



Merri-bek City Council

Minutes of the Planning and Related Matters Meeting

Held at the Council Chamber, Merri-bek Civic Centre,
90 Bell Street, Coburg
on Wednesday 23 November 2022

The Mayor opened the meeting at 6.36 pm and stated the Council meeting is being held on the traditional country of the Wurundjeri Woi Wurrung people and acknowledged them as Traditional Owners. The Mayor paid respects to their Elders, past, present and emerging, and the Elders from other communities who may be here today.

Present	Time In	Time Out
Cr Mark Riley, Mayor	6.36 pm	7.16 pm
Cr Lambros Tapinos, Deputy Mayor	6.52 pm	7.16 pm
Cr Adam Pulford	6.36 pm	7.16 pm
Cr Angelica Panopoulos	Leave of absence	
Cr Annalivia Carli Hannan	6.36 pm	7.16 pm
Cr Helen Davidson	6.36 pm	7.16 pm
Cr Helen Pavlidis	6.36 pm	7.16 pm
Cr James Conlan	Apology	
Cr Monica Harte	6.36 pm	7.16 pm
Cr Oscar Yildiz JP	Apology	
Cr Sue Bolton	Leave of absence	

APOLOGIES/LEAVE OF ABSENCE

Cr Panopoulos was on an approved leave of absence - 1 October 2022 to 26 November 2022 inclusive.

Cr Bolton was on an approved leave of absence - 2 November 2022 to 26 November 2022 inclusive.

Cr Conlan was an apology to the meeting.

Cr Yildiz was an apology to the meeting.

OFFICERS

Group Manager City Development – Phil Priest
Unit Manager Urban Planning – Mark Hughes
Acting Principal Urban Planner - Kate Murphy
Unit Manager Governance – Troy Delia
Team Leader Governance – Naomi Ellis

DISCLOSURES OF CONFLICTS OF INTEREST

Nil

MINUTE CONFIRMATION

Resolution

Cr Davidson moved, Cr Pavlidis seconded -

The minutes of the Planning and Related Matters Meeting held on 26 October 2022 be confirmed.

Carried

COUNCIL REPORTS

5.1 CITY DEVELOPMENT ACTIVITY REPORT - SEPTEMBER QUARTER 2022

Executive Summary

The City Development Urban Planning and Planning Enforcement Units are managing to produce positive results despite high outstanding caseloads, that resulted from high staff turnover in 2021. Pleasingly both the planning application caseload awaiting a decision and the planning compliance caseloads awaiting resolution have continued to reduce in the September quarter. Reducing the outstanding caseloads for improved customer service timeframes, remains a focus area for these service units.

Planning permit activity levels remains steady in the first quarter of the 2022/23 financial year when compared to the previous financial year. Pleasingly the number of decisions made in the September quarter is the highest since the 2017 March quarter, noting the team has implemented several initiatives to improve effectiveness.

Average timeframes to determine most planning applications were slightly below the metropolitan average. It is anticipated that as individual planning officer caseloads reduce, there will be an improvement to the timeliness of planning decisions. Pleasingly Vic Smart timeframes, for mostly minor matters, are now slightly above the metropolitan average being an improvement on the June 21/22 quarter.

Planning compliance new case numbers are around the average expected for the quarter. The number of cases closed in the quarter continues to have a positive impact on the outstanding caseload which is reducing towards an ideal level.

VCAT activity, remains at a lower level when compared to the pre-COVID-19 case numbers.

Officer Recommendation

That Council notes the City Development Activity Report – September Quarter 2022.

Resolution

Cr Riley moved, Cr Pavlidis seconded -

That Council notes the City Development Activity Report – September Quarter 2022.

Carried unanimously

5.2 142-144 WESTON STREET, BRUNSWICK - PLANNING APPLICATION MPS/2022/393



Property:	142-144 Weston Street, BRUNSWICK EAST VIC 3057
Proposal:	Construction of a multi storey building, use of the land for office and reduction to the statutory car parking requirements
Zoning and Overlay/s:	<ul style="list-style-type: none">• Industrial 3 Zone (IN3Z)• Parking Overlay (PO1)• Development Contribution Plan Overlay (DCPO)
Objections:	<ul style="list-style-type: none">• 14 objections from 11 properties.• Key issues:<ul style="list-style-type: none">• Building height• Amenity (overshadowing and privacy)• Traffic and car parking• Loss of views• Overshadowing of solar panels• Construction impacts
Planning Information and Discussion (PID) Meeting:	<ul style="list-style-type: none">• Date: 17 October 2022• Attendees: 7 objectors, the applicant, two Council officers, and Mayor Riley and Cr Harte.• 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">• 72 per cent BESS Score.• 17 kW Solar energy• Electric vehicle infrastructure.
Key reasons for support	<ul style="list-style-type: none">• Appropriate built form; proposed height is in keeping with the surrounding context.• Solely commercial use which is encouraged by the site's location within an Employment Priority Area.• ESD exceeds the minimum requirements of the relevant policy and planning controls.• No unreasonable impacts to adjacent residents.
Recommendation:	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/2022/393 be issued for the construction of a multi storey building, use of the land for office and reduction to the statutory car parking requirements at 142-144 Weston Street, BRUNSWICK EAST, subject to the following conditions:

Amended Plans

1. Before the use or development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans advertised 29 July 2022 but modified to show:
 - a) The precast concrete material on the eastern and western side walls of the development to be articulated/changed in either of the following ways:
 - i. The use of patterns;
 - ii. Variation in colour; or
 - iii. Another treatment to the satisfaction of the Responsible Authority.
 - b) The Environmentally Sustainable Design initiatives that are required to be shown on plans, as contained within Condition 6c of this permit.
 - c) Any changes as required by the Public Works Plan in accordance with Condition 9 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. The landscape design plan, prepared by Tract, dated 31 May 2022 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.
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.

