



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 26 July 2023

The Mayor opened the meeting at 6.37 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	6.37 pm	10.05 pm
Cr Helen Davidson, Deputy Mayor	6.37 pm	10.05 pm
Cr Adam Pulford	6.37 pm	10.05 pm
Cr Annalivia Carli Hannan	6.37 pm	8.10 pm
Cr Helen Pavlidis	6.37 pm	10.05 pm
Cr James Conlan	6.37 pm	10.05 pm
Cr Lambros Tapinos	6.52 pm	10.05 pm
Cr Mark Riley	6.37 pm	10.05 pm
Cr Monica Harte	6.37 pm	10.05 pm
Cr Oscar Yildiz JP	6.44 pm	10.05 pm
Cr Sue Bolton	6.37 pm	10.05 pm

OFFICERS

Director Place and Environment – Joseph Tabacco
Group Manager City Development – Phil Priest
Unit Manager Urban Planning – Mark Hughes
Planning Coordinator – Vita Galante
Senior Urban Planner Commercial Priority – Keaton Paterson
Senior Urban Planner – Alex Osborne
Acting Director Business Transformation – Yvonne Callanan
Team Leader Governance – Naomi Ellis

APOLOGIES/LEAVE OF ABSENCE

Nil

DISCLOSURES OF CONFLICTS OF INTEREST

Nil

MINUTE CONFIRMATION

Resolution

Cr Davidson moved, Cr Riley seconded -

The minutes of the Planning and Related Matters Meeting held on 28 June 2023 be confirmed.

Carried

6.43 pm Cr Pulford left the meeting.

6.44 pm Cr Yildiz entered the meeting.

COUNCIL REPORTS

5.1 49 PARKSTONE AVENUE, PASCOE VALE SOUTH - PLANNING PERMIT APPLICATION MPS/2022/524



Property:	49 Parkstone Avenue, PASCOE VALE SOUTH			
Proposal:	Construction of two double storey dwellings.			
Zoning and Overlays:	<ul style="list-style-type: none">Neighbourhood Residential ZoneDevelopment Contributions Plan Overlay (DCPO1)			
Strategic setting:	<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		
Objections:	<ul style="list-style-type: none">32 objections.Key issues:<ul style="list-style-type: none">Traffic, parking and vehicle accessNeighbourhood characterOverdevelopment/amenity impacts			
Planning Information and Discussion (PID) Meeting:	<ul style="list-style-type: none">Date PID was held: 15 May 2023Attendees: 15 objectors; Councillors Bolton, Yildiz, Harte and Mayor Panopoulos; two Council planning officersThe meeting provided an opportunity for the objectors concerns to be heard by Council and the applicant.Discussion Plans were received following the meeting. Changes that address issues raised at the PID meeting include:<ul style="list-style-type: none">Water tanks and sheds moved off the rear easement.The reduced size of the upper level.The removal of part of the roof of the carport.Rear alfresco areas setback off boundaries and lowered.Detail of vehicle turning circle to access Dwelling 1.			

ESD:	<ul style="list-style-type: none"> • Minimum average NatHERS rating of 6.5 stars.
Key reasons for support:	<ul style="list-style-type: none"> • The two dwelling proposal, as amended by the conditions in the recommendation fits within the character of the existing neighbourhood and has little impact on the neighbours to the east and west. Car parking meets the requirements of the Planning Scheme.
Recommendation:	Notice of Decision to Grant a Planning Permit be issued.

Officer Recommendation

That a Notice of Decision to Grant a Planning Permit No. MPS/2022/524 be issued for the construction of two double storey dwellings at 49 Parkstone Avenue Pascoe Vale South, 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 2 March 2023 but modified to show:
 - a) Changes in accordance with Discussion Plans received on 5 June 2023, which include:
 - i. Water tanks and sheds moved off the rear easement;
 - ii. The turning circle with a minimum 4 metre radius plotted to access the new driveway;
 - iii. A minimum first floor setback of 2.4 metres to the west boundary for the bedroom 2 and bathroom of Dwelling 2;
 - iv. A minimum 1.2 metre west boundary setback of part of the roof of the carport of Dwelling 2;
 - v. The alfresco setback a minimum of 0.5 metres from east and west boundaries;
 - vi. The arbor to the Dwelling 2 alfresco removed;
 - vii. A reduced boundary fence height to a maximum of 2 metres;
 - viii. Allocation of bin storage areas for both dwellings; and
 - ix. A notation that driveway works will be supervised by a qualified arborist.
 - b) The Dwelling 1 ground floor west facing wall dimensioned as a maximum 3.9 metres high to comply with Standard B17 (side and rear setbacks) from Clause 55.04-1 of the Planning Scheme.
 - c) The carport for Dwelling 1 dimensioned as being at least 6 metres long by 3.5 metres wide (between the wall and the posts), in accordance with Clause 52.06-9 of the Planning Scheme.
 - d) The Dwelling 1 carport noted as 'no carport door to be fitted'.
 - e) The Dwelling 2 garage door dimensioned as being at least 2.8 metres wide.
 - f) The material of the Dwelling 1 carport posts to be clearly shown as metal or similar.
 - g) The material of the fascia of the Dwelling 1 carport roof to be clearly shown as render on the west elevation.

- h) The existing west side boundary fence retained.
- i) Ventilation to the waste bin area in the Dwelling 2 garage.
- j) A notation confirming that no retaining walls are required.
- k) The electricity meter boxes located adjacent the facades of dwellings, not in a standalone location in the front setback.
- l) A diagram drawn at a scale of 1:50 which details the privacy screen associated with bedroom 2 and the rumpus of both dwellings. This diagram must include:
 - i. All dimensions, including the width of slats and the gap between slats;
 - ii. All side screens; and
 - iii. How compliance is achieved with the standard of Clause 55.04-6 (overlooking) of the Merri-bek Planning Scheme.
- m) Any changes to the plans arising from the Landscape Plan in accordance with Condition 3 of this permit.
- n) Any changes which may include a reduced building footprint to the plans arising from the Tree Management Plan in accordance with Condition 6 of this permit.
- o) The Environmentally Sustainable Design initiatives that are required to be shown on plans, as contained within Condition 8 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 advertised that was prepared by Keystone Alliance dated 11 November 2022 but amended to show:
 - a) Any changes required to align with the plans for endorsement.
 - b) Strategies for the retainment of vegetation (i.e. barriers and signage during the construction process) consistent with condition 6 of this permit
 - c) Tall screening trees between the alfresco and the boundary within permeable garden beds shown in the Discussion Plans, of each dwelling.
 - d) The Yuma Crepe Myrtle in each Secluded Open Space replaced with a tree species that reaches a mature size of 6 to 8m high and 5m wide.
 - e) An amended schedule of all planting including species, number of plants, size at planting and maturity to align with the above changes.
 - f) If canopy trees are proposed within 3 metres of buildings, root barriers must be installed.
 - g) Canopy trees to be located outside of the easement, unless formal approval from the relevant authority is obtained.
 - h) Exchange the pebbles in the rear setback of Dwelling 1 with lawn or permeable paving.
 - 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, including installation of automatic irrigation, must be completed in accordance with the endorsed landscape plan to the satisfaction of the Responsible Authority.
5. All landscaping and irrigation systems must be maintained to the satisfaction of the Responsible Authority in accordance with the endorsed landscape plans. Any dead, diseased or damaged plants must be replaced with a suitable species to the satisfaction of the Responsible Authority.

Tree Protection

6. Prior to the endorsement of plans, a Tree Management Plan (TMP) must be submitted to the satisfaction of the Responsible Authority. The TMP must be prepared by a suitably qualified Arborist and make specific recommendations in accordance with the Australian Standard AS4970: 2009 - Protection of Trees on Development Sites to ensure that the street trees and trees located in neighbouring properties labelled as retained on the endorsed plans remain healthy and viable during construction. The TMP must include the following to the satisfaction of the Responsible Authority:
 - a) A tree protection plan to scale that shows:
 - i. All Tree Protection Zones (TPZ) and Structural Root Zones (SRZ). The TPZ and SRZ of Tree 10 must be based on a Diameter at Breast Height (DBH) of 65cm, or as otherwise measured by the Arborist.
 - ii. All Tree Protection Fencing.
 - iii. Areas where ground protection systems will be used.
 - iv. The type of footings within any Tree Protection Zone.
 - v. The location of services within any Tree Protection Zone
 - b) Detail the extent of encroachment of the development into the TPZ of Tree 10 and clearly describe all measures to ensure this tree will remain healthy and viable during construction, including any necessary changes to the development (e.g. building footprint reduction)
 - c) The location and design of Tree Protection Fencing.
 - d) Details of appropriate footings within the Tree Protection Zone.
 - e) The method of installing any services through the Tree Protection Zone.
 - f) Details of how the root zone within the Tree Protection Zone will be managed throughout the project.
 - g) A timetable outlining works requiring supervision by the Project Arborist.
 - h) The results of any exploratory trenching where there is encroachment (construction or excavation) greater than 10 per cent into the Tree Protection Zone (in accordance with Australian Standard AS4970:2009 - Protection of Trees on Development Sites) of any tree to be retained. This must include photographic evidence of any trenching/ excavation undertaken.
 - i) All remedial pruning works that are required to be performed during the development of the site. The pruning comments must reference Australian Standards 4373:2007, Pruning of Amenity Trees and a detailed photographic diagram specifying what pruning will occur.

