ ਕੌਂਸਲ ਦੀ ਮੀਟਿੰਗ ਦਾ ਏਜੰਡਾ ਹੈ। ਏਜੰਡੇ ਦੀ ਕਿਸੇ ਆਈਟਮ ਬਾਰੇ ਮਦਦ ਲਈ, ਕ੍ਰਿਪਾ 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.

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

The minutes of the Planning and Related Matters Meeting held on 27 April 2022 be confirmed.

**5. COUNCIL REPORTS**

- |     |  |    |
|-----|--|----|
| 5.1 | CITY DEVELOPMENT ACTIVITY REPORT MARCH QUARTER<br>2022               | 4  |
| 5.2 | 35-39 SYDNEY ROAD, COBURG VIC 3058 - MPS/2020/852<br>PLANNING REPORT | 19 |

**6. URGENT BUSINESS**

## 5. COUNCIL REPORTS

### 5.1 CITY DEVELOPMENT ACTIVITY REPORT MARCH QUARTER 2022

Director Place and Environment, Joseph Tabacco  
City Development

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#### Officer Recommendation

That Council notes the City Development Activity Report – March Quarter 2022

<b>REPORT</b>
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#### Executive Summary

The first quarter is traditionally the slowest for the calendar year in terms of activity and 2022 has been no exception. Planning caseloads have remained steady compared to 2021. The backlog of applications awaiting a decision however has continued to grow, up 16 per cent since the same time in 2021. The percentage of applications determined within 60 days has also fallen, not only in Moreland but across the industry.

A new source of workload for the team has been the number of State run development programs requiring fast responses from the planning team. In the March quarter 4 of these projects were responded to.

Planning compliance cases received were slightly lower in the March quarter compared to March 2021. The team continues to deliver successful results with the outstanding compliance caseload being reduced by 15 per cent. The number of cases awaiting a resolution is still high and needs careful management but is reducing with some successful outcomes.

VCAT activity was lower in the March 2022 quarter compared to the previous year and is still well below pre-COVID-19 levels.

City Development Services continue to recover from circumstances produced by the pandemic particularly staff turnover that have impacted the teams ability to reduce the backlog and issue more timely decisions.

#### Previous Council Decisions

##### City Development Activity Report December Quarter 2021 – 23 February 2022

Council resolved that Council notes the City Development Activity Report – December Quarter 2021.

#### 1. Policy Context

The City Development Branch administers Council's town planning, building and environmental health decision making and compliance responsibilities under the *Planning and Environment Act 1987*, the *Moreland Planning Scheme*, *Building Act 1993*, *Building Regulations 2018*, *National Construction Code 2019*, *Food Act 1984*, and *Public Health and Wellbeing Regulations 2019*.

## 2. Background

This report shows the key operational performance and activity of the Urban Planning and Planning Enforcement Units within the City Development Branch, from VCAT decisions to how many planning applications were determined and the timeframe for decision making. The report contains comparisons of the March 2022 quarter of planning activity compared to the March 2021 quarter.

## 3. Issues

The report at Attachment 1 details:

- Analysis of planning applications received, determined and outstanding;
- Analysis of planning application decision making;
- Analysis of streamlined services;
- Planning enforcement caseload;
- VCAT analysis; and
- Analysis of planning investment.

An analysis of the key findings of the data is discussed in this report.

### Planning permit activity

The March quarter is traditionally a quiet quarter for planning activity as the building industry takes a break over summer. A total of 280 planning applications were received for the March quarter. This compared with 271 for the same quarter in 2021 up slightly by 3 per cent. A total of 281 planning applications were decided in the March quarter compared to 271 for the same quarter in 2021 again up slightly by 4 per cent as shown in figure 1 at **Attachment 1**. The majority of applications lodged for the quarter were building alterations (30 per cent), followed by multi-unit development (28 per cent) and subdivisions (18 per cent) as shown in figure 2 at **Attachment 1**.

The current backlog of applications awaiting a decision stands at 537 which has increased by 16 per cent from the same quarter in 2021. Figure 3 at **Attachment 1** shows how the backlog has changed over time. The current backlog requires further work to ensure caseloads for staff return to more manageable levels for ideal service delivery.

The percentage of applications determined within statutory timeframes for all inner metropolitan Councils averaged 50.3 per cent in the March quarter. Moreland's average was slightly better at 52.7 per cent per cent. This figure is much lower than usual across the sector indicating most Councils are seeing increased timeframes in the last quarter. This may also be indicative of increased staff taking the opportunity for annual leave following another year of pandemic lockdowns. See figure 4 at **Attachment 1**.

Councils streamlined planning services include Vic Smart, Fast Track (minor permit applications that do not qualify as Vic Smart) and Commercial Priority, which is a service to assist businesses setting up or expanding in Moreland. Figure 5 in **Attachment 1** shows the performance of the VicSmart part of streamlined services which fell to an average of 56 per cent of VicSmart applications determined within 10 days compared to the inner metropolitan average of 79.8 per cent. This was due to an absence in one of the two VicSmart roles and is something the team is working to avoid into the future.

## Ministerial Approvals and Interventions

The Department of Land Water and Planning (DELWP) Development Facilitation Program (DFP) has been established by the Minister for Planning to assess and determine planning applications for priority projects in Victoria. These projects are referred to Council for comments with a timeframe of 14 days. In the first quarter of 2022 two proposals were submitted:

- 512A Sydney Road, Coburg - Major mixed-use development including heights of 12-15 storeys reduction to the standard car parking requirement. This includes 55 per cent of dwellings as affordable or social housing and a reduction to the standard car parking requirement.
- 699 Park Street, Brunswick – Construction of a mixed-use development including heights up to ten storeys. This includes 10 per cent of dwellings as affordable housing.

Council has also been requested by DELWP to provide advice on a number of other proposals as part of private school development or by Heritage Victoria for input to heritage permit applications for sites on the Victorian Heritage Register.

In the first quarter of 2022 advice was provided for the following developments

- 17 Baird Street, Fawkner - Darul Ulum College of Victoria – Stage 14 - VCE and Administration Building.
- Lot S4 and S6 Champ Street, Coburg - Amendment to conditions 1 and 3 of Heritage Victoria Permit P24560 - Construction on the former C Division site and on the south-eastern yard of the A Division cellblock of a retail, cinema and car park complex and associated works, including landscaping, conservation and interpretation works

## Planning enforcement

Figure 7 in **Attachment 1** shows the outstanding caseload at 176 which is now pleasingly 18 per cent lower than during March 2021, indicating that the focus provided by a new planning enforcement team and an additional planning enforcement officer resource is delivering results.

The number of complaints from the community in respect to compliance with either planning permits or the Moreland Planning Scheme also decreased in the March quarter by 15 per cent in comparison to the same quarter in 2021. Figure 6, in **Attachment 1**, shows the number of cases lodged per quarter.

The complaint resolution rate in the March quarter was also slightly lower with 93 cases closed. As a result, the backlog of older cases waiting to be resolved increased very slightly from the previous quarter.