Sustainability Management Plan

6. 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 GIW Environmental Solutions dated 06/06/2022 but modified to include the following changes:
 - a) Provide a preliminary Section J façade calculator that demonstrates NCC 2019 will at minimum be met, include a commitment to minimum double glazing.

- b) Include light occupancy sensors and/or timers throughout the building including zoning electric lighting near glazed areas separately (from deeper zones).
- c) Show the following ESD initiatives on the Development Plans:
 - i. Double glazing 'DG' to all windows and glazed doors annotated on each individual glazing unit and specified on the material/colour schedule.
 - ii. The location of battery storage systems attributed to solar photovoltaic systems.
 - iii. The location, setback, size, downpipe connection, and catchment area of the rainwater tank.
 - iv. Notation indicating that the tank will be collecting from the allocated roof area and used to flush all toilets and provide landscape irrigation.
 - v. Rainwater treatment and pumping systems demonstrating suitable spatial allocation to facilitate such systems including rainwater tanks.

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 SMP and associated notated plans will be endorsed to form part of this permit. No alterations to the SMP may occur without the written consent of the Responsible Authority.

- 7. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, the development must be constructed in accordance with the endorsed Sustainability Management Plan to the satisfaction of the Responsible Authority.
- 8. 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.

Public Works Plan

- 9. Prior to the commencement of the development, a Public Works Plan and associated construction drawing specifications detailing the works to the land along Weston Street 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 Merri-bek City Council Technical Notes July 2019 (or any updated version).
 - b) A detailed level and feature survey of the footpaths and roads.
 - c) Any Council or service authority pole or pit within 1 metre of the proposed vehicle crossing, including the splays on the crossings, relocated or modified.
 - d) Any necessary parking signs, in consultation with the Responsible Authority.
 - e) Any necessary drainage works.
 - f) The installation of two bike hoops with graffiti-resistant surfaces in consultation with the Responsible Authority.

- g) The retained vehicle crossing on the eastern side of the frontage to be reconstructed as 3.4 metres wide, aligned centrally with the proposed internal accessway.
- h) Deletion of the kerb extensions proposed on the road pavement.
- i) The newly created on-street parking space is to be line-marked and either:
 - i. A Parking Overstay Device installed at the cost of the developer; or
 - ii. A car share agreement to be entered into, to the satisfaction of the Responsible Authority.
- j) A note to state: "Slope to match existing footpath level" along the property frontage.
- k) Other works to the public land adjacent to the development including new or reconstructed footpaths, street tree planting and other associated street furniture/infrastructure (provided with graffiti-resistant surfaces).

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.

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.

Waste Management

- 10. The Waste Management Plan prepared by Traffix, dated June 2022, must be endorsed under this permit and must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.

Development Contributions

- 11. 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 Merri-bek 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 maximum of 12 months from the date of issue of the Building Permit; or
- prior to the issue of a Statement of Compliance for the subdivision;

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

Boundary Walls

- 12. 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.

Site services

13. 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 (including all existing and new buildings) must be underground to the satisfaction of the Responsible Authority.
14. All stormwater from the land, where it is not collected in rainwater tanks for re-use, must be collected by an underground pipe drain approved by and to the satisfaction of the Responsible Authority (Note: Please contact Merri-bek City Council, City Infrastructure Department).
15. Any substation must be incorporated within the building (i.e. not free standing or pole mounted in the street) to ensure minimal impact on the visual amenity of the public realm.

Vehicle Crossings

16. Prior to the issue of an Occupancy Permit 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 (Merri-bek City Council, City Infrastructure Department).
17. 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 (Merri-bek City Council, City Infrastructure Department)
18. 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, including the 1 metre splays on the crossing, must be relocated or modified at the expense of the permit holder to the satisfaction of the Responsible Authority and the relevant service authority.

Retention of architect

19. Mosquito architecture and urban design must provide architectural oversight of the delivery of the detailed design, as shown in the endorsed plans and endorsed schedule of materials and finishes, during construction unless with the prior written approval of the Responsible Authority

Permit Expiry

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

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

- 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 this permit or conditions of this 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: <https://merri-bek.vic.gov.au/building-and-business/planning-and-building/planning/development-contributions/>

Alternatively, please contact Merri-bek City Council on 9240 1111 and ask to speak to the DCP Officer.

Resolution

Cr Davidson moved, Cr Riley seconded -

That a Notice of Decision to Grant a Planning Permit No. MPS/2022/393 be issued for the construction of a multi storey building, use of the land for office and reduction to the statutory car parking requirements at 142-144 Weston Street, BRUNSWICK EAST, subject to the following conditions:

Amended Plans

- 1. Before the use or development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans advertised 29 July 2022 but modified to show:**
 - a) The precast concrete material on the eastern and western side walls of the development to be articulated/changed in either of the following ways:**
 - i. The use of patterns;**
 - ii. Variation in colour; or**
 - iii. Another treatment to the satisfaction of the Responsible Authority.**
 - b) The Environmentally Sustainable Design initiatives that are required to be shown on plans, as contained within Condition 6c of this permit.**
 - c) Any changes as required by the Public Works Plan in accordance with Condition 9 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. The landscape design plan, prepared by Tract, dated 31 May 2022 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.**
- 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.**

