



# 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 22 March 2023

The Mayor opened the meeting at 6.31 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 Angelica Panopoulos, Mayor	6.31 pm	9.40 pm
Cr Helen Davidson, Deputy Mayor	6.31 pm	9.40 pm
Cr Adam Pulford	6.36 pm	9.40 pm
Cr Annalivia Carli Hannan	Leave of absence	
Cr Helen Pavlidis	6.31 pm	9.40 pm
Cr James Conlan	6.31 pm	9.40 pm
Cr Lambros Tapinos	6.43 pm	9.40 pm
Cr Mark Riley	6.31 pm	9.40 pm
Cr Monica Harte	6.31 pm	9.40 pm
Cr Oscar Yildiz JP	6.31 pm	9.40 pm
Cr Sue Bolton	6.31 pm	9.40 pm

### OFFICERS

Group Manager City Development – Phil Priest  
Unit Manager Urban Planning – Mark Hughes  
Planning Coordinator – Ryan Hay  
Planning Coordinator – Esha Rahman  
Acting Planning Coordinator – Jack Poulson  
Senior Urban Planner – Jessica Thomas  
Unit Manager Governance – Troy Delia  
Team Leader Governance – Naomi Ellis

## APOLOGIES/LEAVE OF ABSENCE

Cr Carli Hannan requested a leave of absence from 20 March to 31 March 2023 inclusive. The request will be received at the next Council meeting on 12 April 2023.

## DISCLOSURES OF CONFLICTS OF INTEREST

Nil

## MINUTE CONFIRMATION

### Resolution

Cr Yildiz moved, Cr Riley seconded –

The minutes of the Planning and Related Matters Meeting held on 22 February 2023 be confirmed.

Carried

6.36 pm Cr Pulford entered the meeting.

## COUNCIL REPORTS

### 5.1 20 DODS STREET, BRUNSWICK - PLANNING APPLICATION MPS/2022/228



<b>Property:</b>	20 Dods Street, Brunswick		
<b>Proposal:</b>	Development of a seven (7) storey apartment building and reduction to the statutory car parking requirement		
<b>Zoning and Overlay/s:</b>	<ul style="list-style-type: none"><li>Mixed Use Zone Schedule 1</li><li>Design and Development Overlay Schedule 18</li><li>Parking Overlay Schedule 1</li><li>Development Contributions Plan Overlay</li></ul>		
<b>Strategic setting:</b>	Minimal change	Incremental change	Significant change
<b>Objections:</b>	<ul style="list-style-type: none"><li>36</li><li>Key issues:<ul style="list-style-type: none"><li>Height of proposal</li><li>Impacts on on-street car parking</li><li>Off-site amenity impacts</li></ul></li></ul>		
<b>Planning Information and Discussion (PID) Meeting:</b>	<ul style="list-style-type: none"><li>Date held: 30 January 2023</li><li>Attendees: 9 objectors, the applicant, 2 Council officers, and Councillors Harte and Bolton.</li><li>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.</li></ul>		

<b>ESD:</b>	<ul style="list-style-type: none"> <li>• Minimum average NatHERS rating conditioned to be 7 stars.</li> <li>• Gas free development</li> <li>• 13kW Solar Photovoltaic System</li> </ul>
<b>Accessibility:</b>	<ul style="list-style-type: none"> <li>• Adaptable apartments conditioned to comprise 81.8 per cent of the proposal.</li> </ul>
<b>Key reasons for support</b>	<ul style="list-style-type: none"> <li>• The built form meets the objectives of the DDO18, noting the habitable portion of the upper level is recessed with limited visibility from the street.</li> <li>• The additional height above the preferred maximum height will not substantially increase off-site amenity impacts beyond those already anticipated by the scheme.</li> <li>• The site is well located with access to multiple public transport options and services of the Brunswick Activity Centre to support the reduction of one car space.</li> </ul>
<b>Recommendation:</b>	That a 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/2022/228 be issued for the development of a seven (7) storey apartment building and reduction to the statutory car parking requirement at 20 Dods Street, Brunswick, subject to the following conditions:

### Amended Plans

- 1) Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans advertised 30 November 2022 but modified to show:
  - a) The deletion of Bedroom 2 of Apartment 7, replaced with either an extension of Bedroom 1, a small study area with a maximum width of 2 metres or the like.
  - b) Amended furniture and bathroom layouts in order to achieve accessibility across at least 50 per cent of apartments, in accordance with the requirements of Standard D17 of Clause 58.05-1 (Accessibility).
  - c) Screening to the eastern side of the Apartment 2 deck to a minimum height of 1.7 metres above the finished floor level to limit overlooking into the secluded private open space of the adjoining property. The screening must be shown on the floor and elevation plans with details shown in a screen diagram as per condition 1(d) if a privacy screen is proposed.
  - d) A screen diagram drawn at a scale of 1:50 which details the screen associated with south-facing windows and the east screen associated with Apartment 2. This diagram must include:
    - i) All dimensions, including the width of slats and the gap between slats.
    - ii) The material and finish of the screens.
    - iii) Louvred fixed screening with a maximum of 25 per cent openings, angled to limit direct views to nearby secluded open space and habitable room windows.

- e) The height of the balustrade to the rooftop terrace increased to a height of 1.5 metres, as per the Wind Assessment in accordance with condition 22 of this permit.
- f) The materials and finishes schedule to include complete details of all materials on all elevations.
- g) Deletion of the waste chutes from each level.
- h) The annotation for the number of bike racks to correspond with the number of racks depicted on the plan.
- i) Bicycle parking dimensioned to be at least 0.5 metres wide and 1.8 metres long for horizontal spaces and 1.2 metres long for vertical spaces in accordance with the Australian Standard for Bicycle Parking (AS2890.3).
- j) The vehicle crossing with 1 metre splays across the full width of the footpath.
- k) Any changes to the plans arising from the:
  - i) Landscape Plan in accordance with Condition 3 of this permit.
  - ii) Sustainability Management Plan in accordance with Condition 6 of this permit.
  - iii) Acoustic Report in accordance with Condition 10 of this permit.
  - iv) Waste Management Plan in accordance with Condition 12 of this permit.
  - v) Accessibility report in accordance with Condition 23 of this permit.
  - vi) Public Works Plan in accordance with Condition 20 of this permit.

### **Compliance with Endorsed Plans**

- 2) The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority. This does not apply to any exemption specified in Clauses 62.02-1 and 62.02-2 of the Merri-bek 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 Plume dated 27 June 2022 but amended to show:
  - a) Any changes required to align with the plans for endorsement.
  - b) Any landscaping to the eastern side of the accessway.
  - c) The location of the rainwater tanks in accordance with the location on the development plans.
  - d) Details of all planter boxes, above basement planting areas, green walls, rooftop gardens and similar, including:
    - i) Soil volume sufficient for the proposed vegetation
    - ii) Soil mix
    - iii) Drainage design
    - iv) Details of an automatic irrigation system, including maintenance program and responsibility for maintenance.

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

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

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

- 6) Prior to the endorsement of plans, an amended 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 prepared by Ark Resources dated 28 October 2022, but modified to include the following changes:
  - a) Provide preliminary NatHERS ratings assessments for all dwellings (or all to be thermally represented) which achieves an average NatHERS rating of at least 7.0 Stars for all dwellings and cooling loads of a maximum 22MJ/sqm, with the BESS Report updated accordingly.
  - b) An alternate shading measure to the north-facing glazing of Levels 4 and 5 which protects the glazing and residents from future excessive solar heat gain. This must include modelling specific to this apartment and specific discussion of the affected rooms (i.e. the cooling loads for the affected spaces within the overall apartment).
  - c) Show the following ESD initiatives on the development plans:
    - i) An ESD table on the plans for items that cannot be drawn e.g. NatHERS, tap and cooling/heating ratings, etc.
    - ii) The Solar Absorptance / Solar Reflective Index of materials 'F01', 'F03' and 'F06' specified on the materials schedule, to be a maximum of 0.6 for the Solar Absorptance or higher than 40 for the Solar Reflective Index.
    - iii) The alternate shading measure to Levels 4 and 5 in accordance with Condition 6b).

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.

- 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 Sustainable Design Assessment (including any BESS and STORM reports and NatHERS Ratings) 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.

- 9) 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.

### **Acoustic Attenuation**

- 10) The building must be constructed and thereafter maintained in accordance with the recommendations contained within the Acoustic Report submitted with the application (report prepared by SLR, dated 20 July 2022). The acoustic report will be endorsed to form part of this permit. No alterations to the Acoustic Report may occur without the written consent of the Responsible Authority.
- 11) 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.

### **Waste Management**

- 12) 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 Leigh Design and dated 8 November 2021 but modified to:
  - a) Delete mention of garbage chutes.
  - b) Specify that collection must not occur on the same day as Council waste collection.

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

- 13) 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.

### **Environmental Audit Condition**

- 14) 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 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

- 15) 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).

- 16) 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.
- 17) 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 14, 15 and 16 are satisfied.
- 18) 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.
- 19) Where a preliminary risk screen assessment has satisfied Condition 14 (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.

### **Public Works Plan**

- 20) 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 must be submitted to the satisfaction of the Responsible Authority. The Plan must include:
  - a) The provision of landscaping, inclusive of new street tree planting in an in-road cut-out between the proposed crossover and the crossover of 18 Dods Street in appropriate locations in front of the site (where practicable), with the number of trees maximised based on the space available, in consultation with the Responsible Authority (Open Space Unit).
  - b) All construction details included in the Public Works Plan in accordance with the *Moreland City Council Technical Notes July 2019* (or any updated version);

- 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
- 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 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.
- f) Any necessary drainage works inclusive of any rain gardens and other water sensitive urban design.
- g) The provision of other works and street furniture including seating (where practicable), which is to be provided with graffiti-resistant surfaces.
- h) Any other works to the public land adjacent to the development.

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.

- 21) 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.

### **Wind Impact Report**

- 22) The building must be constructed and thereafter maintained in accordance with the recommendations contained within the Wind Assessment Report submitted with the application (report prepared by SLR, dated 20 July 2022). The Wind Assessment Report will be endorsed to form part of this permit. No alterations to the report may occur without the written consent of the Responsible Authority.

### **Accessibility**

- 23) Prior to the endorsement of plans, an Accessibility Report prepared by a suitably qualified person must be submitted to the satisfaction of the Responsible Authority. The report must:
  - a) Align with the plans for endorsement
  - b) Detail how the development will incorporate design features in accordance with Standard D17 (Accessibility) of Clause 58 of the Merri-bek Planning Scheme, including the detailed design of the adaptable bathrooms (e.g. confirmation of hobless showers and removable hinges to doors).

When submitted and approved to the satisfaction of the Responsible Authority, the Accessibility Report will be endorsed to form part of this permit. No alterations to the plan may occur without the written consent of the Responsible Authority. The recommendations of the report must be implemented to the satisfaction of the Responsible Authority prior to the occupation of the development.



- 24) 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.

### **3D model**

- 25) 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/building-and-business/planning-and-building/planning/virtual-merri-bek/#autoAnchor1>. 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.

### **Development Contributions**

- 26) 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 dwelling.

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**

- 27) 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).
- 28) 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).
- 29) 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.

- 30) 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).
- 31) 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.
- 32) The power pole is to be relocated to a point in front of the development over 1 metre from the proposed vehicle crossing, including the 1 metre splays on the crossing.

### **Stormwater**

- 33) 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).
- 34) The surface of all balconies are to be sloped to collect the stormwater run-off into stormwater drainage pipes that connect into the underground drainage system of the development to the satisfaction of the Responsible Authority.

### **General**

- 35) 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.
- 36) 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.
- 37) Lighting on each balcony must be designed to not emit light direct onto adjoining property to the satisfaction of the Responsible Authority.
- 38) Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all visual screening measures shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. All visual screening and measures to prevent overlooking must be maintained to the satisfaction of the Responsible Authority. Any screening measure that is removed or unsatisfactorily maintained must be replaced to the satisfaction of the Responsible Authority.

### **Permit Expiry**

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

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

- 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.

6.43 pm *Cr Tapinos entered the meeting.*

## Resolution

Cr Bolton moved, Cr Yildiz seconded -

That a Refusal to Grant Planning Permit No. MPS/2022/228 be issued for the construction of a seven (7) storey apartment building and reduction to the statutory car parking requirement at 20 Dods Street, Brunswick on the following grounds:

1. The development fails to satisfy the following requirements and objectives of Schedule 18 to the Design and Development Overlay at Clause 43.02 of the Merri-bek Planning Scheme:
  - a) The additional building height fails to encourage a new built form character with lower built form at the interfaces with the adjoining low rise residential areas.
  - b) The overshadowing of adjoining private open space and limited daylight to habitable room windows created by the building, fails to maintain reasonable amenity for residential properties within the activity centre.
2. The development fails to satisfy the following standards and objectives of Clause 58 (Apartment Developments) of the Merri-bek Planning Scheme:
  - a) Clause 58.04-1 – Building Setback Objectives (Standard D14) – Views have not been limited from the first floor deck of Apartment 2 into the adjoining secluded private open space.
  - b) Clause 58.05-1 – Accessibility Objective (Standard D17) – The design fails to provide at least 50 per cent of dwellings that will meet the needs of people with limited mobility.
  - c) Clause 58.07-3 – Windows Objective (Standard D27) – Bedroom 2 of Apartment 7 is not provided a window in an external wall of the building resulting in poor access to daylight and compromised internal amenity.
  - d) Clause 58.07-4 – Natural Ventilation Objective (Standard D28) – The design fails to provide effective cross ventilation to at least 40 per cent of dwellings.
3. The proposal would contribute to unreasonable overshadowing impacts on the existing rooftop solar energy system of the dwelling at 22 Dods Street Brunswick, which is contrary to the decision guidelines within the Mixed Use Zone.
4. The proposal is contrary to the Charter of Human Rights and Responsibilities Act 2006 which seeks to protect and promote a number of specified human rights. These rights include the following:
  - a) A right to privacy, under section 13 of the Charter: A person has the right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with.
  - b) A right to protect families, under section 17 of the Charter. Every child has the right, without discrimination, to such protection as is in the child's best interests and is needed by the child by reason of being a child.
5. The development of the land for the proposed apartment building would cause significant social effects on the immediate neighbourhood and community, which is contrary to the matters considered under section 60(1) of the Planning and Environment Act 1987.

Carried unanimously

7.34 pm Cr Pavlidis left the meeting.

## Order of Business Altered

In accordance with Governance Rule 3.5.4, Council agreed to alter the order of business to consider Item 5.3 336 Sydney Road, Coburg MPS/2021/322 on the Agenda before Item 5.2 179 Albion Street, Brunswick – Planning Permit Application MPS/2021/704.