Of the cases closed during the March 2022 quarter, 42 per cent were investigated with a finding that no contravention of a permit or planning scheme provision had occurred. A further 38 per cent did have compliance issues and were brought into compliance through Council's actions. A smaller number were referred to other areas of Council for action and some had a breach that was so minor that formal action was not warranted. There were two others to note one was issued and paid a fine and one other complied with an enforcement order as shown in Figure 8 in **Attachment 1**.

The proactive planning enforcement program targets planning permits issued by the Planning and Related Matters (PARM) Council meeting, decisions overturned by VCAT and around 80 multi-dwelling residential developments annually. Figure 9 in **Attachment 1** shows that ESD requirement breaches continue to be high at 42 per cent. These included non-provision of rain gardens, no bike storage and installation of single rather than double glazing. Landscaping and absence of privacy screening were the other main breaches detected.

## **Council's performance at VCAT**

In the March quarter 6 applications for review of decisions were lodged at VCAT, which was significantly less than in the same quarter in 2021. The first quarter of 2021 was very unusual in the high number of appeals, lodged so while the March 2022 figure is lower, it is around average for the covid pandemic period over the last two years. However, the number of appeals lodged is still well below average for normal years as shown in Figure 10 in **Attachment 1**.

Figure 11, in **Attachment 1** shows that of the 5 appeals lodged against permit application decisions, 3 were by objectors against decisions to grant a permit, one appeal was lodged by an applicant against a refusal decision, and one by an applicant against conditions of the permit. In addition to the appeals against decisions on permit applications there was also one appeal lodged against Council's decision to refuse to extend the time for an existing permit

**Attachment 2** is a more detailed list of all appeals lodged in the March 2022 quarter.

Only 11 VCAT decisions were handed down in the March quarter 2022 as shown in Figure 12 in **Attachment 1**.

Figure 13, **Attachment 1** shows the breakdown of the VCAT decisions handed down in March 2022 quarter compared to the March 2021 quarter. As they are reflected in Local Government Performance Reporting. Notably however "Decisions Set Aside" include decisions which differ from the original decision of Council and may therefore include those decisions where a mediated outcome is agreed through the VCAT process.

For the purposes of Figure 14, at **Attachment 1** VCAT success is defined as the number of Council decisions that were upheld by VCAT (not set aside) or that were negotiated to an outcome satisfactory to Council (consented). This graph indicates a win/loss ratio for the March 2022 quarter compared to the March 2021 quarter. The results reflect that in the March quarter, Council won (or successfully mediated), 67 per cent or 8 out of 11 appeals against decisions.

**Attachment 3** is a more detailed list of all appeals determined in the March 2022 quarter.

## **Human Rights Consideration**

The implications of this report have been assessed in accordance with the requirements of the Charter of Human Rights and Responsibilities and it was found that it does not contravene any of these sections and supports the following rights

- Section 18: Taking part in public life
- Section 13: Privacy and Reputation
- Section 20: Property rights

## **4. Community consultation and engagement**

No consultation was required to inform the preparation of this report.

## **5. Officer Declaration of Conflict of Interest**

Council officers involved in the preparation of this report have no conflict of interest in this matter.

## **6. Financial and Resources Implications**

In terms of overall development in Moreland during the March quarter developments to the value of \$155 million have been approved by planning permits issued by the Urban Planning Unit, compared to the very low \$54 million during the same quarter in 2021 (being the third quarter) of the Covid 19 pandemic. The results are indicative of the increase development approval activity in the second year of the pandemic.

## 7. Implementation

The performance of Council's City Development Branch will continue to be monitored with the activity report for the next quarter to be presented to the August, Planning and Related Matters meeting.

### Attachment/s

- |                   |  |            |
|-------------------|--|------------|
| <a href="#">1</a> | City Development Activity Report Graphs March quarter 2022 | D22/156081 |
| <a href="#">2</a> | VCAT Appeals Lodged March quarter 2022                     | D22/156083 |
| <a href="#">3</a> | VCAT Appeals Determined March quarter 2022                 | D22/156084 |



**ATTACHMENT 1 – City Development Activity Report**

**Planning permit applications received, and decisions made**

**March 2021 quarter comparison to March 2022**

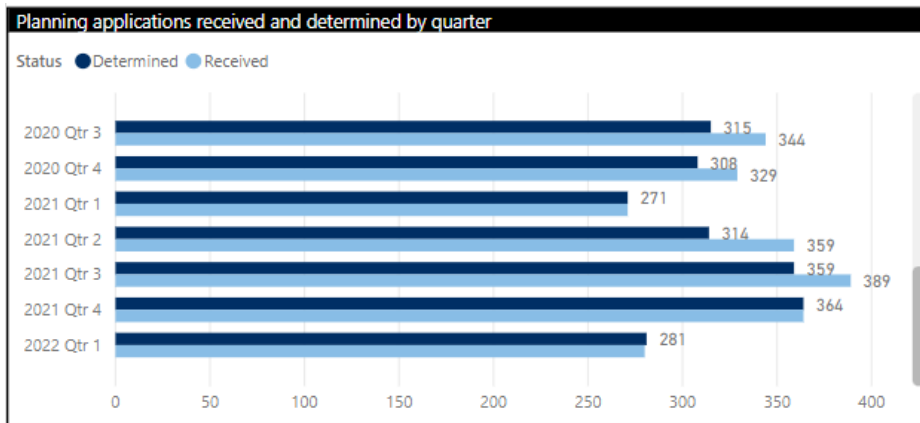
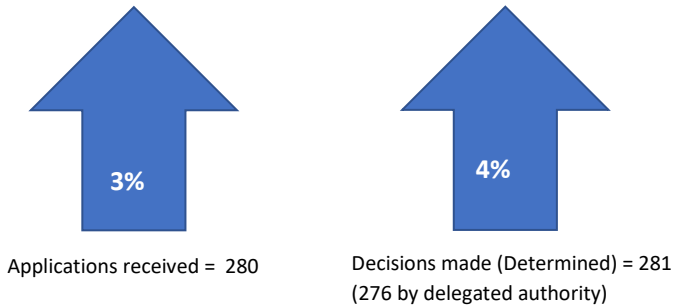