Sustainability Management Plan

- 6. 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 GIW Environmental Solutions dated 06/06/2022 but modified to include the following changes:**
 - a) Provide a preliminary Section J façade calculator that demonstrates NCC 2019 will at minimum be met, include a commitment to minimum double glazing.**
 - b) Include light occupancy sensors and/or timers throughout the building including zoning electric lighting near glazed areas separately (from deeper zones).**
 - c) Show the following ESD initiatives on the Development Plans:**
 - i. Double glazing 'DG' to all windows and glazed doors annotated on each individual glazing unit and specified on the material/colour schedule.**
 - ii. The location of battery storage systems attributed to solar photovoltaic systems.**
 - iii. The location, setback, size, downpipe connection, and catchment area of the rainwater tank.**
 - iv. Notation indicating that the tank will be collecting from the allocated roof area and used to flush all toilets and provide landscape irrigation.**
 - v. Rainwater treatment and pumping systems demonstrating suitable spatial allocation to facilitate such systems including rainwater tanks.**

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 SMP and associated notated plans will be endorsed to form part of this permit. No alterations to the SMP may occur without the written consent of the Responsible Authority.

- 7. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, the development must be constructed in accordance with the endorsed Sustainability Management Plan to the satisfaction of the Responsible Authority.**
- 8. 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.**

Public Works Plan

9. Prior to the commencement of the development, a Public Works Plan and associated construction drawing specifications detailing the works to the land along Weston Street 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 Merri-bek City Council Technical Notes July 2019 (or any updated version).
 - b) A detailed level and feature survey of the footpaths and roads.
 - c) Any Council or service authority pole or pit within 1 metre of the proposed vehicle crossing, including the splays on the crossings, relocated or modified.
 - d) Any necessary parking signs, in consultation with the Responsible Authority.
 - e) Any necessary drainage works.
 - f) The installation of two bike hoops with graffiti-resistant surfaces in consultation with the Responsible Authority.
 - g) The retained vehicle crossing on the eastern side of the frontage to be reconstructed as 3.4 metres wide, aligned centrally with the proposed internal accessway.
 - h) Deletion of the kerb extensions proposed on the road pavement.
 - i) The newly created on-street parking space is to be line-marked and either:
 - i. A Parking Overstay Device installed at the cost of the developer; or
 - ii. A car share agreement to be entered into, to the satisfaction of the Responsible Authority.
 - j) A note to state: "Slope to match existing footpath level" along the property frontage.
 - k) Other works to the public land adjacent to the development including new or reconstructed footpaths, street tree planting and other associated street furniture/infrastructure (provided with graffiti-resistant surfaces).

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.

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.

Waste Management

10. The Waste Management Plan prepared by Traffix, dated June 2022, must be endorsed under this permit and must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.

Development Contributions

- 11. 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 Merri-bek 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 maximum of 12 months from the date of issue of the Building Permit; or**
- prior to the issue of a Statement of Compliance for the subdivision;**

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

Boundary Walls

- 12. 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.**

Site services

- 13. 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 (including all existing and new buildings) must be underground to the satisfaction of the Responsible Authority.**
- 14. All stormwater from the land, where it is not collected in rainwater tanks for re-use, must be collected by an underground pipe drain approved by and to the satisfaction of the Responsible Authority (Note: Please contact Merri-bek City Council, City Infrastructure Department).**
- 15. Any substation must be incorporated within the building (i.e. not free standing or pole mounted in the street) to ensure minimal impact on the visual amenity of the public realm.**

Vehicle Crossings

- 16. Prior to the issue of an Occupancy Permit 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 (Merri-bek City Council, City Infrastructure Department).**
- 17. 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 (Merri-bek City Council, City Infrastructure Department)**
- 18. 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, including the 1 metre splays on the crossing, must be relocated or modified at the expense of the permit holder to the satisfaction of the Responsible Authority and the relevant service authority.**

Retention of architect

19. Mosquito architecture and urban design must provide architectural oversight of the delivery of the detailed design, as shown in the endorsed plans and endorsed schedule of materials and finishes, during construction unless with the prior written approval of the Responsible Authority

Permit Expiry

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

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

- 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 this permit or conditions of this 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: <https://merri-bek.vic.gov.au/building-and-business/planning-and-building/planning/development-contributions/>

Alternatively, please contact Merri-bek City Council on 9240 1111 and ask to speak to the DCP Officer.

Carried unanimously

5.3 33 SAXON STREET, BRUNSWICK - PLANNING APPLICATION MPS/2022/194



Property:	33 Saxon Street, BRUNSWICK VIC 3056
Proposal:	The development and use of land including: <ul style="list-style-type: none">partial demolition, buildings and works in a Heritage Overlay;construction of a five storey buildinguse of the land for the purpose of a place of assembly (excluding a nightclub).sale and consumption of liquor; andreduction to the car parking requirement.

Zoning and Overlay/s:	<ul style="list-style-type: none"> • Commercial 1 Zone (C1Z) • Heritage Overlay Schedule 142 (HO142) • Design and Development Overlay Schedule 18 (DDO18) • Environmental Audit Overlay (EAO) • Development Contributions Plan Overlay (DCPO1) • Parking Overlay Schedule 1 (PO1)
Objections:	<ul style="list-style-type: none"> • Eight • Key issues: <ul style="list-style-type: none"> – Demolition – Building height – Access via private portion of Saxon Street
ESD:	<ul style="list-style-type: none"> • 78kW solar PV system • 40,000 litre total water tank volume; • Exceeds best practice stormwater management; and • Provision of 73 bicycle spaces and staff end-of-trip facilities
Key reasons for support	<ul style="list-style-type: none"> • Supports creative industries & community groups as a net community benefit • Design & building height acceptable in context. • Car parking reduction is acceptable having regard to the bicycle parking spaces provided and excellent access to multiple modes of public transport; and • Will not unreasonably impact amenity of adjoining properties
Recommendation:	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/2022/194 be issued for the development and use of land for the purpose of a place of assembly (excluding a nightclub) and sale and consumption of liquor and reduction to the car parking requirement at 33 Saxon Street, Brunswick, subject to the following conditions:

Amended Plans

1. Before the use and development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans advertised 4 July 2022 but modified to show:
 - a) The crossover on the south-east corner facing Saxon Street modified to match the location and width of the internal vehicle accessway.
 - b) An internal vehicle accessway leading to a loading bay in the south-east corner of the site suitable for use for waste collection services.
 - c) The existing crossover to the private part of Saxon Street removed and the footpath, kerb and channel reinstated.
 - d) A fence designed to clearly designate the eastern boundary along the privately owned portion of Saxon Street.