### 5.3 336 SYDNEY ROAD, COBURG - MPS/2021/322



<b>Property:</b>	336 Sydney Road, Coburg			
<b>Proposal:</b>	Construction of a five-storey mixed-use development (including mezzanine level) comprising a commercial tenancy and dwellings, and a reduction to the standard car parking requirement			
<b>Zoning and Overlay/s:</b>	<ul style="list-style-type: none"> <li>• Activity Centre Zone 1</li> <li>• Environmental Audit Overlay</li> <li>• Parking Overlay 1</li> <li>• Development Contribution Plan Overlay – Schedule 1</li> </ul>			
<b>Strategic setting:</b>	<table border="1"> <tr> <td>Minimal change</td> <td>Incremental change</td> <td>Significant change</td> </tr> </table>	Minimal change	Incremental change	Significant change
Minimal change	Incremental change	Significant change		
<b>Objections:</b>	17 objections from 14 properties Key issues: <ul style="list-style-type: none"> <li>• Access and safety impacts</li> <li>• Amenity impacts (privacy, noise, shadow and bulk)</li> <li>• Visual appearance and character</li> </ul>			
<b>Planning Information and Discussion (PID) Meeting:</b>	<ul style="list-style-type: none"> <li>• Date: 31 January 2023</li> <li>• Attendees: 7 objectors, the applicant, 2 Council officers, and Cr Bolton.</li> <li>• 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.</li> </ul>			
<b>ESD:</b>	<ul style="list-style-type: none"> <li>• 58 per cent BESS Score.</li> <li>• NatHERS rating of 7 stars.</li> <li>• STORM Rating of 100 per cent.</li> </ul>			
<b>Accessibility:</b>	<ul style="list-style-type: none"> <li>• Adaptable apartments comprise 50 per cent of the proposal.</li> </ul>			
<b>Key reasons for support</b>	<ul style="list-style-type: none"> <li>• Appropriate built form; building height and setbacks do not seek to vary from the planning controls for the site.</li> <li>• Scale of development is reasonable in the context being in the Activity Centre.</li> <li>• ESD exceeds the minimum requirements of the relevant policy and planning controls.</li> <li>• No unreasonable impacts to adjacent residents.</li> <li>• Good level of amenity for future occupants.</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/2021/322 be issued for the construction of a five-storey mixed-use development (including mezzanine level) comprising a commercial tenancy and dwellings, and a reduction to the standard car parking requirement at 336 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 plans advertised 8/12/22 but modified to show:
  - a) The commercial tenancy increased to 40 square metres, including;
    - i. Relocation of 4 bike spaces from the ground floor to internal to the apartments.
    - ii. Removal of the landscaping area and associated setback from the building's frontage to create a consistent street wall.
    - iii. Any other internal changes as required.
  - b) The colours and materials schedule amended:
    - i. Showing balconies front Sydney Road to contain open metal battens or similar.
  - c) The stepped verandah projecting over the footpath altered to be all at one height and aligned with verandah heights along Sydney Road.
  - d) The verandah must be setback not less than 750mm from the face of the kerb and at a height no less than 3m above the level of the footpath in accordance with Clause 507 of the Building Regulations 2006 to the satisfaction of the Responsible Authority.
  - e) The northern and southern concrete panel side walls of the development to be further articulated in either of the following ways:
    - i. The use of patterns;
    - ii. Variation in colour; or
    - iii. Another treatment
  - f) Improved daylight to the rear, east facing balcony of Apartment 1.02 as follows:
    - i. Amend the overlooking screening to be louvred fixed screening with a maximum of 25 per cent openings, which are angled to prevent direct views to nearby habitable room windows; and
    - ii. Reduce the depth of the east-facing balconies including the planter boxes of Apartments 2.01 and 3.01 by a minimum of 1.0 metre.
  - g) Any changes to the plans arising from the:
    - i. Landscape Plan in accordance with Condition 3 of this permit.
    - ii. Environmentally Sustainable Design initiatives in accordance with Condition 6 of this permit.
    - iii. Acoustic Report in accordance with Condition 10 of this permit.  
Public works plan in accordance with Condition 12 of this permit.

## **Compliance with Endorsed Plans**

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

## **Landscaping**

3. Prior to the endorsement of plans, a landscape plan must be submitted to the Responsible Authority. The landscape plan must show:
  - a) Increased greening throughout the development as a whole, utilising balconies, green walls and planter boxes, to achieve coverage equivalent to 12 square metres.
  - b) Any changes required to align with the plans for endorsement.
  - c) Details of all planter boxes, above basement planting areas, green walls, rooftop gardens and similar, including:
    - i. Soil volume sufficient for the proposed vegetation
    - ii. Soil mix
    - iii. Drainage design
    - iv. Details of an automatic irrigation system, including maintenance program and responsibility for maintenance.

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

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

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

6. Prior to the endorsement of plans, an amended Sustainable Design Assessment (SDA) and plans must be submitted to the satisfaction by the Responsible Authority. The Sustainable Design Assessment must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the SDA dated 1 September 2022 but modified to include the following changes:
  - a) Amend the solar PV system to be a minimum capacity of 2kW for each dwelling (8kW total).
  - b) Provide future electric charging capacity in the car stackers.
  - c) The roof area connected and draining to the 4,000L rainwater harvesting and reuse tank (4,000L minimum).
  - d) Delete the internal vertical fins screening for Dwelling 101's east-facing bedroom 2/study window; and Dwelling 201's and 301's east-facing kitchen window.

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.

7. Prior to the issue of a Statement of Compliance or Certificate(s) of Occupancy whichever occurs first, all works must be undertaken in accordance with the endorsed Sustainable Design Assessment report to the satisfaction of the Responsible Authority. No alterations to these plans may occur without the written consent of the Responsible Authority
8. Prior to the issuing of a Certificate of Occupancy or Statement of Compliance, whichever comes first, of any dwelling approved under this permit, a report/checklist must be submitted to the Responsible Authority. The report/checklist must be to the satisfaction of the Responsible Authority and must confirm (with suitable evidence) that measures specified in the endorsed Sustainable Design Assessment have been implemented in accordance with the approved plans.

### **Accessibility**

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 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.

### **Acoustic Report**

10. Prior to the commencement of the development approved by this permit, a report prepared by a qualified Acoustic Engineer must be submitted to the satisfaction of the Responsible Authority outlining:
  - a) Specific noise attenuation measures to minimise the noise from the adjacent arterial road and tram route.
  - b) Recommendations of acoustic attenuation measures to ensure that noise generated from the use of car stackers will not unreasonably impact the immediate adjoining residential properties and will operate in accordance with the Environment Protection Act 2017.

When submitted and approved to the satisfaction of the Responsible Authority, the Acoustic Report will be endorsed to form part of this permit. Once approved, the Acoustic Report must not be altered unless with the prior written consent of the Responsible Authority.

Construction and maintenance of the buildings must be in accordance with the recommendations contained in this report to the satisfaction of the Responsible Authority. In the event that it is considered that the Act and Regulations would be breached, the acoustic report must recommend further noise attenuation measures to ensure compliance with the Act and these additional measures must be implemented at the owner's cost and to Council's satisfaction prior to the occupation of the development

### **Waste Management**

11. 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.

### **Public Works Plan**

12. Prior to the commencement of the development, a Public Works Plan and associated construction drawing specifications detailing the works to the land in front and to the rear 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 drainage works.
- f) The installation of new street furniture and infrastructure, such as parking and traffic signs, public seating, bicycle parking and similar (where practicable), which is to be provided with graffiti-resistant surfaces.
- g) Any other works to the public land adjacent to the development.

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.

13. 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.

#### **Environmental Audit Condition**

14. Before the construction or carrying out of buildings and works, 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
15. 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).

16. 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.
17. 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 14, 15 and 16 are satisfied.
18. 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.
19. Where a preliminary risk screen assessment has satisfied Condition 14 (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.

### **3D model**

20. 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.

### **Development Contributions**

21. 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**

- 22. 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).
- 23. 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).
- 24. 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.
- 25. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, the car park entry gate and/or garage roller doors must be automatic and remote controlled.
- 26. 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).
- 27. 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**

- 28. 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).
- 29. The surface of all balconies are to be sloped to collect the stormwater run-off into stormwater drainage pipes that connect into the underground drainage system of the development to the satisfaction of the Responsible Authority.
- 30. Stormwater from the land must not be directed to the surface of the right-of-way to the satisfaction of the Responsible Authority.

### **Car Parking**

- 31. 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**

- 32. 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.
- 33. 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.
- 34. The shopfront window must not be painted or blocked out in any way to the satisfaction of the Responsible Authority.
- 35. All lighting of external areas must be designed not to emit direct light onto nearby dwellings to the satisfaction of the Responsible Authority.

### **Privacy screens to be installed and maintained**

- 36. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all visual screening measures shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. All visual screening and measures to prevent overlooking must be maintained to the satisfaction of the Responsible Authority. Any screening measure that is removed or unsatisfactorily maintained must be replaced to the satisfaction of the Responsible Authority.

### **Permit Expiry**

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

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

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

**Notes: These notes are for information only and do not constitute part of this notice of decision/permit or conditions of this notice of decision/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 '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:** Should Council impose car parking restrictions in this street, the owners and/or occupiers of the land would generally not be eligible for residential or visitor parking permits to allow for on street parking. See Council's website for more information:

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

### **Note 3: 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 4:** Merri-bek 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:** Contact needs to be made with CitiPower to determine whether CitiPower will require the power lines to be relocated away from the dwellings

7.35 pm        *Cr Yildiz left the meeting.*  
7.35 pm        *Cr Pavlidis returned to the meeting.*  
7.45 pm        *Cr Davidson left the meeting.*  
7.46 pm        *Cr Yildiz returned to the meeting.*  
7.50 pm        *Cr Davidson returned to the meeting.*

## **Resolution**

**Cr Bolton moved, Cr Harte seconded -**

**That a Notice of Decision to Grant a Planning Permit No. MPS/2021/322 be issued for the construction of a five-storey mixed-use development (including mezzanine level) comprising a commercial tenancy and dwellings, and a reduction to the standard car parking requirement at 336 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 plans advertised 8/12/22 but modified to show:**
  - a) The commercial tenancy increased to 40 square metres, including;**
    - i. Relocation of 4 bike spaces from the ground floor to internal to the apartments.**
    - ii. Removal of the landscaping area and associated setback from the building's frontage to create a consistent street wall.**
    - iii. Any other internal changes as required.**

- b) **The colours and materials schedule amended:**
  - i. **Showing balconies front Sydney Road to contain open metal battens or similar.**
- c) **The stepped verandah projecting over the footpath altered to be all at one height and aligned with verandah heights along Sydney Road.**
- d) **The verandah must be setback not less than 750mm from the face of the kerb and at a height no less than 3m above the level of the footpath in accordance with Clause 507 of the Building Regulations 2006 to the satisfaction of the Responsible Authority.**
- e) **The northern and southern concrete panel side walls of the development to be further articulated in either of the following ways:**
  - i. **The use of patterns;**
  - ii. **Variation in colour; or**
  - iii. **Another treatment**
- f) **Improved daylight to the rear, east facing balcony of Apartment 1.02 as follows:**
  - i. **Amend the overlooking screening to be louvred fixed screening with a maximum of 25 per cent openings, which are angled to prevent direct views to nearby habitable room windows; and**
  - ii. **Reduce the depth of the east-facing balconies including the planter boxes of Apartments 2.01 and 3.01 by a minimum of 1.0 metre.**
- g) **Any changes to the plans arising from the:**
  - i. **Landscape Plan in accordance with Condition 3 of this permit.**
  - ii. **Environmentally Sustainable Design initiatives in accordance with Condition 6 of this permit.**
  - iii. **Acoustic Report in accordance with Condition 10 of this permit.**
  - Public works plan in accordance with Condition 12 of this permit.**
- h) **The allocation of one of the spaces within the car stacker for the commercial tenancy in order to enable potential for on-site loading/unloading of goods.**

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

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

#### **Landscaping**

- 3. **Prior to the endorsement of plans, a landscape plan must be submitted to the Responsible Authority. The landscape plan must show:**
  - a) **Increased greening throughout the development as a whole, utilising balconies, green walls and planter boxes, to achieve coverage equivalent to 12 square metres.**
  - b) **Any changes required to align with the plans for endorsement.**
  - c) **Details of all planter boxes, above basement planting areas, green walls, rooftop gardens and similar, including:**
    - i. **Soil volume sufficient for the proposed vegetation**

- ii. Soil mix
- iii. Drainage design
- iv. Details of an automatic irrigation system, including maintenance program and responsibility for maintenance.

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

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

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

- 6. Prior to the endorsement of plans, an amended Sustainable Design Assessment (SDA) and plans must be submitted to the satisfaction by the Responsible Authority. The Sustainable Design Assessment must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the SDA dated 1 September 2022 but modified to include the following changes:
  - a) Amend the solar PV system to be a minimum capacity of 2kW for each dwelling (8kW total).
  - b) Provide future electric charging capacity in the car stackers.
  - c) The roof area connected and draining to the 4,000L rainwater harvesting and reuse tank (4,000L minimum).
  - d) Delete the internal vertical fins screening for Dwelling 101's east-facing bedroom 2/study window; and Dwelling 201's and 301's east-facing kitchen window.

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.

- 7. Prior to the issue of a Statement of Compliance or Certificate(s) of Occupancy whichever occurs first, all works must be undertaken in accordance with the endorsed Sustainable Design Assessment report to the satisfaction of the Responsible Authority. No alterations to these plans may occur without the written consent of the Responsible Authority
- 8. Prior to the issuing of a Certificate of Occupancy or Statement of Compliance, whichever comes first, of any dwelling approved under this permit, a report/checklist must be submitted to the Responsible Authority. The report/checklist must be to the satisfaction of the Responsible Authority and must confirm (with suitable evidence) that measures specified in the endorsed Sustainable Design Assessment have been implemented in accordance with the approved plans.