- j) A maintenance schedule which details steps to maintain the health of Tree 10, including watering of the tree and the application of Seasol treatments to the remaining TPZ area to encourage new root development.

When submitted and approved to the satisfaction of the Responsible Authority, the TMP will be endorsed to form part of this permit. The recommendations of the endorsed TMP must be implemented to the satisfaction of the Responsible Authority.

- 7. 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 from the Arborist must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm (with suitable evidence, such as site photos) that construction has occurred in accordance with the Tree Management Plan and under the supervision of the Arborist.

Environmentally Sustainable Design (ESD)

- 8. 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 Frater Consulting Services, received 16/11/2022 but modified to include the following changes:
 - a) Changes associated with layout changes for the endorsed plans, including to the WSUD plans and any change to the STORM report.
 - b) Commit to solar PV systems for the development (BESS Energy 4.2, page 8 of 14).
 - c) Commit to providing electric vehicle infrastructure (BESS 2.1).
 - d) A maintenance schedule for the permeable paving.
 - e) Show the following ESD initiatives on the development plans:
 - i. The solar PV systems, as specified in the BESS Report (page 8 of 14).
 - ii. The location of 32A-40A Electric Vehicle Charging Infrastructure in each garage.
 - iii. A copy of the WSUD plan within the plan set.
 - iv. Details of the permeable paving in the form of a cross sectional drawing as per Merri-Bek WSUD guidelines.
 - v. At every mention of a rainwater tank on the plans, a notation indicating that: "The rainwater tank is collecting from all roofed area/XXXm2, servicing all toilets and connected to the washing machines."
 - vi. Double glazing 'DG' to all habitable room windows and glazed doors annotated on each individual glazing unit and specified on the material/colour schedule.
 - vii. Horizontal, fixed, external shading devices to all north facing habitable room windows and glazed doors where not located directly under an eave or overhang. Draw and label all shading on the plans and elevations. Provide a dimensioned section diagram or photograph of the shading. The depth of the device must be equal to 25 per cent of the distance from sill height to the base of the device. The device must also extend horizontally to both sides of the window or glazed door by a distance equal to the depth of the device.

- viii. External operable shading devices to all east and west facing windows and glazed doors to habitable rooms drawn and labelled on the floor plan and elevations. The devices must be operable from within the dwelling. Include a product diagram or section of the proposed device (must not be roller shutters for any street facing glazing). Ensure windows that have external adjustable shading can open when using the blind.

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.

9. 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 to the satisfaction of the Responsible Authority. No alterations to these plans may occur without the written consent of the Responsible Authority.
10. Prior to the issuing of a Certificate of Occupancy or Statement of Compliance, whichever comes first, of any dwelling approved under this permit, a Sustainable Design Assessment Post Construction 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.

Car Parking and Vehicle Access

11. 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).
12. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority (Merri-bek City Council, City Infrastructure Department).
13. 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.
14. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, the garage door must be automatic and remote controlled.

Undergrounding cables

15. 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

16. 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).

General

17. 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.
18. 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

19. 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/permit or conditions of this notice of decision/permit.

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

Note 2: 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).

6.52 pm *Cr Tapinos entered the meeting.*

6.52 pm *Cr Pulford returned to the meeting.*

Resolution

Cr Davidson moved, Cr Carli Hannan seconded -

That a Notice of Decision to Grant a Planning Permit No. MPS/2022/524 be issued for the construction of two double storey dwellings at 49 Parkstone Avenue Pascoe Vale South, 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 2 March 2023 but modified to show:**
 - a) Changes in accordance with Discussion Plans received on 5 June 2023, which include:**
 - i. Water tanks and sheds moved off the rear easement;**
 - ii. The turning circle with a minimum 4 metre radius plotted to access the new driveway;**
 - iii. A minimum first floor setback of 2.4 metres to the west boundary for the bedroom 2 and bathroom of Dwelling 2;**
 - iv. A minimum 1.2 metre west boundary setback of part of the roof of the carport of Dwelling 2;**
 - v. The alfresco setback a minimum of 0.5 metres from east and west boundaries;**
 - vi. The arbor to the Dwelling 2 alfresco removed;**
 - vii. A reduced boundary fence height to a maximum of 2 metres;**
 - viii. Allocation of bin storage areas for both dwellings; and**
 - ix. A notation that driveway works will be supervised by a qualified arborist.**
 - b) The Dwelling 1 ground floor west facing wall dimensioned as a maximum 3.9 metres high to comply with Standard B17 (side and rear setbacks) from Clause 55.04-1 of the Planning Scheme.**
 - c) The carport for Dwelling 1 dimensioned as being at least 6 metres long by 3.5 metres wide (between the wall and the posts), in accordance with Clause 52.06-9 of the Planning Scheme.**
 - d) The Dwelling 1 carport noted as 'no carport door to be fitted'.**
 - e) The Dwelling 2 garage door dimensioned as being at least 2.8 metres wide.**
 - f) The material of the Dwelling 1 carport posts to be clearly shown as metal or similar.**
 - g) The material of the fascia of the Dwelling 1 carport roof to be clearly shown as render on the west elevation.**
 - h) The existing west side boundary fence retained.**
 - i) Ventilation to the waste bin area in the Dwelling 2 garage.**
 - j) A notation confirming that no retaining walls are required.**
 - k) The electricity meter boxes located adjacent the facades of dwellings,**

not in a standalone location in the front setback.

- l) A diagram drawn at a scale of 1:50 which details the privacy screen associated with bedroom 2 and the rumpus of both dwellings. This diagram must include:**
 - i. All dimensions, including the width of slats and the gap between slats;**
 - ii. All side screens; and**
 - iii. How compliance is achieved with the standard of Clause 55.04-6 (overlooking) of the Merri-bek Planning Scheme.**
- m) Any changes to the plans arising from the Landscape Plan in accordance with Condition 3 of this permit.**
- n) Any changes which may include a reduced building footprint to the plans arising from the Tree Management Plan in accordance with Condition 6 of this permit.**
- o) The Environmentally Sustainable Design initiatives that are required to be shown on plans, as contained within Condition 8 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 advertised that was prepared by Keystone Alliance dated 11 November 2022 but amended to show:**
 - a) Any changes required to align with the plans for endorsement.**
 - b) Strategies for the retainment of vegetation (i.e. barriers and signage during the construction process) consistent with condition 6 of this permit**
 - c) Tall screening trees between the alfresco and the boundary within permeable garden beds shown in the Discussion Plans, of each dwelling.**
 - d) The Yuma Crepe Myrtle in each Secluded Open Space replaced with a tree species that reaches a mature size of 6 to 8m high and 5m wide.**
 - e) An amended schedule of all planting including species, number of plants, size at planting and maturity to align with the above changes.**
 - f) If canopy trees are proposed within 3 metres of buildings, root barriers must be installed.**
 - g) Canopy trees to be located outside of the easement, unless formal approval from the relevant authority is obtained.**
 - h) Exchange the pebbles in the rear setback of Dwelling 1 with lawn or permeable paving.**
 - 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, including installation of automatic irrigation, must be completed in accordance with the endorsed landscape plan to the satisfaction of the Responsible Authority.
5. All landscaping and irrigation systems must be maintained to the satisfaction of the Responsible Authority in accordance with the endorsed landscape plans. Any dead, diseased or damaged plants must be replaced with a suitable species to the satisfaction of the Responsible Authority.