Figure 1 – Planning applications received and determined by quarter





















## 5.2 35-39 SYDNEY ROAD, COBURG VIC 3058 - MPS/2020/852 PLANNING REPORT

Director Place and Environment, Joseph Tabacco

City Development

### Executive Summary



<b>Property:</b>	35-39 Sydney Road, Coburg			
<b>Proposal:</b>	Construction of a six storey building, reduction of car parking requirements and alteration of access to a road in a Transport Zone 2			
<b>Zoning and Overlay/s:</b>	<ul style="list-style-type: none"> <li>• Activity Centre Zone (ACZ1)</li> <li>• Environmental Audit Overlay (EAO)</li> <li>• Parking Overlay (PO1)</li> <li>• Development Contributions Plan Overlay (DCPO1)</li> </ul>			
<b>Strategic setting:</b>	Minimal housing growth	Incremental housing growth	Increased house densities encouraged	Significant housing growth
<b>Objections:</b>	<ul style="list-style-type: none"> <li>• Five (5) objections</li> <li>• Key issues:               <ul style="list-style-type: none"> <li>• Car parking, vehicle access and traffic impacts</li> <li>• Building height</li> <li>• Overlooking and overshadowing</li> </ul> </li> </ul>			
<b>Planning Information and Discussion (PID) Meeting:</b>	Consultation has occurred with individual objectors			
<b>ESD:</b>	<ul style="list-style-type: none"> <li>• The applicant has agreed in writing to average NatHERS rating of 7 stars.</li> <li>• 8.8 KW Solar PV system</li> </ul>			
<b>Accessibility:</b>	<ul style="list-style-type: none"> <li>• 71 per cent of apartments are adaptable</li> </ul>			
<b>Key reasons for support</b>	<ul style="list-style-type: none"> <li>• The built form meets the objectives of DDO24, noting the upper level is highly concealed from the street.</li> <li>• The proposed commercial and residential uses are complementary to the uses in the surrounding area and consistent with the vision for this location. The ground floor commercial use appropriately activates the street.</li> <li>• The site is well located within 250m of train, tram and bus public transport options to support the reduction in car parking.</li> </ul>			
<b>Recommendation:</b>	Notice of Decision to Grant a Planning Permit be issued for the proposal.			

## Officer Recommendation

That a Notice of Decision to Grant a Planning Permit No. MPS/2020/852 be issued for the construction of a six storey building, reduction of car parking requirements and alteration of access to a road in a Transport Zone 2 at 35-39 Sydney Road, Coburg, 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 advertised plans but modified to show:
  - a) Changes generally in accordance with the discussion plans received on 20 April 2022, including:
    - i. Alterations to window configuration and detailing, wall thickness and recession on the street wall facade
    - ii. Balcony modifications at the upper levels facing Sydney Road
    - iii. Textured concrete finish to the upper level walls facing Sydney Road and along sections of the northern, southern and western facades
    - iv. Deletion of the exposed yellow downpipes
    - v. Recession of the roof services and screen
    - vi. Addition of external shading and spandrel panels
    - vii. Internal rearrangement of entry to waste/services room
  - b) The planter boxes of the balconies of Dwellings 302 and 303 setback 3 metres from the front boundary.
  - c) The southern edge and planter box of the balcony of Dwelling 303 setback a further 1 metre from the south boundary.
  - d) The height of the planter boxes on the elevation plans dimensioned.
  - e) The light well adjacent Dwelling 204 with a minimum area of 9 square metres through a reduction in the area of the balcony of Dwelling 204.
  - f) The external walls of the light well on the southern side of the building finished in a white or similar colour to increase the reflectance value and daylight to the adjacent bedrooms in accordance with the assumptions applied in the daylight modelling prepared by BSE.
  - g) The bathrooms of adaptable dwellings to have full compliance with either Design Option A or Design Option B in Table 7 of Clause 58.05-1 of the Moreland Planning Scheme.
  - h) The canopy (to Sydney Road) setback a minimum distance of 0.75 metres from the kerb and with a height of not less than 3 metres above the level of the footpath in accordance with the Building Regulations 2018 – Regulation 203 Verandahs. The canopy must be designed to ensure the protection of the existing street trees along Sydney Road.
  - i) The location of any substation and or fire booster cabinet as may be required by service authorities. All services must be incorporated into the building design (i.e. not free standing or pole mounted in the street) to ensure minimal impact on the visual amenity of the street and the architectural integrity of the building.
  - j) Details and specifications of the car stacker system.

- k) Any changes in accordance with the Landscape Plan required by Condition 3 of this permit.
- l) Any changes in accordance with the Waste Management Plan required by Condition 11 of this permit.
- m) All measures recommended by the Acoustic Report as required by Condition 13 of this permit.
- n) Any changes in accordance with the Accessibility Report as required by Condition 18 of this permit.
- o) The Environmentally Sustainable Design initiatives that are required to be shown on plans, as required by Condition 7e) of this permit.

### **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, an amended landscape plan must be submitted to the Responsible Authority. The landscape plan must be generally in accordance with the advertised plans but modified to show:
  - a) Any changes in accordance with the plans to be endorsed under Condition 1 of this permit.
  - b) Details of how the planter boxes will be maintained, irrigated and drained.
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.

### **Tree Protection**

6. Prior to development commencing (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), all council trees must have a Tree Protection Zone (TPZ) in accordance with *AS4970 Protection of Trees on Development Sites* to the satisfaction of the Responsible Authority. The TPZ must meet the following requirements:

- a) Tree Protection Fencing

Tree Protection Fencing (TPF) is to be provided to the extent of the TPZ, calculated as being a radius of 12 x Diameter at Breast Height (DBH – measured at 1.4 metres above ground level as defined by the Australian Standard AS 4970.2009). The TPF may be aligned with roadways, footpaths and boundary fences where they intersect the TPZ.

If works are shown on any endorsed plan of this permit within the confines of the calculated TPZ, then the TPF must be taken in to only the minimum amount necessary to allow the works to be completed.

The TPF must be erected to form a visual and physical barrier, be a minimum height of 1.5 metres above ground level and of mesh panels, chain mesh or similar material. A top line of high visibility plastic tape must be erected around the perimeter of the fence.

b) Signage

Fixed signs are to be provided on all visible sides of the TPF clearly stating “Tree Protection Zone – No entry. No excavation or trenching. No storage of materials or waste.”. The TPF signage must be complied with at all times.

c) Irrigation

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

d) Provision of Services

All services (including water, electricity, gas and telephone) must be installed underground, and located outside of any TPZ, wherever practically possible. If underground services are to be routed within an established TPZ, this must occur in accordance with Australian Standard AS4970.

### **Environmentally Sustainable Design**

7. Prior to the endorsement of plans, an amended Sustainability Management Plan (SMP) and plans must be submitted to the satisfaction of the Responsible Authority. The SMP must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the SMP prepared by Building Services Engineers dated 25 September 2021, but modified to include the following changes:

- a) Any changes in accordance with the plans to be endorsed under Condition 1 of this permit.
- b) Amend the BESS report (and any other corresponding documentation) to:
  - i. No longer claim Management credit 1.1 'Pre-application meeting' or provide evidence that a pre-application meeting was attended by a qualified ESD professional. (Being involved at an early stage does not meet the credit requirements.)
  - ii. No longer claim Management credit 3.2 as there is only one commercial tenant.
  - iii. Provide details of what will be in the Building Users Guide.
  - iv. Remove the baths.
  - v. Change the exposed sides to the correct number.
  - vi. Change the dryer to 'Occupant to install'.
  - vii. Replace central gas hot water with central electric heat pump water heaters and gas cooktops with electric/induction cooktops so the development is net-zero ready.
  - viii. Reduce the angle of the solar panels to a more realistic angle. It is unlikely the solar panels will be angled at 36 degrees due to the extra cost of brackets for wind loading. Please list the correct angle in the BESS report and on the plans.
  - ix. Ensure consistency between the BESS report (20,000L) and the STORM report and SMP (15,000L) relating to rainwater tank capacity.
- c) Amend the NatHERS Certificates as follows:
  - i. Increase the energy rating of all dwellings to at least 6 stars with an average of 7 stars across the development.
  - ii. All habitable room windows and doors must be double glazed.