## **Accessibility**

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 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.**

## **Acoustic Report**

10. **Prior to the commencement of the development approved by this permit, a report prepared by a qualified Acoustic Engineer must be submitted to the satisfaction of the Responsible Authority outlining:**
  - a) **Specific noise attenuation measures to minimise the noise from the adjacent arterial road and tram route.**
  - b) **Recommendations of acoustic attenuation measures to ensure that noise generated from the use of car stackers will not unreasonably impact the immediate adjoining residential properties and will operate in accordance with the Environment Protection Act 2017.**

**When submitted and approved to the satisfaction of the Responsible Authority, the Acoustic Report will be endorsed to form part of this permit. Once approved, the Acoustic Report must not be altered unless with the prior written consent of the Responsible Authority.**

**Construction and maintenance of the buildings must be in accordance with the recommendations contained in this report to the satisfaction of the Responsible Authority. In the event that it is considered that the Act and Regulations would be breached, the acoustic report must recommend further noise attenuation measures to ensure compliance with the Act and these additional measures must be implemented at the owner's cost and to Council's satisfaction prior to the occupation of the development**

## **Waste Management**

11. **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.**

## **Public Works Plan**

12. **Prior to the commencement of the development, a Public Works Plan and associated construction drawing specifications detailing the works to the land in front and to the rear 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 drainage works.
- f) The installation of new street furniture and infrastructure, such as parking and traffic signs, public seating, bicycle parking and similar (where practicable), which is to be provided with graffiti-resistant surfaces.
- g) Any other works to the public land adjacent to the development.

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.

13. 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.

#### **Environmental Audit Condition**

14. Before the construction or carrying out of buildings and works, 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
15. 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).

16. 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.

17. 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 14, 15 and 16 are satisfied.
18. 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.
19. Where a preliminary risk screen assessment has satisfied Condition 14 (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.

#### 3D model

20. 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.

#### Development Contributions

21. 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**

22. 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).
23. 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).
24. 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.
25. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, the car park entry gate and/or garage roller doors must be automatic and remote controlled.
26. 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).
27. 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**

28. 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).
29. The surface of all balconies are to be sloped to collect the stormwater run-off into stormwater drainage pipes that connect into the underground drainage system of the development to the satisfaction of the Responsible Authority.
30. Stormwater from the land must not be directed to the surface of the right-of-way to the satisfaction of the Responsible Authority.

#### **Car Parking**

31. 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

- 32. 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.
- 33. 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.
- 34. The shopfront window must not be painted or blocked out in any way to the satisfaction of the Responsible Authority.
- 35. All lighting of external areas must be designed not to emit direct light onto nearby dwellings to the satisfaction of the Responsible Authority.

#### Privacy screens to be installed and maintained

- 36. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all visual screening measures shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. All visual screening and measures to prevent overlooking must be maintained to the satisfaction of the Responsible Authority. Any screening measure that is removed or unsatisfactorily maintained must be replaced to the satisfaction of the Responsible Authority.

#### Permit Expiry

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

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

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

**Notes:** These notes are for information only and do not constitute part of this notice of decision/permit or conditions of this notice of decision/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 '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: Should Council impose car parking restrictions in this street, the owners and/or occupiers of the land would generally not be eligible for residential or visitor parking permits to allow for on street parking. See Council’s website for more information:**

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

**Note 3: 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 4: Merri-bek 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: Contact needs to be made with CitiPower to determine whether CitiPower will require the power lines to be relocated away from the dwellings.**

**Note 6: Prior to the occupation of the development, the owner should make an application to Council’s Transport Unit for the installation of signage, detailing the limits on the size of vehicles permitted to use the rear lane and mirrors / safety features to be installed in the laneway to improve visibility when making the turn from the 90 degree bend of the laneway.**

**Carried**

## **5.2 179 ALBION STREET, BRUNSWICK - PLANNING PERMIT APPLICATION MPS/2021/704**



<b>Property:</b>	179 Albion Street, BRUNSWICK		
<b>Proposal:</b>	Demolition of the existing building, partial reconstruction of the building and construction of two double storey dwellings		
<b>Zoning and Overlay/s:</b>	<ul style="list-style-type: none"> <li>• Neighbourhood Residential Zone (NRZ1)</li> <li>• Heritage Overlay (HO66)</li> <li>• Development Contributions Plan Overlay (DCPO)</li> </ul>		
<b>Strategic setting:</b>	Minimal change	Incremental change	Significant change

<b>Objections:</b>	19 objections Key issues raised in objections: <ul style="list-style-type: none"> <li>• Impact to heritage building</li> <li>• Interface with public park</li> <li>• Overdevelopment of site</li> </ul>
<b>Planning Information and Discussion (PID) Meeting:</b>	<ul style="list-style-type: none"> <li>• Held on 27 February 2023</li> <li>• Attendees: 2 objectors, 1 supporter, the applicant, 2 Council officers, Cr Monica Harte and Cr Mark Riley</li> </ul> <p>Additional architectural detail on the northern elevation was discussed to help address issues raised by an objector. This change was agreed to by the applicant and is reflected in recommended conditions. The PID meeting provided an opportunity for the remaining objector concerns to be discussed and helped inform the preparation of this report.</p>
<b>ESD:</b>	<ul style="list-style-type: none"> <li>• Minimum average NatHERS rating of 7 stars through permit condition.</li> </ul>
<b>Accessibility:</b>	<ul style="list-style-type: none"> <li>• The two dwellings proposed are not subject to apartment standards and are therefore not required to be designed to include accessible housing for people with limited mobility.</li> </ul>
<b>Key reasons for support</b>	<ul style="list-style-type: none"> <li>• Reconstruction of compromised heritage building</li> <li>• Contribution to minimal change housing supply at edge of Brunswick Activity Centre</li> <li>• Negligible amenity impacts on nearby dwellings</li> <li>• Good provision of internal amenity and secluded private open space</li> </ul>
<b>Recommendation:</b>	That a 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/2021/704 be issued for the demolition of the existing building, partial reconstruction of the building and construction of two double storey dwellings at 179 Albion Street, BRUNSWICK subject to the following conditions:

### Amended Plans

- 1) Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans advertised on 3 November 2022, but modified to show:
  - a) Increased finished floor levels to mitigate flooding risk, by:
    - i. All habitable areas of unit 1 and unit 2 with finished floor levels of no less than 53.20 metres to Australian Height Datum (AHD).
    - ii. Garage entries of unit 1 and unit 2 constructed with a finished surface level of 52.90 metres to Australian Height Datum (AHD).
  - b) Updated elevations with schedule of materials and colours to show:
    - i. The roof of the reconstructed bluestone cottage clad in natural slate.

- ii. Replacement of render cladding at first floor with more durable material.
  - iii. Reduction in overall unobstructed glazing for windows to stairwell on eastern elevation (Warr Park), including hit and miss brickwork on the ground floor.
  - iv. Security screening provided to the ground floor east facing bedroom window of unit 1.
  - v. Removal of the east facing window to bedroom 2 of unit 2.
  - vi. Inclusion of a north facing window to bedroom 2 of unit 2.
  - vii. Removal of east facing hallway windows for both dwellings.
  - viii. Inclusion of clear glazing to west facing entry door for both dwellings.
  - ix. Replacement of curved balcony elements with square elements on eastern elevation.
  - x. Removal of first floor glass balustrade on northern elevation.
  - xi. Use of a recessed detail between dwellings to provide visual separation between dwellings.
  - xii. Provision of more visually interesting northern elevation through additional articulation, windows and/or other design details
- c) Swept paths demonstrating the garages accessible by the B85 vehicle from AS2890.1 with no more than one corrective manoeuvre
  - d) Gas and water meters shown on all relevant plans. Where meters would be visible from the public space, they must not be stacked or placed vertically, and must be screened from view using either landscaping or fixed screening.
  - e) The vehicle crossing modified to show 1 metre straight splays, commencing where the footpath meets the nature strip and finishing at the kerb in accordance with Council's Standard Vehicle Crossing design.
  - f) Any changes to the plans arising from the Landscape Plan in accordance with Condition 3 of this permit.
  - g) Tree protection zone(s) in accordance with Condition 6 of this permit, to council trees within Warr Park.
  - h) The Environmentally Sustainable Design initiatives that are required to be shown on plans, as contained within Condition 7.d) of this permit.
  - i) Any changes to the plans arising from the Public Works Plans in accordance with Condition 16 of this permit.

### **Compliance with Endorsed Plans**

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

### **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 Infinity Landscape Architects advertised on 3 November 2022 but amended to show:
  - a) Any changes required to align with the plans for endorsement.
  - b) The provision of one canopy tree capable of growing to a height of 5m when mature located within the front setback to Albion Street.

- c) Removal of the street tree at the south-west corner of the site.
- d) Increased size and variety of native flowering plants on the rooftop terraces of each dwelling.
- e) Identification of any existing tree(s) and vegetation on site and adjoining land proposed to be removed and retained, including the tree protection zone(s) of trees to be retained and protected.
- f) Strategies for the retainment of vegetation (i.e. barriers and signage during the construction process) consistent with any conditions of this permit.
- g) A schedule of all proposed trees, shrubs and ground covers, including numbers, size at planting, size at maturity, botanical names and common names. The flora selection and landscape design should be drought tolerant and based on species selection recommended in the Moreland Landscape Guidelines 2009.
- h) Notes and diagrams detailing the establishment and maintenance of all proposed trees, shrubs and ground covers.
- i) Details of the location and type of all paved and sealed areas. Porous/permeable paving, rain gardens and other water sensitive urban design features must be in accordance with the Sustainability Design Assessment.

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

- 4) Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all landscaping works must be completed in accordance with the endorsed landscape plan to the satisfaction of the Responsible Authority.
- 5) All landscaping 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 within Warr Park 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.

### 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.

### b) 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.

### c) 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 (ESD)**

### 7) Prior to the endorsement of plans, an amended Sustainable Design Assessment (SDA) and plans must be submitted to the satisfaction by the Responsible Authority.

The SDA must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the SDA prepared by PassivEnergy, *advertised 3/11/2022* but modified to include the following changes:

- a) Amended NatHERS modelling for both dwellings which achieves a minimum NatHERS rating of 7.0 stars (unless suitably reduced to 6.5 stars) and maximum cooling loads of 30MJ/sqm. The NatHERS modelling must include double glazing for all habitable room windows (not 'equivalent' single glazing).
- b) An amended commercial façade report and accompanying discussion within the SDA that confirms the selected U-values as well as the insulation (R-value), demonstrating a 10 per cent improvement on NCC 2019.
- c) An amended BESS report (and any other corresponding documentation) which includes an:
  - i. Amended 'Energy' category with inputs as per the amended NatHERS modelling.
  - ii. Amended 'Water' inputs as per the amended STORM report (regarding the rainwater tank sizes and catchments).
  - iii. Do not claim 100 per cent for credit 'Indoor Environment Quality 1.4 Daylight Access – Non-Residential' (as the daylight modelling does not demonstrate this credit is met due to a lack of Daylight Factor legend).
- d) Show the following ESD initiatives on the development plans:
  - i. An ESD table on the plans for items that cannot be drawn e.g. NatHERS, tap and cooling/heating ratings, etc.
  - ii. Double glazing for all habitable room windows (including the ground and first floor east facing stairwell windows), annotated on each specific window on the elevations and floor plans.
  - iii. Details of the external louvre shutters and how they will effectively operate during warm weather to protect the windows from warm weather heat gain.
  - iv. External operable shading provided for the north, east and west facing habitable room windows and the ground and first floor stairwell.
  - v. Separate utility meters for the dwellings and café.



- vi. The 3.0kW Solar PV system.
  - vii. Electric vehicle charging infrastructure in both garages
- e) An amended WSUD (Water Sensitive Urban Design) catchment plan and an accompanying amended STORM report that includes:
- i. The entire site with a minimum STORM score of 100 per cent
  - ii. All raingardens to have a minimum catchment area of 50sqm
  - iii. Raingardens relocated from the balconies
  - iv. Rainwater tanks explored as the first treatment option.

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 Sustainable Design Assessment (including any BESS and STORM reports) to the satisfaction of the Responsible Authority.
- 9) Prior to the issuing of a Certificate of Occupancy or Statement of Compliance, whichever comes first, of any dwelling approved under this permit, a report/checklist must be submitted to the Responsible Authority. The report/checklist must be to the satisfaction of the Responsible Authority and must confirm (with suitable evidence) that measures specified in the endorsed Sustainable Design Assessment have been implemented in accordance with the approved plans.
- 10) All stormwater treatment devices (e.g., raingardens, rainwater tanks etc.) must be maintained, to ensure water quality discharged from the site complies with the performance standard in the endorsed Sustainable Design Assessment.

### **Heritage**

- 11) Prior to the endorsement of plans, a report prepared by a suitably qualified person detailing the existing building to be reconstructed must be submitted to the satisfaction of the Responsible authority. This must include:
  - a) A full photographic record of the existing building to be reconstructed. The photographic record must be:
    - i. Archival quality disc/s of all images in high resolution JPG format AS WELL AS either TIFF or RAW format,
    - ii. Include a brief descriptive catalogue of all images,
    - iii. Include a photographic plan (such as existing conditions plans provided by the architect) showing the viewpoints of all images,
    - iv. Referenced contact sheets and referenced printed black and white images of selected viewpoints printed on proper archival quality photographic paper.
  - b) A full set of professionally prepared, accurately measured drawings of the bluestone building, including all details, openings, etc.
- 12) The position of the proposed reconstructed building must match the position of the existing building.

- 13) The existing chimney on the building proposed to be reconstructed must be preserved or reconstructed to match.

### **Acoustic Attenuation**

- 14) Prior to the commencement of the development approved by this permit, a report prepared by a qualified Acoustic Engineer must be submitted to the satisfaction of the Responsible Authority outlining specific noise attenuation measures to minimise the noise from the nearby arterial road, entertainment venues and tram route. Construction and maintenance of the buildings must be in accordance with the recommendations contained in this report to the satisfaction of the Responsible Authority.

### **Development Contributions**

- 15) 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 dwelling.

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.

If a Community Infrastructure Levy is payable under the approved Development Contributions Plan and under section 46O of the Planning and Environment Act 1987, the Community Infrastructure Levy in respect of each dwelling must be paid to Merri-bek City Council prior to the issue of a building permit.

### **Public Works Plan**

- 16) Prior to the endorsement of plans, a public works plan must be submitted to the satisfaction by the Responsible Authority, including the following details:
- a) The unconstructed portion of the verge between the carriageway of Wraith Street and site boundary:
- i. constructed and drained for pedestrian use for the full width to Council standards using construction plans approved by Council with works to be supervised by Council; and/or
  - ii. landscaped including the provision of new street tree planting in appropriate locations, with the number of trees maximised based on the space available, in consultation with the Responsible Authority.

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

- 17) Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all public works shown on the endorsed public works plan must be implemented to the satisfaction of the Responsible Authority at the expense of the owner of the land, unless otherwise agreed with prior written consent of the Responsible Authority.

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

- 18) Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, a vehicle crossing must be constructed in every location shown on the endorsed plans to a standard satisfactory to the Responsible Authority (Moreland City Council, City Infrastructure Department).
- 19) Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority (Moreland City Council, City Infrastructure Department).
- 20) Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, any Council or service authority pole or pit within 1 metre of a proposed vehicle crossing must be relocated or modified at the expense of the permit holder to the satisfaction of the Responsible Authority and the relevant service authority.
- 21) Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, the garage roller doors must be automatic and remote controlled.