Tree Protection

6. Prior to the endorsement of plans, a Tree Management Plan (TMP) must be submitted to the satisfaction of the Responsible Authority. The TMP must be prepared by a suitably qualified Arborist and make specific recommendations in accordance with the Australian Standard AS4970: 2009 - Protection of Trees on Development Sites to ensure that the street trees and trees located in neighbouring properties labelled as retained on the endorsed plans remain healthy and viable during construction. The TMP must include the following to the satisfaction of the Responsible Authority:
 - a) A tree protection plan to scale that shows:
 - i. All Tree Protection Zones (TPZ) and Structural Root Zones (SRZ). The TPZ and SRZ of Tree 10 must be based on a Diameter at Breast Height (DBH) of 65cm, or as otherwise measured by the Arborist.
 - ii. All Tree Protection Fencing.
 - iii. Areas where ground protection systems will be used.
 - iv. The type of footings within any Tree Protection Zone.
 - v. The location of services within any Tree Protection Zone
 - b) Detail the extent of encroachment of the development into the TPZ of Tree 10 and clearly describe all measures to ensure this tree will remain healthy and viable during construction, including any necessary changes to the development (e.g. building footprint reduction)
 - c) The location and design of Tree Protection Fencing.
 - d) Details of appropriate footings within the Tree Protection Zone.
 - e) The method of installing any services through the Tree Protection Zone.
 - f) Details of how the root zone within the Tree Protection Zone will be managed throughout the project.
 - g) A timetable outlining works requiring supervision by the Project Arborist.
 - h) The results of any exploratory trenching where there is encroachment (construction or excavation) greater than 10 per cent into the Tree Protection Zone (in accordance with Australian Standard AS4970:2009 - Protection of Trees on Development Sites) of any tree to be retained. This must include photographic evidence of any trenching/ excavation undertaken.
 - i) All remedial pruning works that are required to be performed during the development of the site. The pruning comments must reference Australian Standards 4373:2007, Pruning of Amenity Trees and a detailed photographic diagram specifying what pruning will occur.
 - j) A maintenance schedule which details steps to maintain the health of

Tree 10, including watering of the tree and the application of Seasonal treatments to the remaining TPZ area to encourage new root development.

When submitted and approved to the satisfaction of the Responsible Authority, the TMP will be endorsed to form part of this permit. The recommendations of the endorsed TMP must be implemented to the satisfaction of the Responsible Authority.

- 7. 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 from the Arborist must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm (with suitable evidence, such as site photos) that construction has occurred in accordance with the Tree Management Plan and under the supervision of the Arborist.**

Environmentally Sustainable Design (ESD)

- 8. 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 Frater Consulting Services, received 16/11/2022 but modified to include the following changes:**

- a) Changes associated with layout changes for the endorsed plans, including to the WSUD plans and any change to the STORM report.**
- b) Commit to solar PV systems for the development (BESS Energy 4.2, page 8 of 14).**
- c) Commit to providing electric vehicle infrastructure (BESS 2.1).**
- d) A maintenance schedule for the permeable paving.**
- e) Show the following ESD initiatives on the development plans:**
 - i. The solar PV systems, as specified in the BESS Report (page 8 of 14).**
 - ii. The location of 32A-40A Electric Vehicle Charging Infrastructure in each garage.**
 - iii. A copy of the WSUD plan within the plan set.**
 - iv. Details of the permeable paving in the form of a cross sectional drawing as per Merri-Bek WSUD guidelines.**
 - v. At every mention of a rainwater tank on the plans, a notation indicating that: "The rainwater tank is collecting from all roofed area/XXXm², servicing all toilets and connected to the washing machines."**
 - vi. Double glazing 'DG' to all habitable room windows and glazed doors annotated on each individual glazing unit and specified on the material/colour schedule.**
 - vii. Horizontal, fixed, external shading devices to all north facing habitable room windows and glazed doors where not located directly under an eave or overhang. Draw and label all shading on the plans and elevations. Provide a dimensioned section diagram or photograph of the shading. The depth of the device must be equal to 25 per cent of the distance from sill height to the base of the device. The device must also extend horizontally to both sides of the window or glazed door by a distance equal to the depth of**

the device.

- viii. External operable shading devices to all east and west facing windows and glazed doors to habitable rooms drawn and labelled on the floor plan and elevations. The devices must be operable from within the dwelling. Include a product diagram or section of the proposed device (must not be roller shutters for any street facing glazing). Ensure windows that have external adjustable shading can open when using the blind.

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.

9. 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 to the satisfaction of the Responsible Authority. No alterations to these plans may occur without the written consent of the Responsible Authority.
10. Prior to the issuing of a Certificate of Occupancy or Statement of Compliance, whichever comes first, of any dwelling approved under this permit, a Sustainable Design Assessment Post Construction 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.

Car Parking and Vehicle Access

11. 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).
12. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority (Merri-bek City Council, City Infrastructure Department).
13. 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.
14. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, the garage door must be automatic and remote controlled.

Undergrounding cables

15. 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

16. 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).

General

17. 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.
18. 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

19. 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/permit or conditions of this notice of decision/permit.

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

Note 2: 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).

Carried unanimously

5.2 75 HARDING STREET, COBURG- PLANNING APPLICATION MPS/2023/154



Property:	75 Harding Street, COBURG
Proposal:	Buildings and works, use of the land for the sale and consumption of liquor associated with a food and drink premises (restaurant), and a reduction in the statutory car parking requirement.
Zoning and Overlay/s:	<ul style="list-style-type: none"> • Commercial 1 Zone • Parking Overlay – Schedule 1 • Development Contributions Plan Overlay
Strategic setting:	<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="background-color: #808080; color: white; padding: 5px; border: 1px solid black;">Activity Centre</div> <div style="background-color: #808080; color: white; padding: 5px; border: 1px solid black;">Neighbourhood Centre</div> <div style="background-color: #00AEEF; color: white; padding: 5px; border: 1px solid black;">Local Centre</div> </div>
Objections:	<p>19 objections received which raises the following key issues:</p> <ul style="list-style-type: none"> • Hours of operation • Patron numbers • Noise • Car parking
Planning Information and Discussion (PID) Meeting:	<p>A PID was held on 30 May 2023</p> <p>Attendees: Six (6) objectors, the applicant, two (2) Council officers, Cr Monica Harte and Cr Helen Pavlidis</p> <p>The meeting provided an opportunity for the objectors concerns to be discussed and helped inform the preparation of this report.</p> <p>Following the PID meeting, the applicant has revised operating hours and patron numbers, reducing the hours of operation on weekdays and capacity in the courtyard, which form part of the recommendation and respond to objector concerns.</p>
Key reasons for support	<ul style="list-style-type: none"> • The proposed restaurant will activate a vacant shop, provide new employment to a local centre. • Off-site impacts will be managed through conditions which relate to hours of operation, patron numbers, noise impact and venue management. • Proposed buildings and works are minor and will improve the existing conditions of the building.
Recommendation:	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/2023/154 be issued for buildings and works, use of the land for the sale and consumption of liquor associated with a food and drink premises (restaurant), and a reduction in the statutory car parking requirement at 75 Harding Street, COBURG, subject to the following conditions:

Amended Plans

1. Before the use 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 19 April 2023 but modified to show:
 - a) Removal of the red line area from the tables, chairs and seating located outside of the building along Harding Street.
 - b) Six off-street bicycle parking devices designed to provide ground level horizontal (i.e. 1800 mm long) bike parking devices in accordance with the Australian Standard for Bicycle Parking (AS2890.3)).
 - c) Any practical changes to the plans required by condition 6 (Acoustic report) of this permit.
 - d) Any practical changes to the plans required by condition 12 (Venue and Patron Management) of this permit.
 - e) Any practical changes to the plans required by condition 14 (Waste Management) of this permit.

Compliance with Endorsed Plans

2. The use and development of land 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 and 62.02 of the Merri-bek Planning Scheme unless specifically noted as a permit condition.

Hours of Operation

3. The sale and consumption of liquor within the building must only occur between the following hours:
 - a) Sunday to Wednesday 10.00 a.m. to 10.00 p.m.
 - b) Thursday to Saturday 10.00 a.m. to 11.00 p.m.
4. The sale and consumption of liquor within the courtyard area must only occur between the following hours:
 - a) Monday to Tuesday 10.00 a.m. to 5.00 p.m.
 - b) Wednesday 10.00 a.m. to 9.00 p.m.
 - c) Thursday to Saturday 10.00 a.m. to 10.00 p.m.
 - d) Sunday 5.00 pm to 9.00 p.m.