- iii. Provide details in the NatHERS ratings on the 'vertical shading features' listed for all walls in the reports. There appears to be a feature, however they are only shown on some walls.
- d) A STORM report and stormwater management response that maintains a minimum STORM score of 100 per cent but is modified so that:
  - i. STORM updated to include the addition of one extra bedroom per dwelling to accommodate the connection to the laundry. A larger tank maybe required.
  - ii. Provide details of the filtration system and maintenance requirements and schedule that will be installed for the water tank for the courtyards and balconies.
- e) Show the following ESD initiatives on the development plans:
  - i. External fixed shading to north facing glazing, generally in accordance with the discussion plans received 20 April 2022.
  - ii. External operable shading devices to west facing glazing, generally in accordance with the discussion plans received 20 April 2022.
  - iii. The EV charging points for the carparks.
  - iv. The filtration system for the water tank as trafficable areas have been connected.
- f) An amended daylight model that has the correct colours and reflectance values for the surfaces in the courtyards in accordance with condition 1(f). The modelling currently lists all materials as white, however the advertised plans nominated the courtyards with a mix of colours. Either redo the daylight modelling for the bedrooms on levels 1, 2 and 3 facing all courtyards/ lightcourts or update the development plans with a white colour.

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.

- 8. 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.
- 9. 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 Sustainability Management Plan (SMP) approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm (with documented evidence) that all measures specified in the SMP have been implemented in accordance with the approved plan.
- 10. All stormwater treatment devices (e.g., raingardens, rainwater tanks etc.) must be maintained to the satisfaction of the Responsible Authority to ensure water quality discharged from the site complies with the performance standard in the endorsed Sustainability Management Plan.

### **Waste Management Plan**

11. Prior to the endorsement of plans, an amended 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 One Mile Grid dated 16 April 2021 but modified to:
  - a) Include separate glass collection.
  - b) Consider how hard waste will be collected.
12. 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.

### **Acoustic Attenuation**

13. Prior to the endorsement of plans, an amended Acoustic Report must be submitted to the satisfaction of the Responsible Authority. The report must be generally in accordance with the report prepared by Watson Moss Growcott Acoustics, dated 14 April 2021 but modified to include:
  - a) Recommendations of acoustic attenuation measures to be incorporated into the proposed development to minimise the impact on the apartments from noise through:
    - i. The specific car stacker system outlined in the traffic report prepared by One Mile Grid dated 16 April 2021, or as otherwise approved by the Responsible Authority.
    - ii. Mechanical systems including the lift and garage door.
14. 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.
15. 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.
16. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, post-construction testing is to be undertaken by a suitably qualified acoustic expert. The testing is to be conducted from the locations specified in the report prepared by Watson Moss Growcott Acoustics, dated 14 April 2021. The testing is to show that any noise impacts directly from the proposed car stacker meet the day, evening and night SEPP N-1 noise limits identified in Table 16 of the report.
17. In the event that the testing required by Condition 16 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.

### **Accessibility**

18. Prior to the endorsement of plans an amended Accessibility Report must be submitted to the satisfaction of the Responsible Authority. The report must be generally in accordance with the report prepared by Morris Goding Access Consulting Dated 25 November 2020 but modified to:
  - a) Reflect the decision plans, with any changes required under Condition 1 of this permit.



19. The recommendations of the approved Accessibility Report must be implemented to the satisfaction of the Responsible Authority. No alterations to the plan may occur without the written consent of the Responsible Authority.
20. 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 Accessibility 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 Accessibility Report have been implemented in accordance with the approved report.

### **Environmental Audit**

21. Before the construction or carrying out of buildings and works, or where no buildings and works are proposed, prior to the commencement of the permitted use or the issue of a statement of compliance under the *Subdivision Act 1988* (whichever is earlier), the owner(s) must provide:
  - a) A preliminary risk screen assessment statement in accordance with the *Environment Protection Act 2017* stating that an environmental audit is not required for the use or, if this permit authorises the construction or carrying out of buildings or works, is not required for the use for which the buildings or works are constructed or carried out; or
  - b) An environmental audit statement under Part 8.3 of the *Environment Protection Act 2017* must be issued stating that the land is suitable for the use or, if this permit authorises the construction or carrying out of buildings or works, is suitable for the use for which the buildings or works are constructed or carried out; or
  - c) An environmental audit statement under Part 8.3 of the *Environment Protection Act 2017* stating that the land is suitable for the use or, if this permit authorises the construction or carrying out of buildings or works, is suitable for the use for which the buildings or works are constructed or carried out, if the recommendations made in the statement are complied with.
22. Where an environmental audit statement is issued for the land, and any recommendation of that environmental audit statement requires any maintenance and/or monitoring of an ongoing nature, the Responsible Authority may require the Owner(s) to enter into an Agreement with the Responsible Authority pursuant to Section 173 of the *Planning and Environment Act 1987* that provides for the undertaking of the ongoing maintenance and/or monitoring as required by the environmental audit statement.
23. Where a Section 173 Agreement is required, the Agreement must be executed prior to the commencement of the permitted use, the issue of an Occupancy Permit under the *Building Act 1993* or the issue of a Statement of Compliance under the *Subdivision Act 1988* (whichever occurs first). All expenses involved in the drafting, negotiating, lodging, registering and execution of the Agreement, including those incurred by the Responsible Authority, must be met by the Owner(s).
24. Prior to any remediation works (if required) being undertaken in association with the environmental audit, a 'remediation works' plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must detail all excavation works as well as any proposed structures such as retaining walls required to facilitate the remediation works. Only those works detailed in the approved remediation works plan are permitted to be carried out prior to the issue of an environmental audit statement.

25. No works to construct the development hereby approved shall be carried out on the land and no building contract to construct the development hereby approved may be entered into, other than in accordance with a building contract that stipulates that works must not be commenced until such time as Conditions 21, 22 and 23 of this permit are satisfied.
26. Prior to commencement of the use, the issue of an Occupancy Permit under the *Building Act 1993* or the issue of a Statement of Compliance under the *Subdivision Act 1988* (whichever occurs first), written confirmation of compliance with all the recommendations of the environmental audit statement must be provided by an environmental auditor appointed under the *Environment Protection Act 2017*, including confirming that any requirements in the environmental audit statement recommendations regarding verification of works have been complied with. All the recommendations of the environmental audit statement must be complied with to the satisfaction of the Responsible Authority.