### **Undergrounding cables**

- 22) 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.

### **Stormwater**

- 23) 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).

### **General Amenity**

- 24) 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.
- 25) Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.

### **Permit Expiry**

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

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

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

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

**Note 1:** This permit contains a condition requiring payment of Development Contributions. The applicable development contribution levies are indexed annually. To calculate the approximate once off levy amount, please visit <http://www.moreland.vic.gov.au/planning-building/> and click on 'Moreland Development Contributions Plan (DCP)'. Alternatively, please contact Merri-bek 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 land would generally not be eligible for residential or visitor parking permits to allow for on street parking. See Council's website for more information:

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

**Note 3:** Further approvals are required from Council's City Infrastructure Department who can be contacted on 8311 4300 for any works beyond the boundaries of the property. Planting and other vegetative works proposed on road reserves can be discussed with Council's Open Space Unit on 8311 4300.

**Note 4:** Merri-bek 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:** The estimated flood level for this property is 52.90 metres to Australian Height Datum (AHD), based upon a 1 per cent Annual Exceedance Probability (AEP) rainfall event. This is a storm that has a 1 per cent statistical chance of occurring in any one year.

8.23 pm      *Cr Pulford left the meeting.*  
8.23 pm      *Cr Pulford returned to the meeting.*  
8.24 pm      *Cr Bolton left the meeting.*  
8.25 pm      *Cr Bolton returned to the meeting.*  
8.32 pm      *Cr Tapinos left the meeting.*

## **Resolution**

**Cr Riley moved, Cr Bolton seconded –**

**That a Notice of Decision to Grant a Planning Permit No. MPS/2021/704 be issued for the demolition of the existing building, partial reconstruction of the building and construction of two double storey dwellings at 179 Albion Street, BRUNSWICK subject to the following conditions:**

### **Amended Plans**

- 1) **Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans advertised on 3 November 2022, but modified to show:**
  - a) **Increased finished floor levels to mitigate flooding risk, by:**
    - i. **All habitable areas of unit 1 and unit 2 with finished floor levels of no less than 53.20 metres to Australian Height Datum (AHD).**
    - ii. **Garage entries of unit 1 and unit 2 constructed with a finished surface level of 52.90 metres to Australian Height Datum (AHD).**
  - b) **Updated elevations with schedule of materials and colours to show:**

- i. The roof of the reconstructed bluestone cottage clad in natural slate.
  - ii. Replacement of render cladding at first floor with more durable material.
  - iii. Reduction in overall unobstructed glazing for windows to stairwell on eastern elevation (Warr Park), including hit and miss brickwork on the ground floor.
  - iv. Security screening provided to the ground floor east facing bedroom window of unit 1.
  - v. Removal of the east facing window to bedroom 2 of unit 2.
  - vi. Inclusion of a north facing window to bedroom 2 of unit 2.
  - vii. Removal of east facing hallway windows for both dwellings.
  - viii. Inclusion of clear glazing to west facing entry door for both dwellings.
  - ix. Replacement of curved balcony elements with square elements on eastern elevation.
  - x. Removal of first floor glass balustrade on northern elevation.
  - xi. Use of a recessed detail between dwellings to provide visual separation between dwellings.
  - xii. Provision of more visually interesting northern elevation through additional articulation, windows and/or other design details
- c) Swept paths demonstrating the garages accessible by the B85 vehicle from AS2890.1 with no more than one corrective manoeuvre
  - d) Gas and water meters shown on all relevant plans. Where meters would be visible from the public space, they must not be stacked or placed vertically, and must be screened from view using either landscaping or fixed screening.
  - e) The vehicle crossing modified to show 1 metre straight splays, commencing where the footpath meets the nature strip and finishing at the kerb in accordance with Council's Standard Vehicle Crossing design.
  - f) Any changes to the plans arising from the Landscape Plan in accordance with Condition 3 of this permit.
  - g) Tree protection zone(s) in accordance with Condition 6 of this permit, to council trees within Warr Park.
  - h) The Environmentally Sustainable Design initiatives that are required to be shown on plans, as contained within Condition 7.d) of this permit.
  - i) Any changes to the plans arising from the Public Works Plans in accordance with Condition 16 of this permit.

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

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

#### **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 Infinity Landscape Architects advertised on 3 November 2022 but amended to show:
- a) Any changes required to align with the plans for endorsement.
  - b) The provision of one canopy tree capable of growing to a height of 5m when mature located within the front setback to Albion Street.
  - c) Removal of the street tree at the south-west corner of the site.
  - d) Increased size and variety of native flowering plants on the rooftop terraces of each dwelling.
  - e) Identification of any existing tree(s) and vegetation on site and adjoining land proposed to be removed and retained, including the tree protection zone(s) of trees to be retained and protected.
  - f) Strategies for the retainment of vegetation (i.e. barriers and signage during the construction process) consistent with any conditions of this permit.
  - g) A schedule of all proposed trees, shrubs and ground covers, including numbers, size at planting, size at maturity, botanical names and common names. The flora selection and landscape design should be drought tolerant and based on species selection recommended in the Moreland Landscape Guidelines 2009.
  - h) Notes and diagrams detailing the establishment and maintenance of all proposed trees, shrubs and ground covers.
  - i) Details of the location and type of all paved and sealed areas. Porous/permeable paving, rain gardens and other water sensitive urban design features must be in accordance with the Sustainability Design Assessment.

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

- 4) Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all landscaping works must be completed in accordance with the endorsed landscape plan to the satisfaction of the Responsible Authority.
- 5) All landscaping 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 within Warr Park 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.

#### **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.

#### **b) 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.

#### **c) 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 (ESD)**

- 7) **Prior to the endorsement of plans, an amended Sustainable Design Assessment (SDA) and plans must be submitted to the satisfaction by the Responsible Authority.**

The SDA must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the SDA prepared by PassivEnergy, *advertised 3/11/2022* but modified to include the following changes:

- a) **Amended NatHERS modelling for both dwellings which achieves a minimum NatHERS rating of 7.0 stars (unless suitably reduced to 6.5 stars) and maximum cooling loads of 30MJ/sqm. The NatHERS modelling must include double glazing for all habitable room windows (not ‘equivalent’ single glazing).**
- b) **An amended commercial façade report and accompanying discussion within the SDA that confirms the selected U-values as well as the insulation (R-value), demonstrating a 10 per cent improvement on NCC 2019.**
- c) **An amended BESS report (and any other corresponding documentation) which includes an:**
  - i. **Amended ‘Energy’ category with inputs as per the amended NatHERS modelling.**

- ii. Amended 'Water' inputs as per the amended STORM report (regarding the rainwater tank sizes and catchments).
  - iii. Do not claim 100 per cent for credit 'Indoor Environment Quality 1.4 Daylight Access – Non-Residential' (as the daylight modelling does not demonstrate this credit is met due to a lack of Daylight Factor legend).
- d) Show the following ESD initiatives on the development plans:
- i. An ESD table on the plans for items that cannot be drawn e.g. NatHERS, tap and cooling/heating ratings, etc.
  - ii. Double glazing for all habitable room windows (including the ground and first floor east facing stairwell windows), annotated on each specific window on the elevations and floor plans.
  - iii. Details of the external louvre shutters and how they will effectively operate during warm weather to protect the windows from warm weather heat gain.
  - iv. External operable shading provided for the north, east and west facing habitable room windows and the ground and first floor stairwell.
  - v. Separate utility meters for the dwellings and café.
  - vi. The 3.0kW Solar PV system.
  - vii. Electric vehicle charging infrastructure in both garages
- e) An amended WSUD (Water Sensitive Urban Design) catchment plan and an accompanying amended STORM report that includes:
- i. The entire site with a minimum STORM score of 100 per cent
  - ii. All raingardens to have a minimum catchment area of 50sqm
  - iii. Raingardens relocated from the balconies
  - iv. Rainwater tanks explored as the first treatment option.

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 Sustainable Design Assessment (including any BESS and STORM reports) to the satisfaction of the Responsible Authority.
- 9) Prior to the issuing of a Certificate of Occupancy or Statement of Compliance, whichever comes first, of any dwelling approved under this permit, a report/checklist must be submitted to the Responsible Authority. The report/checklist must be to the satisfaction of the Responsible Authority and must confirm (with suitable evidence) that measures specified in the endorsed Sustainable Design Assessment have been implemented in accordance with the approved plans.



- 10) All stormwater treatment devices (e.g., raingardens, rainwater tanks etc.) must be maintained, to ensure water quality discharged from the site complies with the performance standard in the endorsed Sustainable Design Assessment.

#### Heritage

- 11) Prior to the endorsement of plans, a report prepared by a suitably qualified person detailing the existing building to be reconstructed must be submitted to the satisfaction of the Responsible authority. This must include:
- a) A full photographic record of the existing building to be reconstructed. The photographic record must be:
    - i. Archival quality disc/s of all images in high resolution JPG format AS WELL AS either TIFF or RAW format,
    - ii. Include a brief descriptive catalogue of all images,
    - iii. Include a photographic plan (such as existing conditions plans provided by the architect) showing the viewpoints of all images,
    - iv. Referenced contact sheets and referenced printed black and white images of selected viewpoints printed on proper archival quality photographic paper.
  - b) A full set of professionally prepared, accurately measured drawings of the bluestone building, including all details, openings, etc.
- 12) The position of the proposed reconstructed building must match the position of the existing building.
- 13) The existing chimney on the building proposed to be reconstructed must be preserved or reconstructed to match.

#### Acoustic Attenuation

- 14) Prior to the commencement of the development approved by this permit, a report prepared by a qualified Acoustic Engineer must be submitted to the satisfaction of the Responsible Authority outlining specific noise attenuation measures to minimise the noise from the nearby arterial road, entertainment venues and tram route. Construction and maintenance of the buildings must be in accordance with the recommendations contained in this report to the satisfaction of the Responsible Authority.

#### Development Contributions

- 15) 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 dwelling.

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.

If a Community Infrastructure Levy is payable under the approved Development Contributions Plan and under section 46O of the Planning and Environment Act 1987, the Community Infrastructure Levy in respect of each dwelling must be paid to Merri-bek City Council prior to the issue of a building permit.

#### **Public Works Plan**

- 16) Prior to the endorsement of plans, a public works plan must be submitted to the satisfaction by the Responsible Authority, including the following details:
- a) The unconstructed portion of the verge between the carriageway of Wraith Street and site boundary:
    - i. constructed and drained for pedestrian use for the full width to Council standards using construction plans approved by Council with works to be supervised by Council; and/or
    - ii. landscaped including the provision of new street tree planting in appropriate locations, with the number of trees maximised based on the space available, in consultation with the Responsible Authority.

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

- 17) Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all public works shown on the endorsed public works plan must be implemented to the satisfaction of the Responsible Authority at the expense of the owner of the land, unless otherwise agreed with prior written consent of the Responsible Authority.

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

- 18) Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, a vehicle crossing must be constructed in every location shown on the endorsed plans to a standard satisfactory to the Responsible Authority (Moreland City Council, City Infrastructure Department).
- 19) Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority (Moreland City Council, City Infrastructure Department).
- 20) Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, any Council or service authority pole or pit within 1 metre of a proposed vehicle crossing must be relocated or modified at the expense of the permit holder to the satisfaction of the Responsible Authority and the relevant service authority.
- 21) Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, the garage roller doors must be automatic and remote controlled.

#### **Undergrounding cables**

- 22) 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.

### Stormwater

- 23) 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).

### General Amenity

- 24) 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.
- 25) Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.

### Permit Expiry

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

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

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

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

Note 1: This permit contains a condition requiring payment of Development Contributions. The applicable development contribution levies are indexed annually. To calculate the approximate once off levy amount, please visit <http://www.moreland.vic.gov.au/planning-building/> and click on 'Moreland Development Contributions Plan (DCP)'. Alternatively, please contact Merri-bek 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 land would generally not be eligible for residential or visitor parking permits to allow for on street parking. See Council's website for more information:

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

Note 3: Further approvals are required from Council's City Infrastructure Department who can be contacted on 8311 4300 for any works beyond the boundaries of the property. Planting and other vegetative works proposed on road reserves can be discussed with Council's Open Space Unit on 8311 4300.

**Note 4: Merri-bek 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: The estimated flood level for this property is 52.90 metres to Australian Height Datum (AHD), based upon a 1 per cent Annual Exceedance Probability (AEP) rainfall event. This is a storm that has a 1 per cent statistical chance of occurring in any one year.**

8.38 pm Cr Tapinos returned to the meeting.

**Carried unanimously**

8.39 pm Cr Tapinos left the meeting.

8.39 pm Cr Conlan left the meeting.

### Order of Business Altered

In accordance with Governance Rule 3.5.4, Council agreed to alter the order of business to consider Item 5.3 336 Sydney Road, Coburg MPS/2021/322 on the Agenda before Item 5.2 179 Albion Street, Brunswick – Planning Permit Application MPS/2021/704.

## 5.4 8 FLORENCE STREET, BRUNSWICK - PLANNING APPLICATION MPS/2015/175/B



<b>Property:</b>	8 Florence Street, Brunswick		
<b>Proposal:</b>	Amend planning permit MPS/2015/175 to allow the construction of a revised mixed-use development.		
<b>Zoning and Overlay/s:</b>	<ul style="list-style-type: none"> <li>Commercial 1 Zone</li> <li>Design &amp; Development Overlay (Schedule 18)</li> <li>Parking Overlay (Schedule 1)</li> <li>Environmental Audit Overlay</li> <li>Development Contributions Plan Overlay</li> </ul>		
<b>Strategic setting:</b>	Minimal change	Incremental change	Significant change
<b>Objections:</b>	Four (4) Key issues raised in objections: <ul style="list-style-type: none"> <li>Car parking</li> <li>Building materials</li> <li>Impact of building height on pollution and ESD outcomes</li> </ul>		
<b>Planning Information and Discussion (PID) Meeting:</b>	No PID held. Direct engagement with each objector has taken place.		
<b>ESD:</b>	<ul style="list-style-type: none"> <li>Minimum average NatHERS rating of 7.6 stars</li> <li>77 percent BESS score</li> </ul>		

<b>Accessibility:</b>	<ul style="list-style-type: none"> <li>• Nine (9) adaptable apartments compared to two (2) associated with the existing approval.</li> </ul>
<b>Key reasons for</b>	<ul style="list-style-type: none"> <li>• High quality building design.</li> <li>• Excellence in ESD and improvements to accessibility.</li> <li>• Provision of affordable housing.</li> <li>• Suitably mitigated off-site amenity and public realm impacts through sensitive siting.</li> </ul>
<b>Recommendation</b>	Notice of Decision to Grant an Amended Planning Permit.