Maximum Number of Patrons

5. The maximum number of patrons permitted on the premises must not exceed 88 with 58 patrons internally and 30 patrons in the rear courtyard area.

Noise

6. Prior to the endorsement of plans, an Acoustic Report prepared by a qualified Acoustic Engineer must be submitted to and approved to the satisfaction of the Responsible Authority. The report must include, but not be limited to the following:
 - a) Identification of all noise sensitive residential uses within 50 metres;
 - b) Details of any testing that has been carried out;
 - c) The assessment of the proposal against maximum noise levels prescribed by the Environment Protection Regulations under the *Environment Protection Act 2017* and the incorporated Noise Protocol (Publication 1826.2, Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and

Trade Premises and Entertainment Venues, Environmental Protection Authority, March 2021) or any other superseding regulation; and

- d) Recommendations of acoustic attenuation measures that comply with the Environment Protection Regulations, to be incorporated into the proposed use and development to mitigate patron and plant equipment noise.

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.

- 7. 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.
- 8. Within three (3) months after the commencement of the use approved by this permit, or as otherwise agreed in writing by the Responsible Authority, a Post Commencement Acoustic Report is to be submitted to the Responsible Authority. The report must detail the following matters to the satisfaction of the Responsible Authority:
 - a) Confirmation that recommendations of the endorsed Acoustic Report required by condition 6 have been implemented:
 - b) Further testing that has occurred to ascertain whether the use complies with:
 - i. The maximum noise levels prescribed by the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues, Environmental Protection Authority, March 2021) or any other superseding regulation; and
 - ii. Any patron noise levels as specified in the endorsed acoustic report.
 - c) If non-compliance is measured, recommendations for additional acoustic measures to ensure compliance with the endorsed Acoustic Report.
 - d) Confirmation that all acoustic testing has been carried out during a busy period by a suitably qualified acoustic engineer. A busy period is considered to be at least 75 per cent capacity.

The recommendations of the Acoustic Report must be implemented no later than three (3) months after the date that the Responsible Authority advises in writing that it is satisfied with the report, or as otherwise agreed in writing by the Responsible Authority. The endorsed plans must also be amended within three (3) months, or as otherwise agreed in writing by the Responsible Authority, to accord with the recommendations contained in the Acoustic Report to the satisfaction of the Responsible Authority.

- 9. Noise levels associated with the use must at all times comply with the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues, Environmental Protection authority, March 2021), or any other superseding regulation.

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

The recommendations of the Acoustic Report must be implemented no later than three (3) months after the date that the Responsible Authority advises in writing that it is satisfied with the report, or as otherwise agreed in writing by the Responsible Authority. The endorsed plans must also be amended within three (3) months, or as otherwise agreed in writing by the Responsible Authority, to accord with the recommendations contained in the Acoustic Report to the satisfaction of the Responsible Authority.

10. Music played internally within the restaurant must be maintained to background levels only (defined as 'background music'). Background music is defined as any music played at a level that enables patrons to conduct a conversation at a distance of 600 millimetres without having to raise their voice to a substantial degree. It is not background music if it is played at a level which requires patrons to shout, or use a stage voice such as that used by an actor in the theatre, in order to carry out a conversation at such a distance.
11. No music is permitted to be played within the rear courtyard area.

Venue and Patron Management

12. Prior to the endorsement of plans, an amended Venue and Patron Management Plan must be submitted to the Responsible Authority. The Plan must be to the satisfaction of the Responsible Authority and must be generally in accordance with the Patron Management and Amenity Action Plan advertised on 19 April 2023 but modified to include any changes required to comply with the permit.

Once submitted to and approved by the Responsible Authority, the Venue and Patron Management Plan will be endorsed to form part of the permit.

13. The Venue and Patron Management Plan endorsed under this permit must be implemented and complied with at all times, to the satisfaction of the Responsible Authority.

Waste Management

14. Prior to the endorsement of plans, an amended Waste Management Plan must be submitted to the satisfaction of the Responsible Authority. The plan must show:
 - a) Calculations of the amount of each of the four main waste streams (recycled glass, general recycling, organics and garbage) expected to be generated;
 - b) A statement of whether the garbage, hard waste and recycling will be collected by Council or a private collection, stating the size of bins, frequency of collection (with a maximum collection frequency of no more than twice per week) and hours of collection;
 - c) Include a plan showing the location of the bin storage area on the site and details of screening from public view;
 - d) Include a dimensioned plan showing the storage area is sufficient to store the required number of bins in a manner that allows easy access to every bin;
 - e) Detail the ease of taking the fully loaded waste bins to the point of waste collection;
 - f) Waste collection must only occur during the following hours:
 - i. 6.30 a.m. and 8.00 pm Monday to Saturday; or
 - ii. 9.00 a.m. and 8.00 pm Sundays and Public Holidays.
 - g) Placement of empty bottles from the operation of the premises into bins to only occur between the hours of 9.00 am and 8.00 pm;
 - h) Confirmation that the bins will be removed from the street promptly after collection; and

- i) A plan showing where the waste trucks will stop to service the waste bins and state whether No Parking restrictions will be required for the waste trucks to access that space (e.g. 6 am-midday, Wed).
- j) No chute systems, so that no waste stream is discouraged;

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

- 15. The Waste Management Plan approved under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.

General

- 16. The predominant activity carried on the premises must be of the preparation and serving of meals.
- 17. Tables and chairs must be places in position so to be available for at least 75 per cent of patrons attending the premises at any time.
- 18. Deliveries of goods to the premises must occur from Harding Street only, between the following hours:
 - a) 7.00 am and 10.00 pm Monday to Saturday; or
 - b) 9.00am and 10.00 pm Sunday & Public Holidays.

Permit Expiry

- 19. The permit will expire if one of the following circumstances applies:
 - the use and development are not commenced within two (2) years from the date of issue of this permit;
 - 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 afterwards.

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

Note 1: It may be necessary to obtain a building permit prior to the commencement of any demolition, building works or occupation of the building. It is strongly recommended that you consult with a registered building surveyor to advise on any requirements under the Building Act, the Building Regulations and any other subordinate legislation. Further information can be sought from the Victorian Building Authority, Phone 1300 815 127 or <http://www.vba.vic.gov.au>. Council's building services branch can also assist you in the provision of this service and can be contacted on 9240 1111 or [Building permits \(merri-bek.vic.gov.au\)](http://www.merri-bek.vic.gov.au)

Note 2: This permit is for the use of the land and/or buildings and does not constitute any authority to conduct a business requiring Food Act registration without prior approval in writing from the Responsible Authority.

Note 3: Unless no permit is required under the Merri-bek Planning Scheme, no sign must be constructed or displayed on the land without a further planning permit.

Note 4: Proposals for kerbside seating are subject to a separate permit for footpath trading under Council's General Local Law, 2018.

- 7.15 pm *Cr Carli Hannan left the meeting.*
- 7.17 pm *Cr Carli Hannan returned to the meeting.*
- 7.18 pm *Cr Pulford left the meeting.*
- 7.19 pm *Cr Pulford returned the meeting.*

Motion

Cr Riley moved, Cr Davidson seconded –

That a Notice of Decision to Grant Planning Permit No. MPS/2023/154 be issued for buildings and works, use of the land for the sale and consumption of liquor associated with a food and drink premises (restaurant), and a reduction in the statutory car parking requirement at 75 Harding Street, Coburg subject to the following conditions:

Amended Plans

1. Before the use 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 19 April 2023 but modified to show:
 - a) Removal of the red line area from the tables, chairs and seating located outside of the building along Harding Street.
 - b) Six off-street bicycle parking devices designed to provide ground level horizontal (i.e. 1800 mm long) bike parking devices in accordance with the Australian Standard for Bicycle Parking (AS2890.3)).
 - c) Any practical changes to the plans required by condition 6 (Acoustic report) of this permit.
 - d) Any practical changes to the plans required by condition 12 (Venue and Patron Management) of this permit.
 - e) Any practical changes to the plans required by condition 14 (Waste Management) of this permit.

Compliance with Endorsed Plans

2. The use and development of land 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 and 62.02 of the Merri-bek Planning Scheme unless specifically noted as a permit condition.