- e) Details of the proposed public artwork, including its content and appearance.
- f) Any proposed works within the discontinued portion of Saxon Street annotated with “subject to the permission of land-owner.”
- g) The location of any substation required by the power company for this development. Any substation must be incorporated within the building (i.e. not free standing or pole mounted in the street) to ensure minimal impact on the visual amenity of the public realm and communal open space.
- h) The proposed screening to the deconstructed school building frame to be unadorned by signs, vegetation or decorations, to improve views and access to the ‘Sherwood’ building from Phoenix Street
- i) The Environmentally Sustainable Design initiatives that are required to be shown on plans, as contained within Condition 7 of this permit.
- j) Any changes to the plans arising from the:
 - i. Landscape Plan in accordance with Condition 3 of this permit.
 - ii. Waste Management Plan in accordance with Condition 11 of this permit.
 - iii. Venue and Patron Management Plan in accordance with Condition 13 of this permit.
 - iv. Acoustic Report in accordance with Condition 15 of this permit.

Compliance with Endorsed Plans

2. The use and/or 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 plan prepared by Openwork dated 10 June 2022 but amended to show:
 - a) Updated details of the raingardens and other treatments to achieve best practice water sensitive urban design as nominated in the updated SMP required under Condition 7 of this permit.
 - b) Details (including sections) of all planter boxes, above basement planting areas, green walls, rooftop gardens and similar, including:
 - i. Soil depth and volumes sufficient for the proposed vegetation
 - ii. Soil mix
 - iii. Drainage design
 - iv. Details of an automatic irrigation system, including location of water source and controller together with maintenance program and responsibility for maintenance.
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.

6. All landscaping and vegetation to be covered by a minimum 12-month defects liability period to ensure the establishment of all landscapes

Environmentally Sustainable Design (ESD)

7. Prior to the endorsement of plans, an amended Sustainability Management Plan (SMP) and plans must be submitted to the satisfaction by the Responsible Authority. The SMP must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the SMP advertised 4 July 2022, but modified to include the following changes:
 - a) Amend the BESS report (and any other corresponding documentation) to:
 - i. Update all reports and the SMP to list the 78kW solar PV system.
 - ii. The following innovation credits removed:
 - a) On site organics
 - b) Solar PV
 - c) Heat pump
 - iii. The following innovation credits altered:
 - a) Embodied energy – More information is required to demonstrate how this will be achieved. Information on doing a Life Cycle Assessment or similar for Saxon Street.
 - b) Add that an air tightness test will be undertaken to demonstrate the building is airtight. This is to be provided as a part of the post construction report condition.
 - c) Add an innovation credit for a Life Cycle Assessment (LCA) for embodied carbon.
 - b) Plans of the daylight models to confirm the percentage and area of the floor that meets the requirements including:
 - i. Overlay daylight maps on to floor plans such that it is easy to ascertain that the modelling accurately depicts the dimensions and design of the space.
 - ii. Clear scale to accompany daylight maps
 - iii. Produce a summary table showing the daylight value for each space with their floor area and the compliant area as both a percentage and as a sqm area
 - iv. An image of the development as modelled in the software which demonstrates that all external architectural features, overhangs, lightwells, screening, adjacent buildings and structures and other daylight obstructions have been accurately modelled and incorporated.
 - v. All surrounding future equitable (including proposed) development modelled where relevant.
 - vi. Glazing properties -VLT of all windows ensuring that the VLT and glazing specifications match the glazing specifications used in the JV3/energy/facade modelling.
 - vii. Internal reflectance of walls, floors and ceilings
 - viii. Description of the software used to produce the model (depending on the modelling software used a copy of the file may be requested by council).
 - c) A MUSIC report and stormwater management response that provides:

- i. A copy of the MUSICX file (.mfs), demonstrating that reduction in TSS, TP and TN are achieved independent of the SPEL systems.
- d) An amended stormwater catchment plan that is consistent with the MUSIC report, clearly showing:
 - i. Clearly dimension, draw and label all the raingardens, water tanks, downpipes, type of water collection (i.e. curb, channel, pipe) and direction of flow on the ground floor plan and WSUD building. No charged pipes are allowed under buildings. Details all works to ensure toilet flushing is connected to stormwater. Proprietary WSUD products are not acceptable.
 - ii. Provide details on the 2m raingarden for the backstage area including:
 - a) the location, size, area draining to the raingarden,
 - b) sections of the raingarden
 - c) maintenance details.
 - d) Confirmation the raingarden is a minimum of 2 per cent of the area to be filtered.
- e) Show the following ESD initiatives on the development plans:
 - i. Install operable windows to the male and female toilets.
 - ii. Operable, east facing windows to office 01, 03 and studio 03.
 - iii. Operable windows to studio 04, unless the room requires no daylight.
 - iv. The EV charging points including the locations, if they are public or private, kilowatts, if the EV charging points are a full EV system or the cabling for future installation.
 - v. The grey water system including size, location, what it is connected to and what the grey water system will irrigate.