## Officer Recommendation

That a Notice of Decision to Grant an Amended Planning Permit for Planning Permit No. MPS/2015/175/B be issued for the construction of a building and reduction to the standard car parking requirement at 8 Florence Street, Brunswick, subject to the following conditions (*new or changes to existing conditions bolded*):

1. **Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions, and must be generally in accordance with the plans prepared by Six Degrees (TP100-TP500), dated 25 October 2022 and advertised on 5 December 2022, but modified to show:**
  - a) **Changes as depicted in the Discussion Plans received on 21 February 2023, including:**
    - i. **A reduction to the parapet height of the western ‘bookend’ portion of the development on the south-western corner by 700mm to match the parapet height of the eastern part of the development**
    - ii. **Removal of the internalised study spaces associated with Units 301 and 401 and replaced with external balcony areas; and**
    - iii. **Additional facade openings to the balcony areas of Units 301 and 401.**
  - b) **The southern interface of Levels 3 and 4 of the western ‘bookend’ balcony element provided with greater openness as viewed from Florence Street. This could be achieved through the provision of a larger single or multiple opening at each level, or an alternative lightweight vertical balcony framing design.**
  - c) **The projecting Juliette balcony rails associated with the southern elevation (western ‘balcony bookend’ portion) reduced in depth to protrude no more than 100mm from the building facade.**
  - d) **Detailed facade elevations (with dimensions) at a scale of 1:20 for the south-facing lower levels fronting Florence Street and west-facing lower-level interface with the Upfield Shared Path. These elevations are to include detail relating to openings, services and external finishes & treatments. Any services on the facade must be highly concealed and treated to integrate with the building architecture.**
  - e) **Creeping vegetation applied to the western and southern facades of the western ‘bookend’ portion of the development, to be supported by the necessary landscaping services at either ground or rooftop level.**
  - f) **A Landscape Plan in accordance with Condition 3 of this permit, including any modifications required to align with this plan.**

- g) **A Waste Management Plan in accordance with Condition 10 of this permit, including any modifications required to align with this plan.**
  - h) **The Environmentally Sustainable Design initiatives that are required to be shown on plans, as contained within the amended Sustainability Management Plan required by Condition 5 of this permit.**
  - i) **A Public Works Plan in accordance with Condition 49 of this permit, including any modifications required to align with this plan.**
  - j) **An Accessibility Report in accordance with Condition 8 of this permit, including any modifications required to align with this plan.**
  - k) **An Acoustic Report in accordance with Condition 11 of this permit, including any modifications required to align with this plan.**
  - l) **An Amended Affordable Housing Report in accordance with Condition 51 of this permit.**
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 62.01, 62.02-1 and 62.02-2 of the Moreland Planning Scheme unless specifically noted as a permit condition.**

#### **Landscape Plan**

3. **Prior to the endorsement of plans, a Landscape Plan must be submitted to and approved by the Responsible Authority. The landscape plan must provide for the following:**
- a) **Details of landscaping on the rooftop, within the planter boxes and on the western and southern facades of the 'bookend' part of the development**
  - b) **A schedule of all proposed planting (including numbers, size at planting, size at maturity and botanical names).**
  - c) **Advice detailing how the landscaping will be constructed, accommodated and maintained, including areas required for planting, drainage and irrigation.**

**When submitted and approved to the satisfaction of the Responsible Authority, the Landscape Plan will be endorsed to form part of this permit.**

**All works must be undertaken in accordance with the endorsed Landscape Plan to the satisfaction of the Responsible Authority. No alterations to the Landscape Plan may occur without written consent of the Responsible Authority.**

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

#### **Environmentally Sustainable Development (ESD)**

5. **Prior to the endorsement of plans, an amended Sustainable 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 prepared by Arup dated 27 January 2023 but modified to include the following changes:**

- a) Preliminary NatHERS ratings and modelling for all dwellings (or all to be thermally represented) as per the NatHERS discussion within the SMP, which achieves an average NatHERS rating of at least 7.6 Stars for all dwellings. The modelling is to be performed by an accredited NatHERS assessor and contain complete cooling loads, heating loads, star ratings and proposed building fabric.
- b) Additional information about the commercial properties demonstrating the NCC 2019 Section & 10 per cent improvement achieved by building fabric.
- c) The latest BESS report (dated 31 January 2023) included as a complete report.
- d) The architectural plans amended to include:
  - i. An ESD table on the plans for items that cannot be drawn e.g. NatHERS, tap and cooling/heating ratings, etc.
  - ii. The stormwater catchment plan as per the SMP and stormwater management response.
  - iii. The material and colour schedule to refer to the materials within the SMP (such as reclaimed timber floorboards, ultra-low VOC paints, etc).
- e) The stormwater management response to include the following:
  - i. An electronic copy of the MUSIC model which meets the requirements of Clause 53.18 and best practice stormwater management requirements (the best practice environmental guidelines for urban stormwater, BPEMG). The model is to include the rainwater tank reuse rates as per the development proposal. The detention tank within the model must not include any pollutant reductions (such as reduction of total suspended solids, phosphorus, nitrogen or gross pollutants).

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.

- 6. Prior to the issue of a Statement of Compliance or Certificate(s) of Occupancy whichever occurs first, all works must be undertaken in accordance with the endorsed Sustainable Management Plan report to the satisfaction of the Responsible Authority. No alterations to these plans may occur without the written consent of the Responsible Authority.
- 7. Prior to the issue of Certificate of Occupancy or Statement of Compliance, whichever comes first, of any dwelling approved under this permit, a report from the author of the Sustainable 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 (and include evidence) that all measures specified in the SMP have been implemented in accordance with the approved plan. It must also confirm the site achieved the required 5 star Green Star rating.

### **Accessibility Report**

8. **Prior to the endorsement of plans an Accessibility Report must be prepared by a suitably qualified person detailing how the development will incorporate adaptable, accessible and visitable design features in accordance with the Silver Performance Level of the *Liveable Housing Design Guidelines 2012*. A minimum of nine adaptable dwellings pursuant to the requirements of Clause 58 Standard D17 must be provided, with the Accessibility Report confirming compliance. The recommendations of the report must be implemented to the satisfaction of the Responsible Authority prior to the occupation of the development. No alterations to the plan may occur without the written consent of the responsible authority.**
9. Prior to the occupation of any dwelling approved under this permit, a report from the author of the Accessibility Report, approved pursuant to this permit, or similar qualified person or company, must be submitted to the Responsible Authority. This report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the endorsed accessibility report have been implemented.

### **Waste Management**

10. **Prior to the endorsement of plans a Waste Management Plan (WMP) must be submitted to the satisfaction of the Responsible Authority. When submitted and approved to the satisfaction of the Responsible Authority, the WMP will be endorsed to form part of this permit. No alterations to the WMP may occur without the written consent of the Responsible Authority.**

### **Noise Attenuation**

11. **Prior to the endorsement of plans, an amended Acoustic Report prepared by a qualified Acoustic Engineer must be submitted to the satisfaction of the Responsible Authority, and must detail how construction methods and materials will limit noise from the railway line, including potential noise from the elevated rail project. When submitted and approved to the satisfaction of the Responsible Authority, the Acoustic Report will be endorsed to form part of this permit. No alterations to the Acoustic Report may occur without the written consent of the Responsible Authority.**
12. 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
13. 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.

### **Environmental Audit**

14. **Before the construction or carrying out of buildings and works, 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.
15. 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.
  16. 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).
  17. 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.
  18. 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 14, 15 and 16 of this permit are satisfied.
  19. 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.
  20. Where a preliminary risk screen assessment has satisfied Condition 14 (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.

### **Civil Engineering and General Amenity**

21. Prior to the commencement of the development, a legal point of discharge is to be obtained, and where required, a stormwater drainage plan showing how the site will be drained from the property boundary to the stated point of discharge, must be submitted to and approved by the Responsible Authority.
22. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority (Moreland City Council, City Infrastructure Department).
23. Prior to the occupation of the development, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.
24. Prior to the occupation of the development all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land (including all existing and new buildings) must be underground to the satisfaction of the Responsible Authority.
25. 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 (Note: Please contact Moreland City Council, City Infrastructure Department).
26. Prior to the issuing of Statement of Compliance or occupation of the development, whichever occurs first, all visual screening measures shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. All visual screening and measures to prevent overlooking must be maintained to the satisfaction of the Responsible Authority. Any screening measure that is removed or unsatisfactorily maintained must be replaced to the satisfaction of the Responsible Authority.
27. A letterbox must be provided for each of the premises at the street frontage. The dimensions, placement and numbering must comply with the Australia Post – Letterbox Security and Specification as published on its website to the satisfaction of the Responsible Authority.
28. An automatic light must be installed and maintained in the parking area so that a light operates automatically when a vehicle enters or leaves the land between dusk and dawn and no direct light is emitted onto adjoining property.
29. The surface of all balconies and terraces are to be sloped to collect the stormwater run-off into stormwater drainage pipes that connect into the underground drainage system of the development to the satisfaction of the Responsible Authority.
30. All stormwater from the land, where it is not collected in rainwater tanks for re-use, must be collected by an underground pipe drain approved by and to the satisfaction of the Responsible Authority (Moreland City Council, City Infrastructure Department).
31. Stormwater from the land must not be directed to the surface of the right-of-way to the satisfaction of the Responsible Authority.
32. 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).

### **Melbourne Water Condition**

33. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.

### **VicTrack Conditions**

34. Prior to the development commences, the owner of the land must enter into an Agreement with the Responsible Authority and VicTrack pursuant to Section 173 of the Planning and Environment Act 1987. The cost of the preparation, lodgement and registration of the Agreement shall be borne totally by the owner on the land. The Agreement must be registered on the certificate of title for the common property on the land and shall require that the common property ground floor openings to the Upfield Bike Corridor be closed if required for the future development of this corridor.
35. All railway infrastructure (including overhead power and supporting infrastructure for trains) must not be interfered with or damaged during the construction period. Any damage to railway infrastructure as a consequence of the construction period must be rectified to the satisfaction of VicTrack, PTV and the Accredited Rail Operator at the full cost of the permit holder.
36. All reasonable steps must be taken to ensure that there is no disruption to train services. Any foreseen disruption to the rail operation during the construction period requires the approval of the Accredited Rail Operator.
37. No entry onto railway land is permitted without the written consent of the Accredited Rail Operator and the common boundary with VicTrack land must be fenced at the owner's expense to prohibit access to the rail corridor.
38. No drainage or effluent must enter VicTrack land and must be connected to the legal point of discharge.
39. The legal point of access is to be facing Florence Street, and not considered by virtue of any implied or actual access consent, to be the VicTrack land.
40. Any wall / fence to be built on the railway reserve boundary must be cleaned and finished using a graffiti proof finish to prevent or reduce the potential for graffiti. The body corporate or owner to ensure that any graffiti which appears on the wall must be cleaned or removed as soon as practicable to the satisfaction of the Responsible Authority. The cost of any clean-up or removal of the graffiti from the wall must be paid for by the developer and/or future owners of the land.
41. No excavation, filling or construction must take place on the common boundary between the subject land and VicTrack land without the prior approval of VicTrack and the Accredited Rail Operator.
42. No waste, soil or other materials from the works are to be stored or deposited on VicTrack land.
43. All works, including hoardings, must be undertaken within the subject land and must not encroach onto VicTrack land.
44. No lighting is to be erected (permanent or temporary) that spills light onto the railway tracks or which interferes with the visibility of signals and rail lines by train drivers to the satisfaction of the Accredited Rail Operator
45. Building materials (including glass/window treatments) along the rail corridor must be non-reflective and avoid red and green colour schemes that may interfere with driver operations to the satisfaction of the Accredited Rail Operator.
46. Plant and tree species must be of the type that will not cause any future overhang onto VicTrack land or disturbance of public transport operations.
47. No permanent or temporary ground anchors are permitted within VicTrack land.
48. All reasonable steps (including appropriate screening to balconies) must be taken to ensure that objects cannot be projected into the VicTrack land to the satisfaction of the Responsible Authority.

## **Public Works Plan**

49. Prior to the commencement of the development, a Public Works Plan (PWP) and associated construction drawing specifications detailing the works to the land at the front of the site in Sydney Road and to the east of the site in Irrelach Lane must be submitted to the satisfaction of the Responsible Authority. The PWP 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.
  - f) Any necessary drainage works.
  - g) The installation of bike hoops provided with graffiti-resistant surfaces.
  - h) The construction of a pram crossing adjacent to the south-west corner of the site.
  - i) The provision of other works and street furniture including seating (where practicable), which is to be provided with graffiti-resistant surfaces.
  - j) The provision of new street tree planting in Florence Street in appropriate locations in front of the site (where practicable), with the number of trees maximised based on the space available, in consultation with the Responsible Authority (Open Space Unit).

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.

50. 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.