Hours of Operation

3. **The use of the land internally within the building must only occur between the following hours:**
 - a) Sunday to Wednesday 10.00 a.m. to 10.00 p.m.
 - b) Thursday to Saturday 10.00 a.m. to 11.00 p.m.
4. **The use of the land within the outdoor courtyard area must only occur between the following hours:**
 - a) Monday to Tuesday 10.00 a.m. to 5.00 p.m.
 - b) Wednesday 10.00 a.m. to 9.00 p.m.
 - c) Thursday to Saturday 10.00 a.m. to 10.00 p.m.
 - d) **Sunday 10.00 a.m. to 8.00 p.m.**

Maximum Number of Patrons

5. The maximum number of patrons permitted on the premises must not exceed 88 with 58 patrons internally and 30 patrons in the rear courtyard area.

Noise

6. Prior to the endorsement of plans, an Acoustic Report prepared by a qualified Acoustic Engineer must be submitted to and approved to the satisfaction of the Responsible Authority. The report must include, but not be limited to the following:

- a) Identification of all noise sensitive residential uses within 50 metres;
- b) Details of any testing that has been carried out;
- c) The assessment of the proposal against maximum noise levels prescribed by the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues, Environmental Protection Authority, March 2021) or any other superseding regulation; and
- d) Recommendations of acoustic attenuation measures that comply with the Environment Protection Regulations, to be incorporated into the proposed use and development to mitigate patron and plant equipment noise.

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.

- 7. 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.
- 8. Within three (3) months after the commencement of the use approved by this permit, or as otherwise agreed in writing by the Responsible Authority, a Post Commencement Acoustic Report is to be submitted to the Responsible Authority. The report must detail the following matters to the satisfaction of the Responsible Authority:
 - a) Confirmation that recommendations of the endorsed Acoustic Report required by condition 6 have been implemented:
 - b) Further testing that has occurred to ascertain whether the use complies with:
 - i. The maximum noise levels prescribed by the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues, Environmental Protection Authority, March 2021) or any other superseding regulation; and
 - ii. Any patron noise levels as specified in the endorsed acoustic report.
 - c) If non-compliance is measured, recommendations for additional acoustic measures to ensure compliance with the endorsed Acoustic Report.
 - d) Confirmation that all acoustic testing has been carried out during a busy period by a suitably qualified acoustic engineer. A busy period is considered to be at least 75 per cent capacity.

The recommendations of the Acoustic Report must be implemented no later than three (3) months after the date that the Responsible Authority advises in writing that it is satisfied with the report, or as otherwise agreed in writing by the Responsible Authority. The endorsed plans must also be amended within three (3) months, or as otherwise agreed in writing by the Responsible Authority, to accord with the recommendations contained in the Acoustic Report to the satisfaction of the Responsible Authority.

9. Noise levels associated with the use must at all times comply with the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues, Environmental Protection authority, March 2021), or any other superseding regulation.

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

The recommendations of the Acoustic Report must be implemented no later than three (3) months after the date that the Responsible Authority advises in writing that it is satisfied with the report, or as otherwise agreed in writing by the Responsible Authority. The endorsed plans must also be amended within three (3) months, or as otherwise agreed in writing by the Responsible Authority, to accord with the recommendations contained in the Acoustic Report to the satisfaction of the Responsible Authority.

10. Music played internally within the restaurant must be maintained to background levels only (defined as 'background music'). Background music is defined as any music played at a level that enables patrons to conduct a conversation at a distance of 600 millimetres without having to raise their voice to a substantial degree. It is not background music if it is played at a level which requires patrons to shout, or use a stage voice such as that used by an actor in the theatre, in order to carry out a conversation at such a distance.
11. No music is permitted to be played within the rear courtyard area.

Venue and Patron Management

12. Prior to the endorsement of plans, an amended Venue and Patron Management Plan must be submitted to the Responsible Authority. The Plan must be to the satisfaction of the Responsible Authority and must be generally in accordance with the Patron Management and Amenity Action Plan advertised on 19 April 2023 but modified to include any changes required to comply with the permit.

Once submitted to and approved by the Responsible Authority, the Venue and Patron Management Plan will be endorsed to form part of the permit.

13. The Venue and Patron Management Plan endorsed under this permit must be implemented and complied with at all times, to the satisfaction of the Responsible Authority.

Waste Management

14. Prior to the endorsement of plans, an amended Waste Management Plan must be submitted to the satisfaction of the Responsible Authority. The plan must show:
 - a) Calculations of the amount of each of the four main waste streams (recycled glass, general recycling, organics and garbage) expected to be generated;
 - b) A statement of whether the garbage, hard waste and recycling will be collected by Council or a private collection, stating the size of bins, frequency of collection (with a maximum collection frequency of no more than twice per week) and hours of collection;
 - c) Include a plan showing the location of the bin storage area on the site and details of screening from public view;
 - d) Include a dimensioned plan showing the storage area is sufficient to store the required number of bins in a manner that allows easy access to every bin;

- e) Detail the ease of taking the fully loaded waste bins to the point of waste collection;
- f) Waste collection must only occur during the following hours:
 - i. 6.30 a.m. and 8.00 pm Monday to Saturday; or
 - ii. 9.00 a.m. and 8.00 pm Sundays and Public Holidays.
- g) Placement of empty bottles from the operation of the premises into bins to only occur between the hours of 9.00 am and 8.00 pm;
- h) Confirmation that the bins will be removed from the street promptly after collection; and
- i) A plan showing where the waste trucks will stop to service the waste bins and state whether No Parking restrictions will be required for the waste trucks to access that space (e.g. 6 am-midday, Wed).
- j) No chute systems, so that no waste stream is discouraged;

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

- 15. The Waste Management Plan approved under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.

General

- 16. The predominant activity carried on the premises must be of the preparation and serving of meals.
- 17. Tables and chairs must be placed in position so to be available for at least 75 per cent of patrons attending the premises at any time.
- 18. Deliveries of goods to the premises must occur from Harding Street only, between the following hours:
 - a) 7.00 am and 10.00 pm Monday to Saturday; or
 - b) 9.00 am and 10.00 pm Sunday & Public Holidays.

Permit Expiry

- 19. The permit will expire if one of the following circumstances applies:
 - the use and development are not commenced within two (2) years from the date of issue of this permit;
 - 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 afterwards.

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

- Note 1: It may be necessary to obtain a building permit prior to the commencement of any demolition, building works or occupation of the building. It is strongly recommended that you consult with a registered building surveyor to advise on any requirements under the Building Act, the Building Regulations and any other subordinate legislation. Further information can be sought from the Victorian Building Authority, Phone 1300 815 127 or <http://www.vba.vic.gov.au>. Council's building services branch can also assist you in the provision of this service and can be contacted on 9240 1111 or [Building permits \(merri-bek.vic.gov.au\)](http://www.merri-bek.vic.gov.au)

- Note 2: This permit is for the use of the land and/or buildings and does not constitute any authority to conduct a business requiring Food Act registration without prior approval in writing from the Responsible Authority.
- Note 3: Unless no permit is required under the Merri-bek Planning Scheme, no sign must be constructed or displayed on the land without a further planning permit.
- Note 4: Proposals for kerbside seating are subject to a separate permit for footpath trading under Council's *General Local Law, 2018*.
- 7.49 pm Cr Pulford left the meeting during the debate.
- 7.50 pm Cr Pulford returned to the meeting during the debate.

Amendment

Cr Bolton moved, Cr Harte seconded -

That condition 5 'Maximum Number of Patrons' be amended:

5. The maximum number of patrons permitted on the premises must not exceed 88 with **68** patrons internally and **20** patrons in the rear courtyard area.

8.03 pm Cr Yildiz left the meeting during the debate.

8.04 pm Cr Yildiz returned to the meeting during the debate.

Lost

Resolution

Cr Riley moved, Cr Davidson seconded -

That a Notice of Decision to Grant Planning Permit No. MPS/2023/154 be issued for buildings and works, use of the land for the sale and consumption of liquor associated with a food and drink premises (restaurant), and a reduction in the statutory car parking requirement at 75 Harding Street, Coburg subject to the following conditions:

Amended Plans

1. **Before the use 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 19 April 2023 but modified to show:**
 - a) **Removal of the red line area from the tables, chairs and seating located outside of the building along Harding Street.**
 - b) **Six off-street bicycle parking devices designed to provide ground level horizontal (i.e. 1800 mm long) bike parking devices in accordance with the Australian Standard for Bicycle Parking (AS2890.3)).**
 - c) **Any practical changes to the plans required by condition 6 (Acoustic report) of this permit.**
 - d) **Any practical changes to the plans required by condition 12 (Venue and Patron Management) of this permit.**
 - e) **Any practical changes to the plans required by condition 14 (Waste Management) of this permit.**

Compliance with Endorsed Plans

2. The use and development of land 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 and 62.02 of the Merri-bek Planning Scheme unless specifically noted as a permit condition.