Where alternative ESD initiatives are proposed to those specified in the conditions above, 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 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.

- 8. Prior to the issue of an Occupancy Permit or issue of a Statement of compliance, whichever comes first, the development must be constructed in accordance with the Sustainable Design Assessment (including any BESS and STORM reports) 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

11. Before the plans required by Condition 1 of this permit are endorsed, a Waste Management Plan generally in accordance with the Waste Management Plan prepared by One Mile Grid dated 6 June 2022 must be submitted to, and approved in writing by, the Responsible Authority.
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.

Venue and Patron Management Plan

13. Prior to the endorsement of plans, a Venue and Patron Management Plan prepared to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must address the following:
 - a) Circumstances when security may be required
 - b) How the venue will manage patrons entering and leaving the venue, including security and queuing from within site.
 - c) Complaint handling processes, including a contact number available to nearby residents and a process for immediate issue rectification.
 - d) Staff training for patron management
 - e) Management of outdoor areas
 - f) Outdoor smoking areas
 - g) Lighting outside the premises
14. The venue must operate in accordance with the approved Venue and Patron Management Plan and any activities or ongoing obligations contained in the approved plan must be carried out in accordance with the approved plan, to the satisfaction of the Responsible Authority.

Noise Levels

15. Prior to the endorsement of plans, an Acoustic Report prepared by a qualified Acoustic Engineer must be submitted and approved to the satisfaction of the Responsible Authority. The report must include, but not be limited to the following:
 - a) Measures to ensure the development is designed, constructed and managed to minimise noise emissions from the premises and provide acoustic attenuation measures that would protect noise sensitive residential uses within 50 metres of the venue.
 - b) Recommendations of acoustic measures to be incorporated into the proposed development to comply with the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues, Environmental Protection authority, March 2021).
16. Noise levels associated with the use must at all times comply with the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues, Environmental Protection authority, March 2021), or any other superseding regulation.

Should the Responsible Authority deem it necessary, the owner and/or occupier of the land must submit an Acoustic Report to the satisfaction of the Responsible Authority which demonstrates compliance, or which outlines any measures considered necessary to achieve compliance.

Public Works Plan

17. Prior to the commencement of the development, a Public Works Plan and associated construction drawing specifications detailing the works to the land directly in front of the site facing the publicly accessible part of Saxon Street and Phoenix Street must be submitted to the satisfaction of the Responsible Authority. The Plan must include:
- a) All construction details in accordance with the *Merri-bek City Council Technical Notes July 2019* (or any updated version);
 - b) A detailed level and feature survey of the footpaths and roads.
 - c) The upgrade of the Council managed public 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).
 - d) Any Council or service authority pole or pit within 1 metre of the proposed vehicle crossing, including the 1 metre splays on the crossings, relocated or modified.
 - e) For any vehicle crossing not being used, the kerb, channel and footpath reinstated.
 - f) Any necessary drainage works.
 - g) The crossover on the south-east corner facing Saxon Street modified to match the location and width of an internal vehicle accessway leading to a parking space or loading bay.
 - h) The crossover to the private part of Saxon Street removed and the footpath, kerb and channel, reinstated
 - i) An eastern boundary fence for the length of the privately owned portion of Saxon Street.
 - j) The provision of 8 new street tree plantings and landscaping along Phoenix Street (5 trees) and within the Council managed sections of Saxon Street (3 trees) in appropriate locations in consultation with the Responsible Authority (Open Space Branch).
 - k) Details (including sections) of all footpath, kerb and channel, street furniture, planter boxes, in-road street tree planting, raingardens and similar, including:
 - i. Detailed specifications
 - ii. Soil depth and volumes sufficient for the proposed vegetation
 - iii. Soil mix
 - iv. Drainage design
 - l) Any other works to the public land adjacent to the development.
 - m) The installation of bike hoops along Phoenix Street provided with graffiti-resistant surfaces.
 - n) Any other works and street furniture including seating (provided with graffiti-resistant surfaces).

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.

15. 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.

Hours of Operation

16. The use of the land for the sale and consumption of liquor allowed by this permit must operate only between Monday to Sunday: 7am to 10:30pm
17. The use of the land for a place of assembly allowed by this permit must operate only between Monday to Sunday: 6am to 10:30pm

Patron Numbers

18. A maximum of 500 patrons on site at any one time and each individual use must not exceed:
 - a) Art gallery – 50 patrons
 - b) Place of assembly – 350 patrons
 - c) Education Centre – 350 patrons
 - d) Office – 100 patrons
 - e) Food and drink premises – 46 patrons

Environmental Audit

19. 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* 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
20. 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.

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).

21. 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.
22. 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 19, 20, and 21 are satisfied.
23. 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.
24. Where a preliminary risk screen assessment has satisfied Condition 19 (that an environmental audit is not required), the development and use must not deviate from the assumptions or limitations contained in the preliminary risk screen assessment, including but not limited to the layout and design of the development and use of the land without the written consent of the Responsible Authority. The development and use must accord with any requirements and recommendations of the preliminary risk screen assessment to the satisfaction of the Responsible Authority.

Carriageway Easement

25. Prior to the commencement of the development hereby permitted, evidence that a carriageway easement has been registered over 10 Dawson Street, Brunswick in favour of the site must be submitted to the satisfaction of the Responsible Authority.

3D model

26. Prior to the commencement of the development, a 3D digital model of the approved development which is compatible for use on Council's Virtual Merri-bek 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 Merri-bek City Council's 3D model submission guidelines. A copy of the 3D model submission guidelines and further information on the Virtual Merri-bek Project can be found at <https://www.merri-bek.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.