## **Affordable Housing**

51. Prior to the endorsement of plans, an amended Affordable Housing Report must be submitted to and approved by the Responsible Authority. The report must be generally in accordance with the Affordable Housing Report prepared by Urbanxchange and dated January 2023, but modified to:
- a) Reference the updated development as approved by this permit;
  - b) Reference the amended Affordable Housing Offer of a minimum of three (3) dwellings or 10 per cent of the total number of dwellings (rounded up) to the nearest whole number transferred to a Registered Housing Agency as 'Affordable Dwellings', or as otherwise agreed by the Responsible

**Authority. Each dwelling is to be sold at no more than 90 per cent of the 'Market Price' as applicable to the balance of dwellings within the development;**

- c) Define 'Market Price' as the 'at cost' purchase price of dwellings as per the developer's not-for-profit model – i.e. the price at which the dwellings will be sold so as to cover what it costs to procure, design, manage and construct the dwellings;**
  - d) Set out a minimum tenure for the 'Affordable Dwellings' of 20 years from first occupation, unless otherwise agreed with the Responsible Authority.**
  - e) The 'Affordable Dwellings' will provide social housing in accordance with requirements of the Housing Act ,1983, or Affordable Housing (as defined by the Planning & Environment Act 1987) unless otherwise agreed with the Responsible Authority.**
- 52. Prior to the commencement of construction or carrying out of works (other than demolition of existing buildings and structures, removal of vegetation and site investigation works to determine the level of contamination on the land, and remediation works), an agreement under Section 173 of the Planning and Environment Act 1987 must be entered into between the owner(s) of the land and the Responsible Authority in a form satisfactory to the Responsible Authority providing for the following:**
- a) The owner covenants, acknowledges and agrees with Council to:**
    - i. Provide ownership of no less than three (3) dwellings or 10 per cent of the total number of dwellings (rounded up to the nearest whole number) approved on the site to be transferred as 'Affordable Dwellings' to a Registered Housing Agency, or as otherwise agreed by the Responsible Authority. Each dwelling is to be sold at no more than 90 per cent of the 'Market Price' as relevant to the balance of dwellings within the development, and as defined in the endorsed Affordable Housing Report required by Condition 51 of the Permit.**
    - ii. Each affordable dwelling is to be subject to a condition on title that it is to be used to deliver either social housing (as defined by the Housing Act 1983) or Affordable Housing (as defined by the Planning & Environment Act 1987) or Affordable Housing (as defined by the Planning & Environment Act 1987) for a minimum period of 20 years after first occupation, unless otherwise agreed with the Responsible Authority.**
    - iii. All dwellings on site must be delivered, managed, leased and sold in accordance with the endorsed Affordable Housing Report required by Condition 51 of the permit;**
    - iv. Construct the Affordable Housing on the subject land in a continuous, proper and workmanlike manner, strictly in accordance with:**
      - The Plans and Specifications;**
      - All applicable laws;**
      - The terms of applicable permits and approvals; and**
      - Using all due care and skill.**
    - v. Complete delivery of its Affordable Housing commitments under this Agreement by:**

- Providing good titles to the Registered Housing Agency including all necessary title documents in registerable form pursuant to Clause a); or
  - Fully performing its contractual commitments under Clause a) iii.
- b) The owner must comply with Clause (a)(i) and (a)(ii) within six months of the last to occur of:
- i. Registration of the plan of subdivision which creates the Affordable Housing Lots; and
  - ii. Completion of construction of the Affordable Housing, as signified by the issuing of an occupancy permit by a licensed building surveyor for each of the lots comprising the Affordable Housing.

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

**Section 173 Agreement – Public asset/pedestrian access/indemnify AND Off-site car parking**

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

**Public asset/pedestrian access/indemnify**

- a) Unrestricted public pedestrian access through the ground-level setback and circulation area marked 'pedestrian access' on TP100 (immediately adjacent to the Upfield Shared Path) for 24 hours a day (365 days a year) unless otherwise agreed to by the Responsible Authority.
- b) The owners of the land to indemnify the Merri-bek City Council against any claims associated with the use of the circulation area and responsibility for the on-going maintenance of the areas.

**Off-site car parking**

- c) Confirmation of three off-street car parking spaces located on another site, conveniently located for the regular use of occupants or tenants of the development hereby permitted, unless otherwise agreed to by the Responsible Authority;
- d) Within three months of the occupation of the building, evidence of the off-site, off-street car parking spaces must be provided to the satisfaction of the Responsible Authority;
- e) The Owners Corporation must keep records of the off-site car parking spaces and make these records available to the Responsible Authority upon request;
- f) Should the location of the off-site, off-street car parking spaces need to change, the new location shall be to the satisfaction of the Responsible Authority.

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

**Green Travel Plan**

54. Prior to the endorsement of plans, a Green Travel Plan prepared by a suitably qualified professional must be submitted to the satisfaction of the Responsible Authority. The Green Travel Plan must identify methods to promote travel to the site by means other than private vehicle, to the satisfaction of the Responsible Authority. Among other initiatives, the Green Travel Plan must:
- a) Impose a levy on residential occupants who own motor vehicles and cannot provide evidence of secure off-street parking (ie. those residents who own vehicles and park on-street).
  - b) Provide for the annual reporting to the Owners Corporation of off-site private car parking spaces leased pursuant to the requirements of Condition 55. This reporting must be made available to the Responsible Authority upon request.

When approved to the satisfaction of the Responsible Authority, the Green Travel Plan will be endorsed to form part of this permit. No alterations to the Green Travel Plan may occur without the written consent of the Responsible Authority.

### 3D Model

55. 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.

### Retention of Architect

56. Six Degrees Architects 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.

### Development Contributions

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

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

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

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

### **Permit Expiry**

**58.** 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:

- 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 has been corrected pursuant to Section 71 of the *Planning and Environment Act 1987* on 21/7/2020 to correctly state condition 1(e) of the planning permit as no amendment was made to this condition in MPS/2015/175/A.

#### **Note 2:**

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

#### **Note 3:**

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

#### **Note 4:**

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.

- 8.45 pm      *Cr Pulford left the meeting.*  
8.46 pm      *Cr Conlan returned to the meeting.*  
8.47 pm      *Cr Conlan left the meeting.*  
8.47 pm      *Cr Conlan returned to the meeting.*  
8.47 pm      *Cr Pulford returned to the meeting.*  
8.54 pm      *Cr Conlan left the meeting.*  
8.54 pm      *Cr Conlan returned to the meeting.*



8.55 pm Cr Conlan left the meeting.  
8.55 pm Cr Conlan returned to the meeting.  
8.57 pm Cr Tapinos returned to the meeting.

## Motion

### Cr Riley moved, Cr Pulford seconded -

That a Notice of Decision to Grant an Amended Planning Permit for Planning Permit No. MPS/2015/175/B be issued for the construction of a building and reduction to the standard car parking requirement at 8 Florence Street, Brunswick, subject to the following conditions (*new or changes to existing conditions bolded*):

1. **Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions, and must be generally in accordance with the plans prepared by Six Degrees (TP100-TP500), dated 25 October 2022 and advertised on 5 December 2022, but modified to show:**
  - a) **Changes as depicted in the Discussion Plans received on 21 February 2023, including:**
    - i. **A reduction to the parapet height of the western 'bookend' portion of the development on the south-western corner by 700mm to match the parapet height of the eastern part of the development**
    - ii. **Removal of the internalised study spaces associated with Units 301 and 401 and replaced with external balcony areas; and**
    - iii. **Additional facade openings to the balcony areas of Units 301 and 401.**
  - b) **The southern interface of Levels 3 and 4 of the western 'bookend' balcony element provided with greater openness as viewed from Florence Street. This could be achieved through the provision of a larger single or multiple opening at each level, or an alternative lightweight vertical balcony framing design.**
  - c) **The projecting Juliette balcony rails associated with the southern elevation (western 'balcony bookend' portion) reduced in depth to protrude no more than 100mm from the building facade.**
  - d) **Detailed facade elevations (with dimensions) at a scale of 1:20 for the south-facing lower levels fronting Florence Street and west-facing lower-level interface with the Upfield Shared Path. These elevations are to include detail relating to openings, services and external finishes & treatments. Any services on the facade must be highly concealed and treated to integrate with the building architecture.**
  - e) **Creeping vegetation applied to the western and southern facades of the western 'bookend' portion of the development, to be supported by the necessary landscaping services at either ground or rooftop level.**
  - f) **A Landscape Plan in accordance with Condition 3 of this permit, including any modifications required to align with this plan.**
  - g) **A Waste Management Plan in accordance with Condition 10 of this permit, including any modifications required to align with this plan.**
  - h) **The Environmentally Sustainable Design initiatives that are required to be shown on plans, as contained within the amended Sustainability Management Plan required by Condition 5 of this permit.**
  - i) **A Public Works Plan in accordance with Condition 49 of this permit, including any modifications required to align with this plan.**

- j) **An Accessibility Report in accordance with Condition 8 of this permit, including any modifications required to align with this plan.**
  - k) **An Acoustic Report in accordance with Condition 11 of this permit, including any modifications required to align with this plan.**
  - l) **An Amended Affordable Housing Report in accordance with Condition 51 of this permit.**
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 62.01, 62.02-1 and 62.02-2 of the Moreland Planning Scheme unless specifically noted as a permit condition.**

#### **Landscape Plan**

3. **Prior to the endorsement of plans, a Landscape Plan must be submitted to and approved by the Responsible Authority. The landscape plan must provide for the following:**
- a) **Details of landscaping on the rooftop, within the planter boxes and on the western and southern facades of the 'bookend' part of the development**
  - b) **A schedule of all proposed planting (including numbers, size at planting, size at maturity and botanical names).**
  - c) **Advice detailing how the landscaping will be constructed, accommodated and maintained, including areas required for planting, drainage and irrigation.**

**When submitted and approved to the satisfaction of the Responsible Authority, the Landscape Plan will be endorsed to form part of this permit.**

**All works must be undertaken in accordance with the endorsed Landscape Plan to the satisfaction of the Responsible Authority. No alterations to the Landscape Plan may occur without written consent of the Responsible Authority.**

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

#### **Environmentally Sustainable Development (ESD)**

5. **Prior to the endorsement of plans, an amended Sustainable 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 prepared by Arup dated 27 January 2023 but modified to include the following changes:**

- a) **Preliminary NatHERS ratings and modelling for all dwellings (or all to be thermally represented) as per the NatHERS discussion within the SMP, which achieves an average NatHERS rating of at least 7.6 Stars for all dwellings. The modelling is to be performed by an accredited NatHERS assessor and contain complete cooling loads, heating loads, star ratings and proposed building fabric.**
- b) **Additional information about the commercial properties demonstrating the NCC 2019 Section 8 & 10 per cent improvement achieved by building fabric.**

- c) **The latest BESS report (dated 31 January 2023) included as a complete report.**
- d) **The architectural plans amended to include:**
  - i. **An ESD table on the plans for items that cannot be drawn e.g. NatHERS, tap and cooling/heating ratings, etc.**
  - ii. **The stormwater catchment plan as per the SMP and stormwater management response.**
  - iii. **The material and colour schedule to refer to the materials within the SMP (such as reclaimed timber floorboards, ultra-low VOC paints, etc).**
- e) **The stormwater management response to include the following:**
  - i. **An electronic copy of the MUSIC model which meets the requirements of Clause 53.18 and best practice stormwater management requirements (the best practice environmental guidelines for urban stormwater, BPEMG). The model is to include the rainwater tank reuse rates as per the development proposal. The detention tank within the model must not include any pollutant reductions (such as reduction of total suspended solids, phosphorus, nitrogen or gross pollutants).**

**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.**

- 6. **Prior to the issue of a Statement of Compliance or Certificate(s) of Occupancy whichever occurs first, all works must be undertaken in accordance with the endorsed Sustainable Management Plan report to the satisfaction of the Responsible Authority. No alterations to these plans may occur without the written consent of the Responsible Authority.**
- 7. **Prior to the issue of Certificate of Occupancy or Statement of Compliance, whichever comes first, of any dwelling approved under this permit, a report from the author of the Sustainable 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 (and include evidence) that all measures specified in the SMP have been implemented in accordance with the approved plan. It must also confirm the site achieved the required 5 star Green Star rating.**

### **Accessibility Report**

8. **Prior to the endorsement of plans an Accessibility Report must be prepared by a suitably qualified person detailing how the development will incorporate adaptable, accessible and visitable design features in accordance with the Silver Performance Level of the *Liveable Housing Design Guidelines 2012*. A minimum of nine adaptable dwellings pursuant to the requirements of Clause 58 Standard D17 must be provided, with the Accessibility Report confirming compliance. The recommendations of the report must be implemented to the satisfaction of the Responsible Authority prior to the occupation of the development. No alterations to the plan may occur without the written consent of the responsible authority.**
9. Prior to the occupation of any dwelling approved under this permit, a report from the author of the Accessibility Report, approved pursuant to this permit, or similar qualified person or company, must be submitted to the Responsible Authority. This report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the endorsed accessibility report have been implemented.

### **Waste Management**

10. **Prior to the endorsement of plans a Waste Management Plan (WMP) must be submitted to the satisfaction of the Responsible Authority. When submitted and approved to the satisfaction of the Responsible Authority, the WMP will be endorsed to form part of this permit. No alterations to the WMP may occur without the written consent of the Responsible Authority.**

### **Noise Attenuation**

11. **Prior to the endorsement of plans, an amended Acoustic Report prepared by a qualified Acoustic Engineer must be submitted to the satisfaction of the Responsible Authority, and must detail how construction methods and materials will limit noise from the railway line, including potential noise from the elevated rail project. When submitted and approved to the satisfaction of the Responsible Authority, the Acoustic Report will be endorsed to form part of this permit. No alterations to the Acoustic Report may occur without the written consent of the Responsible Authority.**
12. 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
13. 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.

### **Environmental Audit**

14. **Before the construction or carrying out of buildings and works, 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.
15. 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.
  16. 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).
  17. 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.
  18. 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 14, 15 and 16 of this permit are satisfied.
  19. 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.
  20. Where a preliminary risk screen assessment has satisfied Condition 14 (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.

### **Civil Engineering and General Amenity**

21. Prior to the commencement of the development, a legal point of discharge is to be obtained, and where required, a stormwater drainage plan showing how the site will be drained from the property boundary to the stated point of discharge, must be submitted to and approved by the Responsible Authority.
22. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority (Moreland City Council, City Infrastructure Department).
23. Prior to the occupation of the development, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.
24. Prior to the occupation of the development all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land (including all existing and new buildings) must be underground to the satisfaction of the Responsible Authority.
25. 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 (Note: Please contact Moreland City Council, City Infrastructure Department).
26. Prior to the issuing of Statement of Compliance or occupation of the development, whichever occurs first, all visual screening measures shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. All visual screening and measures to prevent overlooking must be maintained to the satisfaction of the Responsible Authority. Any screening measure that is removed or unsatisfactorily maintained must be replaced to the satisfaction of the Responsible Authority.
27. A letterbox must be provided for each of the premises at the street frontage. The dimensions, placement and numbering must comply with the Australia Post – Letterbox Security and Specification as published on its website to the satisfaction of the Responsible Authority.
28. An automatic light must be installed and maintained in the parking area so that a light operates automatically when a vehicle enters or leaves the land between dusk and dawn and no direct light is emitted onto adjoining property.
29. The surface of all balconies and terraces are to be sloped to collect the stormwater run-off into stormwater drainage pipes that connect into the underground drainage system of the development to the satisfaction of the Responsible Authority.
30. All stormwater from the land, where it is not collected in rainwater tanks for re-use, must be collected by an underground pipe drain approved by and to the satisfaction of the Responsible Authority (Moreland City Council, City Infrastructure Department).
31. Stormwater from the land must not be directed to the surface of the right-of-way to the satisfaction of the Responsible Authority.
32. 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).

### **Melbourne Water Condition**

33. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.