Hours of Operation

3. The use of the land internally within the building must only occur between the following hours:
 - a) Sunday to Wednesday 10.00 a.m. to 10.00 p.m.
 - b) Thursday to Saturday 10.00 a.m. to 11.00 p.m.
4. The use of the land within the outdoor courtyard area must only occur between the following hours:
 - a) Monday to Tuesday 10.00 a.m. to 5.00 p.m.
 - b) Wednesday 10.00 a.m. to 9.00 p.m.
 - c) Thursday to Saturday 10.00 a.m. to 10.00 p.m.
 - d) Sunday 10.00 a.m. to 8.00 p.m.

Maximum Number of Patrons

5. The maximum number of patrons permitted on the premises must not exceed 88 with 58 patrons internally and 30 patrons in the rear courtyard area.

Noise

6. Prior to the endorsement of plans, an Acoustic Report prepared by a qualified Acoustic Engineer must be submitted to and approved to the satisfaction of the Responsible Authority. The report must include, but not be limited to the following:
 - a) Identification of all noise sensitive residential uses within 50 metres;
 - b) Details of any testing that has been carried out;
 - c) The assessment of the proposal against maximum noise levels prescribed by the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues, Environmental Protection Authority, March 2021) or any other superseding regulation; and
 - d) Recommendations of acoustic attenuation measures that comply with the Environment Protection Regulations, to be incorporated into the proposed use and development to mitigate patron and plant equipment noise.

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.

7. 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.
8. Within three (3) months after the commencement of the use approved by this permit, or as otherwise agreed in writing by the Responsible Authority, a Post Commencement Acoustic Report is to be submitted to the Responsible

Authority. The report must detail the following matters to the satisfaction of the Responsible Authority:

- a) **Confirmation that recommendations of the endorsed Acoustic Report required by condition 6 have been implemented:**
- b) **Further testing that has occurred to ascertain whether the use complies with:**
 - i. **The maximum noise levels prescribed by the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues, Environmental Protection Authority, March 2021) or any other superseding regulation; and**
 - ii. **Any patron noise levels as specified in the endorsed acoustic report.**
- c) **If non-compliance is measured, recommendations for additional acoustic measures to ensure compliance with the endorsed Acoustic Report.**
- d) **Confirmation that all acoustic testing has been carried out during a busy period by a suitably qualified acoustic engineer. A busy period is considered to be at least 75 per cent capacity.**

The recommendations of the Acoustic Report must be implemented no later than three (3) months after the date that the Responsible Authority advises in writing that it is satisfied with the report, or as otherwise agreed in writing by the Responsible Authority. The endorsed plans must also be amended within three (3) months, or as otherwise agreed in writing by the Responsible Authority, to accord with the recommendations contained in the Acoustic Report to the satisfaction of the Responsible Authority.

9. **Noise levels associated with the use must at all times comply with the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues, Environmental Protection authority, March 2021), or any other superseding regulation.**

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

The recommendations of the Acoustic Report must be implemented no later than three (3) months after the date that the Responsible Authority advises in writing that it is satisfied with the report, or as otherwise agreed in writing by the Responsible Authority. The endorsed plans must also be amended within three (3) months, or as otherwise agreed in writing by the Responsible Authority, to accord with the recommendations contained in the Acoustic Report to the satisfaction of the Responsible Authority.

10. **Music played internally within the restaurant must be maintained to background levels only (defined as 'background music'). Background music is defined as any music played at a level that enables patrons to conduct a conversation at a distance of 600 millimetres without having to raise their voice to a substantial degree. It is not background music if it is played at a level which requires patrons to shout, or use a stage voice such as that used by an actor in the theatre, in order to carry out a conversation at such a distance.**

11. **No music is permitted to be played within the rear courtyard area.**

Venue and Patron Management

12. **Prior to the endorsement of plans, an amended Venue and Patron Management Plan must be submitted to the Responsible Authority. The Plan must be to the satisfaction of the Responsible Authority and must be generally in accordance with the Patron Management and Amenity Action Plan advertised on 19 April 2023 but modified to include any changes required to comply with the permit.**

Once submitted to and approved by the Responsible Authority, the Venue and Patron Management Plan will be endorsed to form part of the permit.

13. **The Venue and Patron Management Plan endorsed under this permit must be implemented and complied with at all times, to the satisfaction of the Responsible Authority.**

Waste Management

14. **Prior to the endorsement of plans, an amended Waste Management Plan must be submitted to the satisfaction of the Responsible Authority. The plan must show:**

- a) **Calculations of the amount of each of the four main waste streams (recycled glass, general recycling, organics and garbage) expected to be generated;**
- b) **A statement of whether the garbage, hard waste and recycling will be collected by Council or a private collection, stating the size of bins, frequency of collection (with a maximum collection frequency of no more than twice per week) and hours of collection;**
- c) **Include a plan showing the location of the bin storage area on the site and details of screening from public view;**
- d) **Include a dimensioned plan showing the storage area is sufficient to store the required number of bins in a manner that allows easy access to every bin;**
- e) **Detail the ease of taking the fully loaded waste bins to the point of waste collection;**
- f) **Waste collection must only occur during the following hours:**
 - i. **6.30 a.m. and 8.00 pm Monday to Saturday; or**
 - ii. **9.00 a.m. and 8.00 pm Sundays and Public Holidays.**
- g) **Placement of empty bottles from the operation of the premises into bins to only occur between the hours of 9.00 am and 8.00 pm;**
- h) **Confirmation that the bins will be removed from the street promptly after collection; and**
- i) **A plan showing where the waste trucks will stop to service the waste bins and state whether No Parking restrictions will be required for the waste trucks to access that space (e.g. 6 am-midday, Wed).**
- j) **No chute systems, so that no waste stream is discouraged;**

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

15. The Waste Management Plan approved under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.

General

16. The predominant activity carried on the premises must be of the preparation and serving of meals.
17. Tables and chairs must be placed in position so to be available for at least 75 per cent of patrons attending the premises at any time.
18. Deliveries of goods to the premises must occur from Harding Street only, between the following hours:
- a) 7.00 am and 10.00 pm Monday to Saturday; or
 - b) 9.00 am and 10.00 pm Sunday & Public Holidays.

Permit Expiry

19. The permit will expire if one of the following circumstances applies:
- the use and development are not commenced within two (2) years from the date of issue of this permit;
 - 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 afterwards.

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

Note 1: It may be necessary to obtain a building permit prior to the commencement of any demolition, building works or occupation of the building. It is strongly recommended that you consult with a registered building surveyor to advise on any requirements under the Building Act, the Building Regulations and any other subordinate legislation. Further information can be sought from the Victorian Building Authority, Phone 1300 815 127 or <http://www.vba.vic.gov.au>. Council's building services branch can also assist you in the provision of this service and can be contacted on 9240 1111 or [Building permits \(merri-bek.vic.gov.au\)](http://www.merri-bek.vic.gov.au)

Note 2: This permit is for the use of the land and/or buildings and does not constitute any authority to conduct a business requiring Food Act registration without prior approval in writing from the Responsible Authority.

Note 3: Unless no permit is required under the Merri-bek Planning Scheme, no sign must be constructed or displayed on the land without a further planning permit.

Note 4: Proposals for kerbside seating are subject to a separate permit for footpath trading under Council's *General Local Law, 2018*.

Carried unanimously

8.10 pm Cr Conlan left the meeting.

8.10 pm Cr Carli Hannan left the meeting and did not return.

8.12 pm Cr Pulford left the meeting while item being introduced.

8.13 pm Cr Conlan returned to the meeting.