Heritage

27. Prior to the commencement of the development, a full schedule of the proposed conservation works to the 'Sherwood' heritage building must be submitted and approved to the satisfaction of the Responsible Authority.
28. Prior to the commencement of the development, an archival record of the existing heritage building must be prepared by a suitably qualified heritage expert and then submitted and approved to the satisfaction of the Responsible Authority.

Development Contributions

29. 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 Merri-bek City Council in accordance with the approved Development Contributions Plan. The Development Infrastructure Levy is charged per 100 square metres of leasable floor space.

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

- a) a maximum of 12 months from the date of issue of the Building Permit; or
- b) prior to the issue of a Statement of Compliance for the subdivision.

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

Engineering Matters

30. 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 (Merri-bek City Council, City Infrastructure Department).
31. 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 (Merri-bek City Council, City Infrastructure Department).
32. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, access to the site, any vehicle crossover and any ancillary road and road drainage works must be constructed in accordance with any requirement of the Responsible Authority (Merri-bek City Council, City Infrastructure Department).
33. 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.
34. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, the bicycle storage room must 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).
35. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, bicycle signage that directs the cyclists to the bicycle facilities must be provided to the satisfaction of the Responsible Authority. Bicycle signage should be at least 0.3 metres wide and 0.45 metres high; display a white bicycle on a blue background on the top half of the sign and display information about the direction of facilities on the bottom half of the sign.

Stormwater

36. 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 Merri-bek City Council, City Infrastructure Department).

Car Parking

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

General

38. 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.
39. 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.
40. All lighting of external areas must be designed not to emit direct light onto adjoining property to the satisfaction of the Responsible Authority.

Permit Expiry

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

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

- 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:

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.merri-bek.vic.gov.au/planning-building/> and click on 'Merri-bek Development Contributions Plan (DCP)'. Alternatively, please contact Merri-bek City Council on 9240 1111 and ask to speak to the DCP Officer.

Note 2: Environmental Audit Notes

- i. A copy of the Environmental Audit Statement, including the Environmental Audit Report, must be submitted to the responsible authority within 5 business days of issue, as set out in s 210 of the *Environment Protection Act 2017*.
- ii. The person in management or control of the site must also provide a copy of any statement to any person who proposes to become the person in management or control of the site, such as a potential occupier or potential purchaser.
- 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 Environmental Statement including a copy of any cover letter.

Note 3: 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.

Resolution

Cr Riley moved, Cr Tapinos seconded -

That a Notice of Decision to Grant a Planning Permit No. MPS/2022/194 be issued for the development and use of land for the purpose of a place of assembly (excluding a nightclub) and sale and consumption of liquor and reduction to the car parking requirement at 33 Saxon Street, Brunswick, subject to the following conditions:

Amended Plans

1. **Before the use and development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans advertised 4 July 2022 but modified to show:**
 - a) **The crossover on the south-east corner facing Saxon Street modified to match the location and width of the internal vehicle accessway.**
 - b) **An internal vehicle accessway leading to a loading bay in the south-east corner of the site suitable for use for waste collection services.**
 - c) **The existing crossover to the private part of Saxon Street removed and the footpath, kerb and channel reinstated.**
 - d) **A fence designed to clearly designate the eastern boundary along the privately owned portion of Saxon Street.**
 - e) **Any proposed works within the discontinued portion of Saxon Street annotated with "subject to the permission of land-owner."**
 - f) **The location of any substation required by the power company for this development. Any substation must be incorporated within the building (i.e. not free standing or pole mounted in the street) to ensure minimal impact on the visual amenity of the public realm and communal open space.**
 - g) **The proposed screening to the deconstructed school building frame to be unadorned by signs, vegetation or decorations, to improve views and access to the 'Sherwood' building from Phoenix Street**
 - h) **The Environmentally Sustainable Design initiatives that are required to be shown on plans, as contained within Condition 7 of this permit.**

- i) **Any changes to the plans arising from the:**
 - i. **Landscape Plan in accordance with Condition 3 of this permit.**
 - ii. **Waste Management Plan in accordance with Condition 11 of this permit.**
 - iii. **Venue and Patron Management Plan in accordance with Condition 13 of this permit.**
 - iv. **Acoustic Report in accordance with Condition 15 of this permit.**

Compliance with Endorsed Plans

- 2. **The use and/or 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 plan prepared by Openwork dated 10 June 2022 but amended to show:**
 - a) **Updated details of the raingardens and other treatments to achieve best practice water sensitive urban design as nominated in the updated SMP required under Condition 7 of this permit.**
 - b) **Details (including sections) of all planter boxes, above basement planting areas, green walls, rooftop gardens and similar, including:**
 - i. **Soil depth and volumes sufficient for the proposed vegetation**
 - ii. **Soil mix**
 - iii. **Drainage design**
 - iv. **Details of an automatic irrigation system, including location of water source and controller together with maintenance program and responsibility for maintenance.**
- 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.**
- 6. **All landscaping and vegetation to be covered by a minimum 12-month defects liability period to ensure the establishment of all landscapes**

Environmentally Sustainable Design (ESD)

- 7. **Prior to the endorsement of plans, an amended Sustainability Management Plan (SMP) and plans must be submitted to the satisfaction by the Responsible Authority. The SMP must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the SMP advertised 4 July 2022, but modified to include the following changes:**
 - a) **Amend the BESS report (and any other corresponding documentation) to:**
 - i. **Update all reports and the SMP to list the 78kW solar PV system.**