### **VicTrack Conditions**

34. Prior to the development commences, the owner of the land must enter into an Agreement with the Responsible Authority and VicTrack pursuant to Section 173 of the Planning and Environment Act 1987. The cost of the preparation, lodgement and registration of the Agreement shall be borne totally by the owner on the land. The Agreement must be registered on the certificate of title for the common property on the land and shall require that the common property ground floor openings to the Upfield Bike Corridor be closed if required for the future development of this corridor.
35. All railway infrastructure (including overhead power and supporting infrastructure for trains) must not be interfered with or damaged during the construction period. Any damage to railway infrastructure as a consequence of the construction period must be rectified to the satisfaction of VicTrack, PTV and the Accredited Rail Operator at the full cost of the permit holder.
36. All reasonable steps must be taken to ensure that there is no disruption to train services. Any foreseen disruption to the rail operation during the construction period requires the approval of the Accredited Rail Operator.
37. No entry onto railway land is permitted without the written consent of the Accredited Rail Operator and the common boundary with VicTrack land must be fenced at the owner's expense to prohibit access to the rail corridor.
38. No drainage or effluent must enter VicTrack land and must be connected to the legal point of discharge.
39. The legal point of access is to be facing Florence Street, and not considered by virtue of any implied or actual access consent, to be the VicTrack land.
40. Any wall / fence to be built on the railway reserve boundary must be cleaned and finished using a graffiti proof finish to prevent or reduce the potential for graffiti. The body corporate or owner to ensure that any graffiti which appears on the wall must be cleaned or removed as soon as practicable to the satisfaction of the Responsible Authority. The cost of any clean-up or removal of the graffiti from the wall must be paid for by the developer and/or future owners of the land.
41. No excavation, filling or construction must take place on the common boundary between the subject land and VicTrack land without the prior approval of VicTrack and the Accredited Rail Operator.
42. No waste, soil or other materials from the works are to be stored or deposited on VicTrack land.
43. All works, including hoardings, must be undertaken within the subject land and must not encroach onto VicTrack land.
44. No lighting is to be erected (permanent or temporary) that spills light onto the railway tracks or which interferes with the visibility of signals and rail lines by train drivers to the satisfaction of the Accredited Rail Operator
45. Building materials (including glass/window treatments) along the rail corridor must be non-reflective and avoid red and green colour schemes that may interfere with driver operations to the satisfaction of the Accredited Rail Operator.
46. Plant and tree species must be of the type that will not cause any future overhang onto VicTrack land or disturbance of public transport operations.
47. No permanent or temporary ground anchors are permitted within VicTrack land.
48. All reasonable steps (including appropriate screening to balconies) must be taken to ensure that objects cannot be projected into the VicTrack land to the satisfaction of the Responsible Authority.

### **Public Works Plan**

49. Prior to the commencement of the development, a Public Works Plan (PWP) and associated construction drawing specifications detailing the works to the land at the front of the site in Sydney Road and to the east of the site in Irrelach Lane must be submitted to the satisfaction of the Responsible Authority. The PWP 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.
  - f) Any necessary drainage works.
  - g) The installation of bike hoops provided with graffiti-resistant surfaces.
  - h) The construction of a pram crossing adjacent to the south-west corner of the site.
  - i) The provision of other works and street furniture including seating (where practicable), which is to be provided with graffiti-resistant surfaces.
  - j) The provision of new street tree planting in Florence Street in appropriate locations in front of the site (where practicable), with the number of trees maximised based on the space available, in consultation with the Responsible Authority (Open Space Unit).

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.

50. 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.

#### **Affordable Housing**

51. Prior to the endorsement of plans, an amended Affordable Housing Report must be submitted to and approved by the Responsible Authority. The report must be generally in accordance with the Affordable Housing Report prepared by Urbanxchange and dated January 2023, but modified to:
- a) Reference the updated development as approved by this permit;



- b) Reference the amended Affordable Housing Offer of a minimum of three (3) dwellings or 10 per cent of the total number of dwellings (rounded up) to the nearest whole number transferred to a Registered Housing Agency as 'Affordable Dwellings', or as otherwise agreed by the Responsible Authority. Each dwelling is to be sold at no more than 90 per cent of the 'Market Price' as applicable to the balance of dwellings within the development;
  - c) Define 'Market Price' as the 'at cost' purchase price of dwellings as per the developer's not-for-profit model – i.e. the price at which the dwellings will be sold so as to cover what it costs to procure, design, manage and construct the dwellings;
  - d) Set out a minimum tenure for the 'Affordable Dwellings' of 20 years from first occupation, unless otherwise agreed with the Responsible Authority.
  - e) The 'Affordable Dwellings' will provide social housing in accordance with requirements of the Housing Act ,1983, or Affordable Housing (as defined by the Planning & Environment Act 1987) unless otherwise agreed with the Responsible Authority.
52. Prior to the commencement of construction or carrying out of works (other than demolition of existing buildings and structures, removal of vegetation and site investigation works to determine the level of contamination on the land, and remediation works), an agreement under Section 173 of the Planning and Environment Act 1987 must be entered into between the owner(s) of the land and the Responsible Authority in a form satisfactory to the Responsible Authority providing for the following:
- a) The owner covenants, acknowledges and agrees with Council to:
    - i. Provide ownership of no less than three (3) dwellings or 10 per cent of the total number of dwellings (rounded up to the nearest whole number) approved on the site to be transferred as 'Affordable Dwellings' to a Registered Housing Agency, or as otherwise agreed by the Responsible Authority. Each dwelling is to be sold at no more than 90 per cent of the 'Market Price' as relevant to the balance of dwellings within the development, and as defined in the endorsed Affordable Housing Report required by Condition 51 of the Permit.
    - ii. Each affordable dwelling is to be subject to a condition on title that it is to be used to deliver either social housing (as defined by the Housing Act 1983) or Affordable Housing (as defined by the Planning & Environment Act 1987) or Affordable Housing (as defined by the Planning & Environment Act 1987) for a minimum period of 20 years after first occupation, unless otherwise agreed with the Responsible Authority.
    - iii. All dwellings on site must be delivered, managed, leased and sold in accordance with the endorsed Affordable Housing Report required by Condition 51 of the permit;
    - iv. Construct the Affordable Housing on the subject land in a continuous, proper and workmanlike manner, strictly in accordance with:
      - The Plans and Specifications;
      - All applicable laws;
      - The terms of applicable permits and approvals; and

- Using all due care and skill.
- v. Complete delivery of its Affordable Housing commitments under this Agreement by:
  - Providing good titles to the Registered Housing Agency including all necessary title documents in registerable form pursuant to Clause a); or
  - Fully performing its contractual commitments under Clause a) iii.
- b) The owner must comply with Clause (a)(i) and (a)(ii) within six months of the last to occur of:
  - i. Registration of the plan of subdivision which creates the Affordable Housing Lots; and
  - ii. Completion of construction of the Affordable Housing, as signified by the issuing of an occupancy permit by a licensed building surveyor for each of the lots comprising the Affordable Housing.

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

**Section 173 Agreement – Public asset/pedestrian access/indemnify AND Off-site car parking**

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

**Public asset/pedestrian access/indemnify**

- a) Unrestricted public pedestrian access through the ground-level setback and circulation area marked ‘pedestrian access’ on TP100 (immediately adjacent to the Upfield Shared Path) for 24 hours a day (365 days a year) unless otherwise agreed to by the Responsible Authority.
- b) The owners of the land to indemnify the Merri-bek City Council against any claims associated with the use of the circulation area and responsibility for the on-going maintenance of the areas.

**Off-site car parking**

- c) Confirmation of three off-street car parking spaces located on another site, conveniently located for the regular use of occupants or tenants of the development hereby permitted, unless otherwise agreed to by the Responsible Authority;
- d) Within three months of the occupation of the building, evidence of the off-site, off-street car parking spaces must be provided to the satisfaction of the Responsible Authority;
- e) The Owners Corporation must keep records of the off-site car parking spaces and make these records available to the Responsible Authority upon request;
- f) Should the location of the off-site, off-street car parking spaces need to change, the new location shall be to the satisfaction of the Responsible Authority.

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

### **Green Travel Plan**

54. Prior to the endorsement of plans, a Green Travel Plan prepared by a suitably qualified professional must be submitted to the satisfaction of the Responsible. The Green Travel Plan must identify methods to promote travel to the site by means other than private vehicle, to the satisfaction of the Responsible Authority. Among other initiatives, the Green Travel Plan must:
- a) Impose a levy on residential occupants who own motor vehicles and cannot provide evidence of secure off-street parking (ie. those residents who own vehicles and park on-street).
  - b) Provide for the annual reporting to the Owners Corporation of off-site private car parking spaces leased pursuant to the requirements of Condition 55. This reporting must be made available to the Responsible Authority upon request.

When approved to the satisfaction of the Responsible Authority, the Green Travel Plan will be endorsed to form part of this permit. No alterations to the Green Travel Plan may occur without the written consent of the Responsible Authority.

### **3D Model**

55. 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.

### **Retention of Architect**

56. Six Degrees Architects 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.

### **Development Contributions**

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

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

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

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

### **Permit Expiry**

**58.** 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:

- 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 has been corrected pursuant to Section 71 of the *Planning and Environment Act 1987* on 21/7/2020 to correctly state condition 1(e) of the planning permit as no amendment was made to this condition in MPS/2015/175/A.

#### **Note 2:**

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

#### **Note 3:**

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

#### **Note 4:**

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.

**Lost**

Cr Pavlidis called for a division on the amendment.

#### **For**

Cr Riley  
Cr Panopoulos  
Cr Pulford

#### **Against**

Cr Pavlidis  
Cr Conlan  
Cr Davidson

Cr Tapinos

Cr Bolton

Cr Yildiz

Cr Harte

**Total For (4)**

**Total Against (6)**

## **Procedural motion**

**Cr Pavlidis moved, Cr Davidson seconded –**

**That the meeting be adjourned at 9.20 pm for up to 15 minutes.**

**Carried**

*The meeting resumed at 9.31 pm.*

## **Resolution**

**Cr Bolton moved, Cr Conlan seconded -**

**That a Notice of Decision to Grant an Amended Planning Permit for Planning Permit No. MPS/2015/175/B be issued for the construction of a building and reduction to the standard car parking requirement at 8 Florence Street, Brunswick, subject to the following conditions (*new or changes to existing conditions bolded*):**

- 1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions, and must be generally in accordance with the plans prepared by Six Degrees (TP100-TP500), dated 25 October 2022 and advertised on 5 December 2022, but modified to show:**
  - a) Changes as depicted in the Discussion Plans received on 21 February 2023, including:**
    - i. A reduction to the parapet height of the western ‘bookend’ portion of the development on the south-western corner by 700mm to match the parapet height of the eastern part of the development**
    - ii. Removal of the internalised study spaces associated with Units 301 and 401 and replaced with external balcony areas; and**
    - iii. Additional facade openings to the balcony areas of Units 301 and 401.**
  - b) The southern interface of Levels 3 and 4 of the western ‘bookend’ balcony element provided with greater openness as viewed from Florence Street. This could be achieved through the provision of a larger single or multiple opening at each level, or an alternative lightweight vertical balcony framing design.**
  - c) The projecting Juliette balcony rails associated with the southern elevation (western ‘balcony bookend’ portion) reduced in depth to protrude no more than 100mm from the building facade.**
  - d) Detailed facade elevations (with dimensions) at a scale of 1:20 for the south-facing lower levels fronting Florence Street and west-facing lower-level interface with the Upfield Shared Path. These elevations are to include detail relating to openings, services and external finishes & treatments. Any services on the facade must be highly concealed and treated to integrate with the building architecture.**
  - e) Creeping vegetation applied to the western and southern facades of the western ‘bookend’ portion of the development, to be supported by the necessary landscaping services at either ground or rooftop level.**

- f) **A Landscape Plan in accordance with Condition 3 of this permit, including any modifications required to align with this plan.**
  - g) **A Waste Management Plan in accordance with Condition 10 of this permit, including any modifications required to align with this plan.**
  - h) **The Environmentally Sustainable Design initiatives that are required to be shown on plans, as contained within the amended Sustainability Management Plan required by Condition 5 of this permit.**
  - i) **A Public Works Plan in accordance with Condition 49 of this permit, including any modifications required to align with this plan.**
  - j) **An Accessibility Report in accordance with Condition 8 of this permit, including any modifications required to align with this plan.**
  - k) **An Acoustic Report in accordance with Condition 11 of this permit, including any modifications required to align with this plan.**
  - l) **An Amended Affordable Housing Report in accordance with Condition 51 of this permit.**
  - m) **Deletion on Level 6 and associated reconfiguration of Level 5 (reduction of dwelling numbers as necessary) to result in a maximum building height of 20.5m, without reducing any other setbacks.**
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 62.01, 62.02-1 and 62.02-2 of the Moreland Planning Scheme unless specifically noted as a permit condition.**

**Landscape Plan**

3. **Prior to the endorsement of plans, a Landscape Plan must be submitted to and approved by the Responsible Authority. The landscape plan must provide for the following:**
- a) **Details of landscaping on the rooftop, within the planter boxes and on the western and southern facades of the 'bookend' part of the development**
  - b) **A schedule of all proposed planting (including numbers, size at planting, size at maturity and botanical names).**
  - c) **Advice detailing how the landscaping will be constructed, accommodated and maintained, including areas required for planting, drainage and irrigation.**

**When submitted and approved to the satisfaction of the Responsible Authority, the Landscape Plan will be endorsed to form part of this permit.**

**All works must be undertaken in accordance with the endorsed Landscape Plan to the satisfaction of the Responsible Authority. No alterations to the Landscape Plan may occur without written consent of the Responsible Authority.**

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

## **Environmentally Sustainable Development (ESD)**

5. **Prior to the endorsement of plans, an amended Sustainable 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 prepared by Arup dated 27 January 2023 but modified to include the following changes:**
  - a) **Preliminary NatHERS ratings and modelling for all dwellings (or all to be thermally represented) as per the NatHERS discussion within the SMP, which achieves an average NatHERS rating of at least 7.6 Stars for all dwellings. The modelling is to be performed by an accredited NatHERS assessor and contain complete cooling loads, heating loads, star ratings and proposed building fabric.**
  - b) **Additional information about the commercial properties demonstrating the NCC 2019 Section & 10 per cent improvement achieved by building fabric.**
  - c) **The latest BESS report (dated 31 January 2023) included as a complete report.**
  - d) **The architectural plans amended to include:**
    - i. **An ESD table on the plans for items that cannot be drawn e.g. NatHERS, tap and cooling/heating ratings, etc.**
    - ii. **The stormwater catchment plan as per the SMP and stormwater management response.**
    - iii. **The material and colour schedule to refer to the materials within the SMP (such as reclaimed timber floorboards, ultra-low VOC paints, etc).**
  - e) **The stormwater management response to include the following:**
    - i. **An electronic copy of the MUSIC model which meets the requirements of Clause 53.18 and best practice stormwater management requirements (the best practice environmental guidelines for urban stormwater, BPEMG). The model is to include the rainwater tank reuse rates as per the development proposal. The detention tank within the model must not include any pollutant reductions (such as reduction of total suspended solids, phosphorus, nitrogen or gross pollutants).**

**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.**

6. **Prior to the issue of a Statement of Compliance or Certificate(s) of Occupancy whichever occurs first, all works must be undertaken in accordance with the endorsed Sustainable Management Plan report to the satisfaction of the Responsible Authority. No alterations to these plans may occur without the written consent of the Responsible Authority.**
7. **Prior to the issue of Certificate of Occupancy or Statement of Compliance, whichever comes first, of any dwelling approved under this permit, a report from the author of the Sustainable 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 (and include evidence) that all measures specified in the SMP have been implemented in accordance with the approved plan. It must also confirm the site achieved the required 5 star Green Star rating.