### **3D Model**

27. Prior to the commencement of the development, a 3D digital model of the approved development which is compatible for use on Council's Virtual Moreland tools and software for Council and community must be submitted to the satisfaction of the Responsible Authority. The model should be prepared in accordance with Moreland City Council's 3D model submission guidelines. A copy of the 3D model submission guidelines and further information on the Virtual Moreland Project can be found at <https://www.moreland.vic.gov.au/planning-building/3D-Guidelines/>. In the event that substantial modifications to the building envelope are approved under an amendment to this planning permit, a revised 3D digital model must be submitted to, and be to the satisfaction of the Responsible Authority.

### **Car Parking and Vehicle Access**

28. Prior to the occupation of the development, any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority.
29. At least 25 per cent of the mechanical car parking spaces are to be able to accommodate a vehicle clearance height of at least 1.8 metres.
30. The bicycle storage room is to have self-closing and self-locking doors or gates that are only accessible using keys, codes or swipe cards in accordance with the Australian Standard for Bicycle Parking (AS2890.3).
31. Bicycle signage at least 300mm wide and 450mm high showing a white bicycle on a blue background must be erected directing cyclists to the location of the bicycle parking as required by Clause 52.34-5 of the Moreland Planning Scheme.

### **Public Works**

32. Prior to the commencement of the development, a Public Works Plan and associated construction drawing specifications detailing the works to the land along Sydney Road directly in front of the site 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) Longitudinal plans of the road verge commencing 10 metres beyond the site boundary, together with cross-sections between the kerb and the building line at 5 metre intervals, with levels showing the slope of the public footpath and highlighting how the level difference between footpath and floor levels will be made up within the site to the satisfaction of the Responsible Authority.

- d) The upgrade of the footpath adjacent to the site. Public footpaths are to be reinstated to the previous levels with a maximum cross fall slope of 1 in 40 (2.5 per cent).
- e) Any necessary parking signs, in consultation with the Responsible Authority.
- f) Any necessary drainage works.
- g) The installation of bike hoops in consultation with the Responsible Authority.
- h) Any other works to the public land adjacent to the development.
- i) The provision of new street tree planting along Sydney Road in appropriate locations in front of the site, with the number of trees maximised based on the space available, in consultation with the Responsible Authority (Open Space Department).

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.

- 33. 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
- 34. The difference between the existing public footpath level and the floor level on the endorsed plans must be made up with ramps or stairs within the site to facilitate pedestrian access.

#### **General Amenity**

- 35. Lighting on each balcony must be designed to not emit light direct onto adjoining property to the satisfaction of the Responsible Authority.
- 36. Prior to the occupation of the development all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land must be underground to the satisfaction of the Responsible Authority.
- 37. 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.
- 38. 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.
- 39. The ground level windows facing Sydney Road must maintain a minimum 80 per cent transparency at all times, to the satisfaction of the Responsible Authority.

#### **Stormwater**

- 40. 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).
- 41. Stormwater from the land must not be directed to the surface of the laneway to the satisfaction of the Responsible Authority.

#### **Development Contributions**

- 42. 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.

### **Expiry Conditions**

43. This permit will expire if one of the following circumstances applies:

- a) the development is not commenced within two (2) years from the date of issue of this permit;
- b) the development is not completed within four (4) years from the date of issue of this permit;
- c) the use is not commenced within four (4) years from the date of issue of this permit.

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

- 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 planning permit

**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 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 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 are subject to future reviews and change.

**Note 3:** Contact needs to be made with CitiPower to determine whether CitiPower will require the power lines to be relocated away from the dwellings.

**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 per cent of the sale price of your dwelling(s).

**Note 5:** Separate consent may be required for construction works within the road reserve associated with this Planning Permit under the *Road Management Act 2004*. Please contact the Department prior to commencing any works.

## Note 6: Environmental Audit Notes

- i. A copy of the Certificate or Statement of Environmental Audit, including the complete Environmental Audit Report must be submitted to the Responsible Authority within 5 business days of issue, in accordance with Section 210 of the *Environment Protection Act 2017* (Vic).
- ii. Where a Statement of Environmental Audit is issued for the land a copy of that Statement must be provided to any person who proposes to become an occupier of the land, pursuant to the *Environment Protection Act 2017*.
- iii. The land owner and all its successors in title or transferees must, upon release for private sale of any part of the land, include in the Vendor's Statement pursuant to Section 32 of the *Sale of Land Act 1962*, a copy of the Certificate or Statement of Environmental Audit including a copy of any cover letter.

# REPORT

## 1. Background

### Subject site

The subject site is located at 35-39 Sydney Road, Coburg, on the western side of Sydney Road, less than 100 metres north of Moreland Road in Coburg. The site is regular in shape with a frontage to Sydney Road of 17.86 metres, a depth of 27.61 metres and total area of approximately 494 square metres. The site is relatively flat and without any vegetation. A used car dealership currently occupies the land with a single storey commercial building setback from the street frontage with hardstand in the foreground used for vehicle display. Vehicle access is provided via a crossover from Sydney Road and the rear laneway. Two small street trees and a power pole are located within the road reserve in front of the site.

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

### Surrounds

Being located within an Activity Centre the surrounding area is characterised by commercial development, including food and drink premises, small shops and offices. There is an emerging pattern of redevelopment, which includes multi storey mixed use buildings with residential uses on the upper levels.

Properties fronting Sydney Road are all located within the Activity Centre Zone (Schedule 1 Coburg). Built form is consistently to the front boundary with narrow widths and a pattern of a glazed door coupled with windows at the ground floor frontage, although the architectural styling is varied.

To the north and south of the site are double storey commercial properties. 41-43 Sydney Road is a double storey commercial terrace that transitions down to single storey at the rear and utilises the rear laneway. 27-33 Sydney Road to the south contains a two-storey brick building and abuts the intersection of Allen Street. It contains outbuildings and single storey built form at the rear. It is covered by the Heritage Overlay (Schedule 362) and is noted as being a significant "*locally rare, if altered, example of two storey shops designed in the Federation Freestyle*".

To the west, a 3.1 metre wide bluestone laneway abuts the site, accessed from Allen Street to the south, Wolseley Street to the north-west and Sydney Road to the north-east. 10-22 Cameron Street on the western side of the laneway is commercially zoned and is occupied by a two – three storey large warehouse.

A location plan forms **Attachment 1**.

## The proposal

The proposal is summarised as follows:

- Construction of a six-storey building. Details of the building are as follows:
  - A basement level accessed by pedestrians only that incorporates 36 bicycles spaces, storage and services
  - A ground level commercial/retail tenancy across the site frontage
  - Car stackers accessed from the rear laneway that will accommodate up to 18 vehicles
- 17 dwellings comprising of:
  - 3 one-bedroom dwellings
  - 11 two-bedroom dwellings
  - 3 three-bedroom dwellings
- A maximum building height of 19.985 metres
- Services located on the roof together with an 8.8kW array of solar panels.
- Materials comprise a mix of different colour brick, textured concrete and a mix of glass and metal balustrading.