- ii. **The following innovation credits removed:**
 - a) **On site organics**
 - b) **Solar PV**
 - c) **Heat pump**
- iii. **The following innovation credits altered:**
 - a) **Embodied energy – More information is required to demonstrate how this will be achieved. Information on doing a Life Cycle Assessment or similar for Saxon Street.**
 - b) **Add that an air tightness test will be undertaken to demonstrate the building is airtight. This is to be provided as a part of the post construction report condition.**
 - c) **Add an innovation credit for a Life Cycle Assessment (LCA) for embodied carbon.**
- b) **Plans of the daylight models to confirm the percentage and area of the floor that meets the requirements including:**
 - i. **Overlay daylight maps on to floor plans such that it is easy to ascertain that the modelling accurately depicts the dimensions and design of the space.**
 - ii. **Clear scale to accompany daylight maps**
 - iii. **Produce a summary table showing the daylight value for each space with their floor area and the compliant area as both a percentage and as a sqm area**
 - iv. **An image of the development as modelled in the software which demonstrates that all external architectural features, overhangs, lightwells, screening, adjacent buildings and structures and other daylight obstructions have been accurately modelled and incorporated.**
 - v. **All surrounding future equitable (including proposed) development modelled where relevant.**
 - vi. **Glazing properties -VLT of all windows ensuring that the VLT and glazing specifications match the glazing specifications used in the JV3/energy/facade modelling.**
 - vii. **Internal reflectance of walls, floors and ceilings**
 - viii. **Description of the software used to produce the model (depending on the modelling software used a copy of the file may be requested by council).**
- c) **A MUSIC report and stormwater management response that provides:**
 - i. **A copy of the MUSICX file (.mfs), demonstrating that reduction in TSS, TP and TN are achieved independent of the SPEL systems.**
- d) **An amended stormwater catchment plan that is consistent with the MUSIC report, clearly showing:**
 - i. **Clearly dimension, draw and label all the raingardens, water tanks, downpipes, type of water collection (i.e. curb, channel, pipe) and direction of flow on the ground floor plan and WSUD building. No charged pipes are allowed under buildings. Details all works to ensure toilet flushing is connected to stormwater. Proprietary WSUD products are not acceptable.**

- ii. Provide details on the 2m raingarden for the backstage area including:
 - a) the location, size, area draining to the raingarden,
 - b) sections of the raingarden
 - c) maintenance details.
 - d) Confirmation the raingarden is a minimum of 2 per cent of the area to be filtered.
- e) Show the following ESD initiatives on the development plans:
 - i. Install operable windows to the male and female toilets.
 - ii. Operable, east facing windows to office 01, 03 and studio 03.
 - iii. Operable windows to studio 04, unless the room requires no daylight.
 - iv. The EV charging points including the locations, if they are public or private, kilowatts, if the EV charging points are a full EV system or the cabling for future installation.
 - v. The grey water system including size, location, what it is connected to and what the grey water system will irrigate.

Where alternative ESD initiatives are proposed to those specified in the conditions above, 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 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.

- 8. Prior to the issue of an Occupancy Permit or issue of a Statement of compliance, whichever comes first, the development must be constructed in accordance with the Sustainable Design Assessment (including any BESS and STORM reports) 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

- 11. Before the plans required by Condition 1 of this permit are endorsed, a Waste Management Plan generally in accordance with the Waste Management Plan prepared by One Mile Grid dated 6 June 2022 must be submitted to, and approved in writing by, the Responsible Authority.
- 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.

Venue and Patron Management Plan

13. Prior to the endorsement of plans, a Venue and Patron Management Plan prepared to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must address the following:
 - a) Circumstances when security may be required
 - b) How the venue will manage patrons entering and leaving the venue, including security and queuing from within site.
 - c) Complaint handling processes, including a contact number available to nearby residents and a process for immediate issue rectification.
 - d) Staff training for patron management
 - e) Management of outdoor areas
 - f) Outdoor smoking areas
 - g) Lighting outside the premises
14. The venue must operate in accordance with the approved Venue and Patron Management Plan and any activities or ongoing obligations contained in the approved plan must be carried out in accordance with the approved plan, to the satisfaction of the Responsible Authority.

Noise Levels

15. Prior to the endorsement of plans, an Acoustic Report prepared by a qualified Acoustic Engineer must be submitted and approved to the satisfaction of the Responsible Authority. The report must include, but not be limited to the following:
 - a) Measures to ensure the development is designed, constructed and managed to minimise noise emissions from the premises and provide acoustic attenuation measures that would protect noise sensitive residential uses within 50 metres of the venue.
 - b) Recommendations of acoustic measures to be incorporated into the proposed development to comply with the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues, Environmental Protection authority, March 2021).
16. Noise levels associated with the use must at all times comply with the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues, Environmental Protection authority, March 2021), or any other superseding regulation.

Should the Responsible Authority deem it necessary, the owner and/or occupier of the land must submit an Acoustic Report to the satisfaction of the Responsible Authority which demonstrates compliance, or which outlines any measures considered necessary to achieve compliance.