5.3 11 HARRY STREET, BRUNSWICK WEST - PLANNING APPLICATION MPS/2022/478



Property:	11 Harry Street, BRUNSWICK WEST			
Proposal:	Construction of three double storey dwellings			
Zoning and Overlay/s:	<ul style="list-style-type: none"> • Neighbourhood Residential Zone – Schedule 1 (NRZ1) • Development Contributions Plan Overlay (DCPO1) 			
Strategic setting:	<table border="1"> <tr> <td style="background-color: #00AEEF; color: white;">Minimal change</td> <td style="background-color: #A6A6A6;">Incremental change</td> <td style="background-color: #A6A6A6;">Significant change</td> </tr> </table>	Minimal change	Incremental change	Significant change
Minimal change	Incremental change	Significant change		
Objections:	<p>Eleven (11) objections raising the following key issues:</p> <ul style="list-style-type: none"> • Overdevelopment • Neighbourhood character • Overshadowing • Overlooking • Traffic implications 			
Planning Information and Discussion (PID) Meeting:	<ul style="list-style-type: none"> • Held on 23 May 2023 • Attendees: 3 objectors, the applicant, 2 Council officers, Cr Mark Riley and Cr Monica Harte. • No changes were agreed to; however the meeting provided an opportunity for the objectors concerns to be discussed and helped inform the preparation of this report. 			
ESD:	<ul style="list-style-type: none"> • Minimum average NatHERS rating of 6.5 stars. • Provision of rainwater tanks totalling 9,000 litres in capacity. 			
Key reasons for support	<ul style="list-style-type: none"> • The design is respectful of the existing neighbourhood character. Appropriate landscaping has been proposed for the sensitive interface with the park to the west and the open rear yards of neighbouring lots. • Subject to conditions, the proposal will not have unreasonable off-site amenity impacts. • Appropriate built form having regards to the surrounding context. 			
Recommendation:	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/2022/478 be issued for the construction of three double storey dwellings at 11 Harry Street, BRUNSWICK WEST, 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 1 December 2022 but modified to show:
 - a) The space available for canopy tree planting increased by creating two 4.5 metre by 4.5 metre permeable areas with no first floor cantilevering elements above, between:
 - i. Dwelling 1's garage wall and Dwelling 2's ground floor bedrooms; and
 - ii. Dwelling 2's garage wall and Dwelling 3's ground floor ensuite / bedroom.
 - b) The ground floor eastern side setbacks of:
 - i. Dwellings 1 and 2 increased to a minimum of 1 metre from the title boundary. This may result in alterations to the garage opening or driveway alignment to ensure efficient vehicle movements into garages.
 - ii. Dwelling 3 increased to a minimum of 2.5 metres from the title boundary, to create opportunities for screen tree planting. This may result in the garage being constructed to the western boundary.
 - c) The first floor eastern side setback of Dwelling 3, increased by a minimum of 1.0 metre, to avoid creating a 'sheer' wall. This may result in the first floor balcony being constructed to the western boundary.
 - d) The eastern first floor setback of Dwelling 1 increased to a minimum of 3.2 metres opposite the abutting habitable room windows at 9 Harry Street, in accordance with Standard B19 (Daylight to existing windows) at Clause 55.04-3.
 - e) The extent of grade changes and levels via; a cut fill diagram and clear annotation of existing and proposed ground levels (at both boundaries and building perimeters).
 - f) Permeable paving for all surfacing in the front setback (including pedestrian path and driveway area).
 - g) Any changes to the plans arising from the Landscape Plan in accordance with Condition 3 of this permit.
 - h) Tree protection zones in accordance with Condition 5 of this permit, to all retained trees as identified in the amended Landscape Plan.
 - i) The Environmentally Sustainable Design initiatives that are required to be shown on plans, as contained within Condition 7 of this permit.

Compliance with Endorsed Plans

- 2) The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority. This does not apply to any exemption specified in Clauses 62.02-1 and 62.02-2 of the 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 M3 Consulting advertised on 1 December 2022 but amended to show:

- a) 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.
- b) Strategies for the retainment of vegetation (i.e. barriers and signage during the construction process) consistent with any conditions of this permit.
- c) 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 *Merri-bek Landscape Guidelines 2009*.
- d) Notes and diagrams detailing the establishment and maintenance of all proposed trees, shrubs and ground covers.
- e) The provision of at least one tree within the private open space of each dwelling reaching a height at maturity of 6-8 metres and achieving a canopy width of at least 5 metres, with tree species selected according to the available space, in accordance with the *Merri-bek Tree Planting Manual for Residential Zones, 2019*.
- f) The selected *Acacia pycnantha* replaced for a species with proven longevity (e.g. >50 years) and capacity to be uplifted to 2.5 m for resident use beneath (preferably sourced from the *Merri-bek Tree Planting Manual for Residential Zones, 2019* or Tree Finder tool).
- g) Include at least 600 mm topsoil for canopy tree areas within site cut areas, media to be compliant with *AS 4419-2003 Soils for Landscaping and Garden Use*.
- h) Details of the location and type of all paved and sealed areas. Extensive hard surfaces are not supported. Porous/permeable paving, rain gardens and other water sensitive urban design features must be in accordance with any endorsed Sustainable Design Assessment.
- i) Additional screen tree planting provided along the eastern boundary consistent with condition 1(b)(ii) of this permit.

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.

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.

- 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.

Tree Protection

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

a) Tree Protection Fencing

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

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

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

b) Signage

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

c) Irrigation

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

d) Provision of Services

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

- 6) Prior to the endorsement of plans, a Tree Management Plan (TMP) must be submitted to and approved by the Responsible Authority. The TMP must be prepared by a suitably qualified Arborist and make specific recommendations in accordance with the Australian Standard AS4970: 2009 - Protection of Trees on Development Sites to ensure that all retained trees remain healthy and viable during construction.

The TMP must include the following to the satisfaction of the Responsible Authority:

- a) A tree protection plan to scale that shows:
- i. All Tree Protection Zones and Structural Root Zones
 - ii. All Tree Protection Fencing
 - iii. Areas where ground protection systems will be used
 - iv. The type of footings within any Tree Protection Zone
 - v. The location of services within any Tree Protection Zone
- b) The location and design of Tree Protection Fencing.
- c) Details of appropriate footings within the Tree Protection Zone.
- d) The method of installing any services through the Tree Protection Zone.
- e) Details of how the root zone within the Tree Protection Zone will be managed throughout the project.
- f) A timetable outlining works requiring supervision by the Project Arborist.
- g) The results of any exploratory trenching where there is encroachment (construction or excavation) greater than 10 per cent into the Tree Protection

Zone (in accordance with Australian Standard AS4970:2009 - Protection of Trees on Development Sites) of any tree to be retained. This must include photographic evidence of any trenching/ excavation undertaken.

- h) All remedial pruning works that are required to be performed on the tree during the development of the site. The pruning comments must reference Australian Standards 4373:2007, Pruning of Amenity Trees and a detailed photographic diagram specifying what pruning will occur.

When submitted and approved to the satisfaction of the Responsible Authority, the TMP will be endorsed to form part of this permit. The recommendations of the endorsed TMP must be implemented to the satisfaction of the Responsible Authority.

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 M3 Consulting, advertised 1 December 2022 but modified to include the following changes:
 - a) Amend the BESS report (and any other corresponding documentation) to:
 - i. Commit to a minimum water efficiency of 3 / 4 / 5 WELS stars for Showers / Toilets / Taps in the Water category (Page 6).
 - ii. Reflect the heating and cooling loads of the preliminary NatHERS ratings certificates, at 'Dwelling Energy Profiles: Energy Performance' (BESS Report, Page 8). To achieve a minimum average 6.5 star rating across the three dwellings.
 - b) A STORM report and stormwater management response that maintains a minimum STORM score of 100 per cent but is modified so that:
 - i. The impervious surfaces total 112 m².
 - c) Show the following ESD initiatives on the development plans:
 - i. An ESD table for items that cannot be drawn e.g. NatHERS ratings, tap and cooling ratings, etc.
 - ii. Double glazing annotated on each individual glazing unit (windows and glazed doors) on floor plans and elevations and included in the Materials and Finishes Schedule.
 - iii. External operable shading devices to all east and west facing windows and glazed doors to habitable rooms drawn and labelled on the floor plan and elevations. The devices must be operable from within the dwelling. Include a product diagram or section of the proposed device (must not be roller shutters for any street facing glazing). Ensure windows that have external adjustable shading can open when using the blind.
 - iv. Materials and finishes schedule to show:
 - i) The roofing material specified.
 - ii) Light coloured roofs and driveways. Specified as 'Medium' e.g. with a Solar Absorptance value of less than or equal to 0.60.

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 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.
- 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 Sustainable Design Assessment Post Construction 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.

Car Parking and Vehicle Access

- 11) 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).
- 12) 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.
- 13) 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

- 14) 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

- 15) 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).
- 16) Stormwater from the land must not be directed to the surface of the right-of-way to the satisfaction of the Responsible Authority.