The development plans form **Attachment 2**.

### Planning Permit and site history

Planning Permit MPS/2015/92 approved the site for the development of a four-storey building with two shops, 13 apartments and reduction in car parking. This permit has expired.

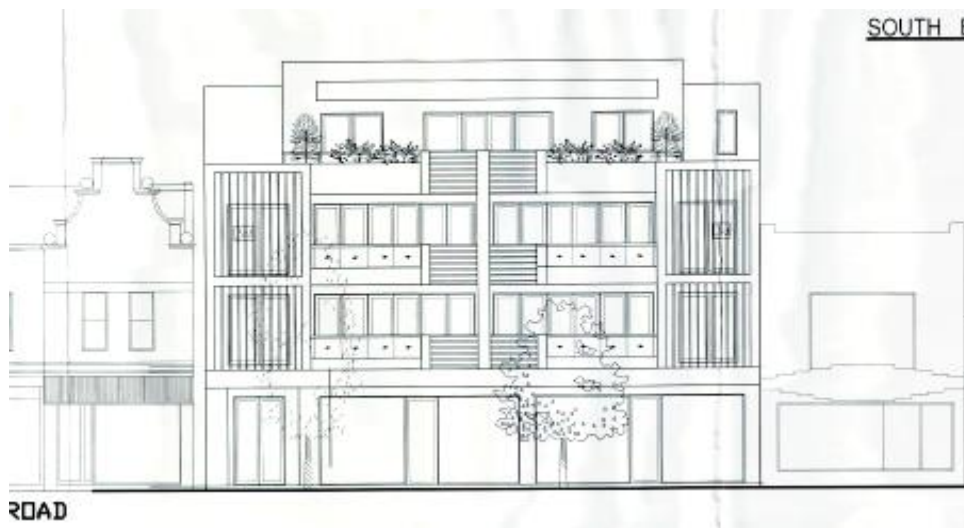


Figure 1: Approved development front elevation from planning permit MPS/2015/92

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

Control	Permit Requirement
Activity Centre Zone Schedule 1 (Precinct 7)	Clause 37.08-5: A permit is required to construct a building or construct or carry out works.
Particular Provisions	Clause 52.06: A permit is required for a reduction in the standard car parking requirement from 25 to 18 spaces

Control	Permit Requirement
	Clause 52.29: A permit is required to alter access to a road in a Transport Zone 2 (includes removal of an existing vehicle crossing)

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

- Clause 45.03: Environment Audit Overlay. A condition of the recommendation requires either a Preliminary Risk Screen Assessment Statement or an Environmental Audit Statement to be provided before the development commences, to ensure that potentially contaminated land is suitable for a sensitive (dwelling) use.
- Clause 45.06: Development Contributions Plan Overlay
- Clause 45.09: Parking Overlay
- Clause 52.34: Bicycle Parking.
- Clause 53.18: Stormwater Management in Urban Development
- Clause 58: Apartment Developments.

## 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 two (2) signs on the site (one on the Sydney Road frontage and one facing the Right of Way)

Council has received five (5) objections to date. A map identifying the location of objectors forms **Attachment 3**.

The key issues raised in objections are:

- Car parking reduction and impact on on-street parking
- Safety concerns associated with use of laneway
- Increased traffic congestion
- Poor offsite amenity including overshadowing and overlooking to nearby shop-top dwellings
- Lack of loading zone
- 6 storey height will set a precedent for other development in the area

### Internal/external referrals

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

External Agency	Objection/No objection
Transport for Victoria	No objection

Internal Branch/Business Unit	Comments
Urban Design Unit	<p>Concerns were raised with the design detail as advertised. After extensive consultation and review, updated plans were submitted addressing the recommendations of Council's Urban Design Unit.</p> <p>Supports the proposal as concerns related to the street presentation and overall built form are resolved in the discussion plans at <b>Attachment 4</b>.</p> <p>The changes depicted in these plans will be required as conditions of the permit.</p>
Transport Branch	<p>Supports the proposal with the following key considerations:</p> <ul style="list-style-type: none"> <li>• Car parking provision and reduction in car parking rate is acceptable due to the proximity to public transport options and the provision of 38 bicycle spaces.</li> <li>• Additional vehicle movements along the rear laneway will not exceed capacity of laneway.</li> </ul> <p>Section 4 of this report considers the appropriateness of the car parking reduction.</p>
ESD Team	<p>Supports the proposal.</p> <p>The discussion plans show external shading to north and west glazing as well as replacement of one of the window panes to the west facing bedrooms at the rear of the site with a spandrel panel.</p> <p>Other recommended changes are addressed by conditions of the recommendation.</p>
City Development - Heritage Advisor	<p>Supports the proposal as the design response respects the heritage values of the adjoining individually significant heritage place at 27-33 Sydney Road to the south.</p>
Open Space Design and Development Unit	<p>Supports the proposal. The development will not impact the two existing street trees in front of the site.</p> <p>The landscape plan has also been reviewed and is considered acceptable, subject to a condition requiring details of how the planter boxes will be maintained, irrigated and drained.</p>

### 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)
- Environmental Risks and Amenity (Clause 2.03-3)
- Built Environment and Heritage (Clause 2.03-4)



- Housing (Clause 2.03-5)
- Economic Development (Clause 2.03-6)
- Transport (Clause 2.03-7)

Settlement (Clause 11)

Environmental Risks and Amenity (Clause 13):

- Contaminated and Potentially Contaminated Land (Clause 13.04-1S)
- Noise Abatement (Clause 13.05-1S and 13.05-1L)

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)
- Apartment developments in Moreland (Clause 15.01-2L)
- Healthy Neighbourhoods (Clause 15.01-4S and 15.01-4R)
- Neighbourhood Character (Clause 15.01-5S)

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)

Heritage (Clause 15.03), including:

- Heritage conservation (Clause 15.03-1S)

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)

Transport (Clause 18), including:

- Sustainable Personal Transport (Clause 18.02-1S & 18.08-1R)
- Sustainable Transport in Moreland (Clause 18.02-1L)
- Car Parking in Moreland (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 Amendment VC174**

Amendment VC174 was gazetted on 20 December 2021 and introduced, amongst other things, new and revised requirements for communal and private open space, landscaping, access, external building design, building entries and site services, as well as new standards pertaining to wind impacts and external walls and materials.

As part of the Amendment, Clause 37.08-9 set out the following transitional provisions:

*Clauses 55 and 58 of this scheme, as in force immediately before the approval date of Amendment VC174, continue to apply to:*

- *An application for a planning permit lodged before that date.*

As this application was lodged prior to the approval of Amendment VC174 the changes introduced under the amendment are not of relevance to the 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
- Section 13: Privacy and Reputation
- Section 20: Property rights

The proposed redevelopment of private land does not present any physical barrier preventing freedom of movement. The right of the landowner to develop and use their land has been considered in accordance with the Moreland Planning Scheme. The privacy of nearby residents has also been considered as part of the application process.