Public Works Plan

17. Prior to the commencement of the development, a Public Works Plan and associated construction drawing specifications detailing the works to the land directly in front of the site facing the publicly accessible part of Saxon Street and Phoenix Street must be submitted to the satisfaction of the Responsible Authority. The Plan must include:
- a) All construction details in accordance with the *Merri-bek City Council Technical Notes July 2019* (or any updated version);
 - b) A detailed level and feature survey of the footpaths and roads.
 - c) The upgrade of the Council managed public 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).
 - d) Any Council or service authority pole or pit within 1 metre of the proposed vehicle crossing, including the 1 metre splays on the crossings, relocated or modified.
 - e) For any vehicle crossing not being used, the kerb, channel and footpath reinstated.
 - f) Any necessary drainage works.
 - g) The crossover on the south-east corner facing Saxon Street modified to match the location and width of an internal vehicle accessway leading to a parking space or loading bay.
 - h) The crossover to the private part of Saxon Street removed and the footpath, kerb and channel, reinstated
 - i) An eastern boundary fence for the length of the privately owned portion of Saxon Street.
 - j) The provision of 8 new street tree plantings and landscaping along Phoenix Street (5 trees) and within the Council managed sections of Saxon Street (3 trees) in appropriate locations in consultation with the Responsible Authority (Open Space Branch).
 - k) Details (including sections) of all footpath, kerb and channel, street furniture, planter boxes, in-road street tree planting, raingardens and similar, including:
 - i. Detailed specifications
 - ii. Soil depth and volumes sufficient for the proposed vegetation
 - iii. Soil mix
 - iv. Drainage design
 - l) Any other works to the public land adjacent to the development.
 - m) The installation of bike hoops along Phoenix Street provided with graffiti-resistant surfaces.
 - n) Any other works and street furniture including seating (provided with graffiti-resistant surfaces).

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.

15. 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.

Hours of Operation

16. The use of the land for the sale and consumption of liquor allowed by this permit must operate only between Monday to Sunday: 7am to 10:30pm
17. The use of the land for a place of assembly allowed by this permit must operate only between Monday to Sunday: 6am to 10:30pm

Patron Numbers

18. A maximum of 500 patrons on site at any one time and each individual use must not exceed:
 - a) Art gallery – 50 patrons
 - b) Place of assembly – 350 patrons
 - c) Education Centre – 350 patrons
 - d) Office – 100 patrons
 - e) Food and drink premises – 46 patrons

Environmental Audit

19. 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 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
20. 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.

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).

21. 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.
22. 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 19, 20, and 21 are satisfied.
23. 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.
24. Where a preliminary risk screen assessment has satisfied Condition 19 (that an environmental audit is not required), the development and use must not deviate from the assumptions or limitations contained in the preliminary risk screen assessment, including but not limited to the layout and design of the development and use of the land without the written consent of the Responsible Authority. The development and use must accord with any requirements and recommendations of the preliminary risk screen assessment to the satisfaction of the Responsible Authority.

Carriageway Easement

25. Prior to the commencement of the development hereby permitted, evidence that a carriageway easement has been registered over 10 Dawson Street, Brunswick in favour of the site must be submitted to the satisfaction of the Responsible Authority.

3D model

26. Prior to the commencement of the development, a 3D digital model of the approved development which is compatible for use on Council's Virtual Merri-bek 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 Merri-bek City Council's 3D model submission guidelines. A copy of the 3D model submission guidelines and further information on the Virtual Merri-bek Project can be found at <https://www.merri-bek.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.

Heritage

27. Prior to the commencement of the development, a full schedule of the proposed conservation works to the 'Sherwood' heritage building must be submitted and approved to the satisfaction of the Responsible Authority.
28. Prior to the commencement of the development, an archival record of the existing heritage building must be prepared by a suitably qualified heritage expert and then submitted and approved to the satisfaction of the Responsible Authority.

Development Contributions

29. 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 Merri-bek City Council in accordance with the approved Development Contributions Plan. The Development Infrastructure Levy is charged per 100 square metres of leasable floor space.

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

- a) a maximum of 12 months from the date of issue of the Building Permit;
or
- b) prior to the issue of a Statement of Compliance for the subdivision;

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

Engineering Matters

30. 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 (Merri-bek City Council, City Infrastructure Department).
31. 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 (Merri-bek City Council, City Infrastructure Department).
32. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, access to the site, any vehicle crossover and any ancillary road and road drainage works must be constructed in accordance with any requirement of the Responsible Authority (Merri-bek City Council, City Infrastructure Department).
33. 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.
34. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, the bicycle storage room must 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).

- 35. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, bicycle signage that directs the cyclists to the bicycle facilities must be provided to the satisfaction of the Responsible Authority. Bicycle signage should be at least 0.3 metres wide and 0.45 metres high; display a white bicycle on a blue background on the top half of the sign and display information about the direction of facilities on the bottom half of the sign.**

Stormwater

- 36. 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 Merri-bek City Council, City Infrastructure Department).**

Car Parking

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

General

- 38. 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.**
- 39. 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.**
- 40. All lighting of external areas must be designed not to emit direct light onto adjoining property to the satisfaction of the Responsible Authority.**

Public Art

- 41. Prior to the issue of an Occupancy Permit, the details of the proposed public artwork, including its contents and appearance, to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority.**

Permit Expiry

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

- c) the uses approved by this permit is not commenced within five (5) years from the date of issue of this permit.

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

- 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:

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.merri-bek.vic.gov.au/planning-building/> and click on '[Merri-bek Development Contributions Plan \(DCP\)](#)'. Alternatively, please contact Merri-bek City Council on 9240 1111 and ask to speak to the DCP Officer.

Note 2: Environmental Audit Notes

- A copy of the Environmental Audit Statement, including the Environmental Audit Report, must be submitted to the responsible authority within 5 business days of issue, as set out in s 210 of the *Environment Protection Act 2017*.**
- The person in management or control of the site must also provide a copy of any statement to any person who proposes to become the person in management or control of the site, such as a potential occupier or potential purchaser.**
- 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 Environmental Statement including a copy of any cover letter.**

Note 3: 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.

Carried unanimously

URGENT BUSINESS REPORTS

Nil

The meeting closed at 7.16 pm.