#### **Accessibility Report**

8. Prior to the endorsement of plans an Accessibility Report must be prepared by a suitably qualified person detailing how the development will incorporate adaptable, accessible and visitable design features in accordance with the Silver Performance Level of the *Liveable Housing Design Guidelines 2012*. A minimum of nine adaptable dwellings pursuant to the requirements of Clause 58 Standard D17 must be provided, with the Accessibility Report confirming compliance. The recommendations of the report must be implemented to the satisfaction of the Responsible Authority prior to the occupation of the development. No alterations to the plan may occur without the written consent of the responsible authority.
9. Prior to the occupation of any dwelling approved under this permit, a report from the author of the Accessibility Report, approved pursuant to this permit, or similar qualified person or company, must be submitted to the Responsible Authority. This report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the endorsed accessibility report have been implemented.

#### **Waste Management**

10. Prior to the endorsement of plans a Waste Management Plan (WMP) must be submitted to the satisfaction of the Responsible Authority. When submitted and approved to the satisfaction of the Responsible Authority, the WMP will be endorsed to form part of this permit. No alterations to the WMP may occur without the written consent of the Responsible Authority.

#### **Noise Attenuation**

11. Prior to the endorsement of plans, an amended Acoustic Report prepared by a qualified Acoustic Engineer must be submitted to the satisfaction of the Responsible Authority, and must detail how construction methods and materials will limit noise from the railway line, including potential noise from the elevated rail project. When submitted and approved to the satisfaction of the Responsible Authority, the Acoustic Report will be endorsed to form part of this permit. No alterations to the Acoustic Report may occur without the written consent of the Responsible Authority.
12. 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
13. 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.



## Environmental Audit

14. Before the construction or carrying out of buildings and works, 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.
15. 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.
16. 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).
17. 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.
18. 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 14, 15 and 16 of this permit are satisfied.
19. 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.

20. Where a preliminary risk screen assessment has satisfied Condition 14 (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.

#### **Civil Engineering and General Amenity**

21. Prior to the commencement of the development, a legal point of discharge is to be obtained, and where required, a stormwater drainage plan showing how the site will be drained from the property boundary to the stated point of discharge, must be submitted to and approved by the Responsible Authority.
22. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority (Moreland City Council, City Infrastructure Department).
23. Prior to the occupation of the development, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.
24. Prior to the occupation of the development all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land (including all existing and new buildings) must be underground to the satisfaction of the Responsible Authority.
25. 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 (Note: Please contact Moreland City Council, City Infrastructure Department).
26. Prior to the issuing of Statement of Compliance or occupation of the development, whichever occurs first, all visual screening measures shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. All visual screening and measures to prevent overlooking must be maintained to the satisfaction of the Responsible Authority. Any screening measure that is removed or unsatisfactorily maintained must be replaced to the satisfaction of the Responsible Authority.
27. A letterbox must be provided for each of the premises at the street frontage. The dimensions, placement and numbering must comply with the Australia Post – Letterbox Security and Specification as published on its website to the satisfaction of the Responsible Authority.
28. An automatic light must be installed and maintained in the parking area so that a light operates automatically when a vehicle enters or leaves the land between dusk and dawn and no direct light is emitted onto adjoining property.
29. The surface of all balconies and terraces are to be sloped to collect the stormwater run-off into stormwater drainage pipes that connect into the underground drainage system of the development to the satisfaction of the Responsible Authority.

30. All stormwater from the land, where it is not collected in rainwater tanks for re-use, must be collected by an underground pipe drain approved by and to the satisfaction of the Responsible Authority (Moreland City Council, City Infrastructure Department).
31. Stormwater from the land must not be directed to the surface of the right-of-way to the satisfaction of the Responsible Authority.
32. 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).

#### **Melbourne Water Condition**

33. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.

#### **VicTrack Conditions**

34. Prior to the development commences, the owner of the land must enter into an Agreement with the Responsible Authority and VicTrack pursuant to Section 173 of the Planning and Environment Act 1987. The cost of the preparation, lodgement and registration of the Agreement shall be borne totally by the owner on the land. The Agreement must be registered on the certificate of title for the common property on the land and shall require that the common property ground floor openings to the Upfield Bike Corridor be closed if required for the future development of this corridor.
35. All railway infrastructure (including overhead power and supporting infrastructure for trains) must not be interfered with or damaged during the construction period. Any damage to railway infrastructure as a consequence of the construction period must be rectified to the satisfaction of VicTrack, PTV and the Accredited Rail Operator at the full cost of the permit holder.
36. All reasonable steps must be taken to ensure that there is no disruption to train services. Any foreseen disruption to the rail operation during the construction period requires the approval of the Accredited Rail Operator.
37. No entry onto railway land is permitted without the written consent of the Accredited Rail Operator and the common boundary with VicTrack land must be fenced at the owner's expense to prohibit access to the rail corridor.
38. No drainage or effluent must enter VicTrack land and must be connected to the legal point of discharge.
39. The legal point of access is to be facing Florence Street, and not considered by virtue of any implied or actual access consent, to be the VicTrack land.
40. Any wall / fence to be built on the railway reserve boundary must be cleaned and finished using a graffiti proof finish to prevent or reduce the potential for graffiti. The body corporate or owner to ensure that any graffiti which appears on the wall must be cleaned or removed as soon as practicable to the satisfaction of the Responsible Authority. The cost of any clean-up or removal of the graffiti from the wall must be paid for by the developer and/or future owners of the land.
41. No excavation, filling or construction must take place on the common boundary between the subject land and VicTrack land without the prior approval of VicTrack and the Accredited Rail Operator.
42. No waste, soil or other materials from the works are to be stored or deposited on VicTrack land.

43. All works, including hoardings, must be undertaken within the subject land and must not encroach onto VicTrack land.
44. No lighting is to be erected (permanent or temporary) that spills light onto the railway tracks or which interferes with the visibility of signals and rail lines by train drivers to the satisfaction of the Accredited Rail Operator
45. Building materials (including glass/window treatments) along the rail corridor must be non-reflective and avoid red and green colour schemes that may interfere with driver operations to the satisfaction of the Accredited Rail Operator.
46. Plant and tree species must be of the type that will not cause any future overhang onto VicTrack land or disturbance of public transport operations.
47. No permanent or temporary ground anchors are permitted within VicTrack land.
48. All reasonable steps (including appropriate screening to balconies) must be taken to ensure that objects cannot be projected into the VicTrack land to the satisfaction of the Responsible Authority.

#### **Public Works Plan**

49. Prior to the commencement of the development, a Public Works Plan (PWP) and associated construction drawing specifications detailing the works to the land at the front of the site in Sydney Road and to the east of the site in Irrelach Lane must be submitted to the satisfaction of the Responsible Authority. The PWP 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.
  - f) Any necessary drainage works.
  - g) The installation of bike hoops provided with graffiti-resistant surfaces.
  - h) The construction of a pram crossing adjacent to the south-west corner of the site.
  - i) The provision of other works and street furniture including seating (where practicable), which is to be provided with graffiti-resistant surfaces.
  - j) The provision of new street tree planting in Florence Street in appropriate locations in front of the site (where practicable), with the number of trees maximised based on the space available, in consultation with the Responsible Authority (Open Space Unit).

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.

50. 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.

#### Affordable Housing

51. Prior to the endorsement of plans, an amended Affordable Housing Report must be submitted to and approved by the Responsible Authority. The report must be generally in accordance with the Affordable Housing Report prepared by Urbanxchange and dated January 2023, but modified to:

- a) Reference the updated development as approved by this permit;
- b) Reference the amended Affordable Housing Offer of a minimum of three (3) dwellings or 10 per cent of the total number of dwellings (rounded up) to the nearest whole number transferred to a Registered Housing Agency as 'Affordable Dwellings', or as otherwise agreed by the Responsible Authority. Each dwelling is to be sold at no more than 90 per cent of the 'Market Price' as applicable to the balance of dwellings within the development;
- c) Define 'Market Price' as the 'at cost' purchase price of dwellings as per the developer's not-for-profit model – i.e. the price at which the dwellings will be sold so as to cover what it costs to procure, design, manage and construct the dwellings;
- d) Set out a minimum tenure for the 'Affordable Dwellings' of 20 years from first occupation, unless otherwise agreed with the Responsible Authority.
- e) The 'Affordable Dwellings' will provide social housing in accordance with requirements of the Housing Act ,1983, or Affordable Housing (as defined by the Planning & Environment Act 1987) unless otherwise agreed with the Responsible Authority.

52. Prior to the commencement of construction or carrying out of works (other than demolition of existing buildings and structures, removal of vegetation and site investigation works to determine the level of contamination on the land, and remediation works), an agreement under Section 173 of the Planning and Environment Act 1987 must be entered into between the owner(s) of the land and the Responsible Authority in a form satisfactory to the Responsible Authority providing for the following:

- a) The owner covenants, acknowledges and agrees with Council to:
  - i. Provide ownership of no less than three (3) dwellings or 10 per cent of the total number of dwellings (rounded up to the nearest whole number) approved on the site to be transferred as 'Affordable Dwellings' to a Registered Housing Agency, or as otherwise agreed by the Responsible Authority. Each dwelling is to be sold at no more than 90 per cent of the 'Market Price' as relevant to the balance of dwellings within the development, and as defined in the endorsed Affordable Housing Report required by Condition 51 of the Permit.

- ii. Each affordable dwelling is to be subject to a condition on title that it is to be used to deliver either social housing (as defined by the Housing Act 1983) or Affordable Housing (as defined by the Planning & Environment Act 1987) or Affordable Housing (as defined by the Planning & Environment Act 1987) for a minimum period of 20 years after first occupation, unless otherwise agreed with the Responsible Authority.
  - iii. All dwellings on site must be delivered, managed, leased and sold in accordance with the endorsed Affordable Housing Report required by Condition 51 of the permit;
  - iv. Construct the Affordable Housing on the subject land in a continuous, proper and workmanlike manner, strictly in accordance with:
    - The Plans and Specifications;
    - All applicable laws;
    - The terms of applicable permits and approvals; and
    - Using all due care and skill.
  - v. Complete delivery of its Affordable Housing commitments under this Agreement by:
    - Providing good titles to the Registered Housing Agency including all necessary title documents in registerable form pursuant to Clause a); or
    - Fully performing its contractual commitments under Clause a) iii.
- b) The owner must comply with Clause (a)(i) and (a)(ii) within six months of the last to occur of:
- i. Registration of the plan of subdivision which creates the Affordable Housing Lots; and
  - ii. Completion of construction of the Affordable Housing, as signified by the issuing of an occupancy permit by a licensed building surveyor for each of the lots comprising the Affordable Housing.

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

**Section 173 Agreement – Public asset/pedestrian access/indemnify AND Off-site car parking**

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

**Public asset/pedestrian access/indemnify**

- a) Unrestricted public pedestrian access through the ground-level setback and circulation area marked 'pedestrian access' on TP100 (immediately adjacent to the Upfield Shared Path) for 24 hours a day (365 days a year) unless otherwise agreed to by the Responsible Authority.
- b) The owners of the land to indemnify the Merri-bek City Council against any claims associated with the use of the circulation area and responsibility for the on-going maintenance of the areas.

### **Off-site car parking**

- c) Confirmation of three off-street car parking spaces located on another site, conveniently located for the regular use of occupants or tenants of the development hereby permitted, unless otherwise agreed to by the Responsible Authority;**
- d) Within three months of the occupation of the building, evidence of the off-site, off-street car parking spaces must be provided to the satisfaction of the Responsible Authority;**
- e) The Owners Corporation must keep records of the off-site car parking spaces and make these records available to the Responsible Authority upon request;**
- f) Should the location of the off-site, off-street car parking spaces need to change, the new location shall be to the satisfaction of the Responsible Authority.**

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

### **Green Travel Plan**

- 54. Prior to the endorsement of plans, a Green Travel Plan prepared by a suitably qualified professional must be submitted to the satisfaction of the Responsible. The Green Travel Plan must identify methods to promote travel to the site by means other than private vehicle, to the satisfaction of the Responsible Authority. Among other initiatives, the Green Travel Plan must:**
- a) Impose a levy on residential occupants who own motor vehicles and cannot provide evidence of secure off-street parking (ie. those residents who own vehicles and park on-street).**
  - b) Provide for the annual reporting to the Owners Corporation of off-site private car parking spaces leased pursuant to the requirements of Condition 55. This reporting must be made available to the Responsible Authority upon request.**

**When approved to the satisfaction of the Responsible Authority, the Green Travel Plan will be endorsed to form part of this permit. No alterations to the Green Travel Plan may occur without the written consent of the Responsible Authority.**

### **3D Model**

- 55. 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.**

### **Retention of Architect**

56. Six Degrees Architects 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.

### **Development Contributions**

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

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

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

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

### **Permit Expiry**

58. 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:

- 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 has been corrected pursuant to Section 71 of the *Planning and Environment Act 1987* on 21/7/2020 to correctly state condition 1(e) of the planning permit as no amendment was made to this condition in MPS/2015/175/A.

#### **Note 2:**

Should Council impose car parking restrictions in this street, the owners and/or occupiers of the land would generally not be eligible for residential or visitor parking permits to allow for on street parking. See Council's website for more



information: <https://www.moreland.vic.gov.au/living-in-moreland/parking-and-roads/changes-to-parking-in-your-area/>

**Note 3:**

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

**Note 4:**

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.

**Cr Panopoulos called for a division.**

<b>For</b>	<b>Against</b>
Cr Davidson	Cr Pulford
Cr Bolton	Cr Panopoulos
Cr Yildiz	Cr Riley
Cr Pavlidis	Cr Tapinos
Cr Conlan	
Cr Harte	
<b>Total For (6)</b>	<b>Total Against (4)</b>

**Carried**

## **URGENT BUSINESS REPORTS**

Nil.

The meeting closed at 9.40 pm.