## **4. Issues**

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

### **Does the proposal have strategic policy support?**

The proposal has been assessed against the purpose of the Zone, along with the relevant objectives of the planning policy framework and is deemed to have strategic policy support. In particular:

- The design is responsive to the policy directions contained within Building Design (Clause 15.01-2S & 15.01-2L) and Urban Design (Clause 15.01-1S & 15.01-1R).
- The proposal delivers increased density with a mix of uses at a suitable scale, consistent with the role and function outlined for the Coburg Activity Centre in Clause 2.03-1 which includes:  
*“...Central Coburg becomes a sought-after living environment, offering a range of housing choices, including high density housing...”*
- The reduction in car-parking is consistent with Sustainable Transport in Moreland (Clause 18.02-2L) and Car parking in Moreland (18.02-4L).

### **Does the proposal respond to the preferred built form character of the area?**

The site is located within Precinct 7 Sydney Road – Moreland Road of Schedule 1 to the Activity Centre Zone (ACZ1) which sets out the preferred building envelope as:

- 18 metre maximum building height;
- 11 metre street wall height; and
- 7 metre minimum upper level street setback.

The proposal seeks to exceed the preferred building and street wall heights, and have balconies that encroach into the upper level setbacks. The objectives, decision guidelines and built form controls of the ACZ provide guidance in assessing deviations from the preferred built form controls.

Whilst the proposal does not provide full compliance with the preferred built form requirements it nonetheless provides an outcome that includes a high quality design detail, a high percentage of accessible apartments at 71 per cent.

While the applicant has not pursued assessment against Council's voluntary Design Excellence Scorecard (DES), it nonetheless achieves a number of outcomes sought by the DES including high quality materials, high accessibility and some public benefit through streetscape improvements such as bicycle racks and an additional street tree(s). Conditions in the recommendation secure these outcomes.

The subheadings below provide a further discussion of each individual area of discretion.

### ***Building Height***

The proposed building has a height to the top of the Level 5 parapet of 19.985 metres (noting that lift overruns and rooftop services are excluded from the measurement of building heights). Whilst exceeding the preferred height by less than one storey (or 1.985 metres) this additional building height is not considered to result in any adverse impact on the streetscape, heritage values or amenity of adjoining properties and therefore satisfies the objectives of the ACZ and the 'tests' set out at Clause 4.4, which are discussed further below.

The Sydney Road façade (as depicted in the discussion plans) includes textured concrete walls, central "floating" balconies with varying depth and planter box placement, and window hoods around the outermost windows. This creates an understated façade which strikes the right balance between providing visual interest but not creating a visually bulky form that would dominate the streetscape. Elements of this design detail have been carried across to the side and rear elevations, where textured concrete, glazing, light wells and balconies (across the rear) are utilised. The upper levels across all elevations have therefore been appropriately designed and articulated to provide visual interest to make a positive contribution to the streetscape, and minimise the bulk associated with the additional height.

The rooftop services do not occupy more than 50 per cent of the roof area (excluding solar panels) and are centrally located. The discussion plans provide an increased setback to the screening of plant equipment from the frontage to minimise its visibility as seen from the street. Neither the building itself or the rooftop services result in overshadowing of key public spaces or primary pedestrian routes. Whilst there will be some additional overshadowing of the open spaces of the shop-top dwellings to the south, they fall within an ACZ as opposed to a residential zone, where the overshadowing requirements of Clause 54/55 apply and expectations of amenity protection from overlooking and overshadowing are much higher. The overshadowing and amenity impacts in this activity centre context where the objectives, standards and decision guidelines of Clause 58 are applicable are considered acceptable in this case.

### ***Street Wall***

Only the central section of the commercial tenancy wall exceeds 11 metres, and only by 0.125 metres which is negligible. The street wall design is a considered response with attention to detail that includes texture and depth, creating a fine grain architectural response that helps the building to settle comfortably into the streetscape. It is respectful of the scale and style of the adjoining heritage building and provides a visual break between the site and heritage building through the provision of a recessed entry and open balconies so as not to detract from its heritage value.

### **Upper Level Street Setback**

The upper level walls (3-5) are setback 7 metres from the front boundary in compliance with the ACZ1. Balconies are allowed to encroach 2 metres into this setback and still comply. At Level 3 the terraces are setback 1 metre from the front boundary with 0.7 metre wide planter boxes further separating the terraces from the edge of the street wall below. As shown on the discussion plans, the planter boxes will be quite visible to the east and south. This visibility and change in material from the brick below detracts from the street wall presentation. To ensure that the strong character of the street wall is properly emphasised. Permit conditions will require the planter boxes of the balconies of Dwellings 302 and 303 recessed at least 3.0 metres from the boundary, and the balustrade and planter box of the Dwelling 302 balcony setback a further 1.0 metre from the southern boundary. This will result in a 3.8 metre encroachment into the front setback, but is an acceptable outcome given they are at the podium level and will no longer be highly visible from the street.

The balconies at Levels 4 and 5 encroach between 2 metres – 2.4 metres into the upper level front setback. This encroachment is acceptable given it is only minor, does not dominate or detract from the overall appearance but rather provides visual interest through depth and variation across the upper levels.

### **Building Setbacks**

Clause 15.01-2L Apartment Development in Moreland nominates preferred building setbacks. The setbacks of the proposal are generally compliant, except for the rear setbacks of the balconies of Levels 2-5 which should be setback 6 metres from the centre of the lane, but are only setback 4.5 metres.

The relevant objectives of this clause include:

- *Allow adequate daylight to living rooms and bedrooms.*
- *Provide a reasonable outlook from living areas.*
- *Enable the reasonable future development opportunities of adjoining sites.*

10-22 Cameron Street on the opposite side of the laneway is a large (over 8000sqm), commercially zoned property containing a warehouse owned by the Museum's Board of Victoria. Whilst outside the ACZ it could conceivably be redeveloped. Given the large area of the property it is not considered that the reduced setbacks unreasonably impinge upon its development potential and its site context suggests it is large enough to build in its own amenity. Furthermore, were it to adopt similar setbacks there would be 9 metres of separation between the buildings, which would mean no overlooking screening would be required and would therefore be acceptable.

The living rooms of these rear apartments are setback an additional 2 metres from the edge of the balconies. As detailed in the Daylight Modelling prepared by BSE, the living rooms and bedrooms will receive adequate daylight even if the adjoining property to the west is redeveloped, meeting the intent of the policy. The outlook is presently across to the 2-3 storey warehouse and would remain acceptable were the property developed as outlined above.

### **Does the proposal result in any unreasonable off-site amenity impacts?**

The nearest residential properties are the shop-top dwellings to the south, which are within the ACZ. The nearest residentially zoned property is approximately 43 metres to the north-west of the site. Within this context the proposal will result in limited off-site amenity impacts to residentially zoned land. In particular, there will be no overlooking given the positioning of windows and balconies along the south and the limited residential properties within 9 metres.

## **Does the proposal provide appropriate onsite amenity and facilities?**

### **Clause 58.05-1 Accessibility Objective (Standard D17)**

To ensure that 71 per cent of the dwellings are accessible, a condition is included in the recommendation to confirm that all bathrooms conform with the requirements of either Design Option A or Design Option B in Table D7.

### **Clause 58.05-2 Building Entry and Circulation Objectives (Standard D18)**

The design does not provide any natural light or ventilation to the common areas or corridors. However, the lift is centrally located and rather than long corridors leading to the individual dwelling entries there is a small lobby/circulation area at each level. The lack of any windows to these spaces is therefore acceptable given their limited size.

### **Clause 15.01-2L Apartment Developments in Moreland**

In accordance with Table 4 of the above policy, the light well adjacent Dwelling 204 should have a minimum width of 2 metres and minimum area of 9 square metres but is only provided an area of 8.75 square metres. 9 square metres can be achieved by slightly reducing the balcony area (whilst still being compliant with open space requirements). This will be included as a permit condition.

The southern lightwell at Levels 3, 4 and 5 should have an area of 29 square metres with a minimum width of 4.5 metres but are only provided a minimum width of 4 metres and 26 square metres. However, daylight modelling carried out by BSE has demonstrated 88 per cent of living areas achieve a daylight factor greater than 1 per cent, and 82 per cent of bedrooms achieve a daylight factor greater than 0.5 per cent, which exceeds the minimum 80 per cent and is satisfactory. Council's ESD officers have recommended some minor changes to the material of the external walls of the southern light well to reflect the daylight model and thereby provide acceptable daylight to the adjacent bedrooms.

## **Has adequate car and bicycle parking been provided?**

The table below outlines the car parking requirements for the development based on the provisions of Clause 52.06 of the Moreland Planning Scheme:

Use	Total spaces required	Total spaces provided	Reduction sought
Dwellings	20	18	2
Shop	5	0	5
Total	25	18	7

Clause 18.02-4L (Car parking in Moreland) supports reduced car parking rates in developments:

- Within and close to activity centres.
- With excellent access based on frequency and location to a range of public transport options.
- With increased provision of bicycle parking above the rates specified in Clause 52.34.

The site is located within the Coburg Activity Centre and has excellent access to public transport including a 230 metre walk to Moreland Station, a 130 metre walk to the Route 19 tram stop and a 140 metre walk to the Route 510 bus stop. The proposal provides 36 bicycle parking spaces on-site and 2 in front of the site which is above the 30 required under Clause 52.34 and the 32 spaces required under the ACZ1.

Car stackers have been provided for the resident car parking, which is an acceptable outcome for the ACZ1. No customer or staff parking is provided on site for the commercial premises. Customers of the current commercial premises currently park on the street and the proposal will result in a continuation of this practice. The good access to public transport, plus staff/resident bicycle parking on-site, means that staff can use alternate modes of transport.

Given the site's strategic location, the good access to alternate transport modes and the provision of bicycle spaces in excess of the statutory requirements, the car parking reduction is acceptable. Council's Development Engineers are also satisfied that the car parking requirement can be reduced for this application. Further to this, the existing vehicle crossover is being reinstated to kerb and channel meaning the entire frontage will be available for parking by anyone (outside clearway times), not just the occupants of the development.

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

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

#### **Are adequate loading/unloading facilities provided?**

There is no specific requirement within the Scheme for the provision of a dedicated loading facility for the commercial premises. Clause 65.01, however, does require consideration of the adequacy of loading and unloading facilities. 1 hour on-street parking is available in front of the site, although it is a clearway from 4pm – 6pm Monday – Friday. On-street loading/unloading is therefore possible along Sydney Road, outside of the clearway hours.

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

In relation to traffic impacts, Council's Development Engineers have assessed the proposal and consider that the development will result in 70 additional vehicle movements per day, with most travelling along the rear laneway. This remains within the laneway's design capacity and is not expected to cause traffic problems.

It is anticipated that most vehicles will access and egress the laneway from Allen Street, particularly when travelling from the south, noting that turning into Allen Street may be easier when travelling from the north than turning across Sydney Road into a laneway. The site is only approximately 19m from Allen Street, meaning only a short portion of the laneway will be travelled along by vehicles associated with the development. There is a good line of sight to see if any vehicles are coming in the other direction before entering the laneway and if a conflict does arise, particularly while waiting for the car stacker system, there is space for a vehicle to prop along the 3.65m wide ramp to allow another vehicle to pass. There may be some vehicles entering and exiting from the north, but these are likely to be the minority. The laneway and nearby entry exit points are used by vehicles, pedestrians and bicycles, but the safety risk to the vehicle alternatives is likely to be minimised by the need for vehicles to travel slowly along the laneway.

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

Concerns were raised by Council's ESD team regarding the lack of external shading to north and west facing windows. The discussion plans show shading to the required windows, as well as the addition of a spandrel panel to one windowpane on each west facing bedroom. These changes will be required via permit conditions. The applicant has agreed to go beyond the minimum NatHERS rating by bringing the average rating to 7 stars. As such, the proposal can be accepted as it has the capacity to comply with best practice environmentally sustainable design subject to conditions and further information being shown on the plans.

## **Is noise from car stackers acceptable?**

A report from a suitably qualified acoustic engineer has been submitted with the application to verify that the car stackers will not create unreasonable noise. The report assumed a Klaus Trendvario system would be installed. A condition will require it be updated to confirm that the nominated system in the Traffic Report is compliant with State noise standards.

## **Is the proposed waste management and collection appropriate?**

A Waste Management Plan (WMP) has been submitted with the application. The WMP proposes private waste collection with the collection vehicle stopping on Allen Street to the south before collecting and transferring the bins from the bin room to the waste truck on Allen Street and returning the bins to the bin room. Council's Development Engineer has accepted this approach.

A condition will require separate glass collection in accordance with the State Government's 'four-bin waste and recycling system' for the commercial and residential uses. When finalised, the WMP will form part of the endorsed documents and must be complied with.

## **5. Response to Objector Concerns**

All of the issues raised by objectors have been addressed in Section 4 of this report.

## **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**

The proposal is a high-quality mixed-use development that responds appropriately to the site context and will provide increased housing in an area identified for significant growth. Subject to conditions in the recommendation, the proposal will provide a good standard of internal amenity for future occupants.

On the balance of policies and controls within the Moreland Planning Scheme and objections received, it is considered that Notice of Decision to Grant a Planning Permit No MPS/2020/852 should be issued subject to the conditions included in the recommendation of this report.

## **Attachment/s**

<a href="#">1</a>	Location and Zoning Map 35-39 Sydney Road, Coburg	D22/165178
<a href="#">2</a>	Development Plans 35-39 Sydney Road, Coburg	D22/164826
<a href="#">3</a>	Objector Location Map 35-39 Sydney Road, Coburg	D22/165078
<a href="#">4</a>	Discussion Plans 35-39 Sydney Road, Coburg	D22/164841































































































































































