Drainage

- 17) Prior to commencement of works, engineering construction plans must be submitted and approved to the satisfaction of Council as the responsible road and drainage authority designing the construction of the relocated and amended drainage pits, the connecting drainage pipe, the vehicle crossing and the roadside kerb and channel.

- 18) Prior to occupation of the development, the public drainage infrastructure, the vehicle crossing and the kerb and channel must be constructed in accordance with the engineering construction plans approved by Council's Engineering Services Unit and under the supervision of Council.

General Amenity

- 19) 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.
- 20) 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.
- 21) All external lighting, other than balcony lighting, must be no higher than 1.2 metres above ground level with automatic or sensor-controlled lighting installed and maintained on the land to illuminate pedestrian access between dusk and dawn with no direct light emitted onto adjoining property to the satisfaction of the Responsible Authority.
- 22) Lighting on each balcony must be designed to not emit light direct onto adjoining property to the satisfaction of the Responsible Authority.
- 23) 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.

Noise Abatement

- 24) Prior to the endorsement of plans, an amended Acoustic Report prepared by a qualified Acoustic Engineer. The Acoustic Report must be generally in accordance with the report prepared by O'Callaghan Consulting Engineers, advertised 1 December 2022 but amended to show any changes required to align with the plans for endorsement. 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.
- 25) 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
- 26) 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.

Permit Expiry

- 27) 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/permit or conditions of this notice of decision/permit.

Note 1: Should Council impose car parking restrictions in this street, the owners and/or occupiers of the land would generally not be eligible for 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 2: 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 3: 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).

8.18 pm Cr Tapinos left the meeting.

8.19 pm Cr Tapinos returned to the meeting.

8.23 pm Cr Pulford returned to the meeting.

Resolution

Cr Harte moved, Cr Bolton seconded -

That a Notice of Decision to Grant Planning Permit No. MPS/2022/478 be issued for the construction of three double storey dwellings at 11 Harry Street, Brunswick West 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 1 December 2022 but modified to show:**
 - a) **The space available for canopy tree planting increased by creating two 4.5 metre by 4.5 metre permeable areas with no first floor cantilevering elements above, between:**
 - i. **Dwelling 1's garage wall and Dwelling 2's ground floor bedrooms; and**
 - ii. **Dwelling 2's garage wall and Dwelling 3's ground floor ensuite / bedroom.**
 - b) **The ground floor eastern side setbacks of:**
 - i. **Dwellings 1 and 2 increased to a minimum of 1 metre from the title boundary. This may result in alterations to the garage opening or**

- driveway alignment to ensure efficient vehicle movements into garages.
 - ii. Dwelling 3 increased to a minimum of 2.5 metres from the title boundary, to create opportunities for screen tree planting. This may result in the garage being constructed to the western boundary.
- c) The first floor eastern side setbacks of:
 - i. Dwelling 2's kitchen increased to a minimum of 2.5 metres from the title boundary.
 - ii. Dwelling 3 increased by a minimum of 1.0 metre, to avoid creating a 'sheer' wall. This may result in the first floor balcony being constructed to the western boundary.
- d) The eastern first floor setback of Dwelling 1 increased to a minimum of 3.2 metres opposite the abutting habitable room windows at 9 Harry Street, in accordance with Standard B19 (Daylight to existing windows) at Clause 55.04-3.
- e) The extent of grade changes and levels via; a cut fill diagram and clear annotation of existing and proposed ground levels (at both boundaries and building perimeters).
- f) Permeable paving for all surfacing in the front setback (including pedestrian path and driveway area).
- g) Any changes to the plans arising from the Landscape Plan in accordance with Condition 3 of this permit.
- h) Tree protection zones in accordance with Condition 5 of this permit, to all retained trees as identified in the amended Landscape Plan.
- i) The Environmentally Sustainable Design initiatives that are required to be shown on plans, as contained within Condition 7 of this permit.

Compliance with Endorsed Plans

2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority. This does not apply to any exemption specified in Clauses 62.02-1 and 62.02-2 of the 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 M3 Consulting advertised on 1 December 2022 but amended to show:
 - a) 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.
 - b) Strategies for the retainment of vegetation (i.e. barriers and signage during the construction process) consistent with any conditions of this permit.
 - c) 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 Merri-bek Landscape Guidelines 2009.
 - d) Notes and diagrams detailing the establishment and maintenance of all proposed trees, shrubs and ground covers.

- e) The provision of at least one tree within the private open space of each dwelling reaching a height at maturity of 6-8 metres and achieving a canopy width of at least 5 metres, with tree species selected according to the available space, in accordance with the Merri-bek Tree Planting Manual for Residential Zones, 2019.
- f) The selected *Acacia pycnantha* replaced for a species with proven longevity (e.g. >50 years) and capacity to be uplifted to 2.5 m for resident use beneath (preferably sourced from the Merri-bek Tree Planting Manual for Residential Zones, 2019 or Tree Finder tool).
- g) Include at least 600 mm topsoil for canopy tree areas within site cut areas, media to be compliant with AS 4419-2003 Soils for Landscaping and Garden Use.
- h) Details of the location and type of all paved and sealed areas. Extensive hard surfaces are not supported. Porous/permeable paving, rain gardens and other water sensitive urban design features must be in accordance with any endorsed Sustainable Design Assessment.
- i) Additional screen tree planting provided along the eastern boundary consistent with condition 1(b)(ii) of this permit.

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.

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.

- 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.

Tree Protection

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

- a) **Tree Protection Fencing**

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

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

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

- b) **Signage**
Fixed signs are to be provided on all visible sides of the TPF clearly stating “Tree Protection Zone – No entry. No excavation or trenching. No storage of materials or waste.”. The TPF signage must be complied with at all times.
- c) **Irrigation**
The area within the TPZ and TPF must be irrigated during the summer months with 1 litre of clean water for every 1 cm of trunk girth measured at the soil/trunk interface on a weekly basis.
- d) **Provision of Services**
All services (including water, electricity, gas and telephone) must be installed underground, and located outside of any TPZ, wherever practically possible. If underground services are to be routed within an established TPZ, this must occur in accordance with Australian Standard AS4970.

6. **Prior to the endorsement of plans, a Tree Management Plan (TMP) must be submitted to and approved by the Responsible Authority. The TMP must be prepared by a suitably qualified Arborist and make specific recommendations in accordance with the Australian Standard AS4970: 2009 - Protection of Trees on Development Sites to ensure that all retained trees remain healthy and viable during construction.**

The TMP must include the following to the satisfaction of the Responsible Authority:

- a) **A tree protection plan to scale that shows:**
 - i. **All Tree Protection Zones and Structural Root Zones**
 - ii. **All Tree Protection Fencing**
 - iii. **Areas where ground protection systems will be used**
 - iv. **The type of footings within any Tree Protection Zone**
 - v. **The location of services within any Tree Protection Zone**
- b) **The location and design of Tree Protection Fencing.**
- c) **Details of appropriate footings within the Tree Protection Zone.**
- d) **The method of installing any services through the Tree Protection Zone.**
- e) **Details of how the root zone within the Tree Protection Zone will be managed throughout the project.**
- f) **A timetable outlining works requiring supervision by the Project Arborist.**
- g) **The results of any exploratory trenching where there is encroachment (construction or excavation) greater than 10 per cent into the Tree Protection Zone (in accordance with Australian Standard AS4970:2009 - Protection of Trees on Development Sites) of any tree to be retained. This must include photographic evidence of any trenching/ excavation undertaken.**
- h) **All remedial pruning works that are required to be performed on the tree during the development of the site. The pruning comments must reference Australian Standards 4373:2007, Pruning of Amenity Trees and a detailed photographic diagram specifying what pruning will occur.**

When submitted and approved to the satisfaction of the Responsible Authority, the TMP will be endorsed to form part of this permit. The recommendations of the endorsed TMP must be implemented to the satisfaction of the Responsible Authority.

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 M3 Consulting, advertised 1 December 2022 but modified to include the following changes:**
- a) Amend the BESS report (and any other corresponding documentation) to:**
 - i. Commit to a minimum water efficiency of 3 / 4 / 5 WELS stars for Showers / Toilets / Taps in the Water category (Page 6).**
 - ii. Reflect the heating and cooling loads of the preliminary NatHERS ratings certificates, at 'Dwelling Energy Profiles: Energy Performance' (BESS Report, Page 8). To achieve a minimum average 6.5 star rating across the three dwellings.**
 - b) A STORM report and stormwater management response that maintains a minimum STORM score of 100 per cent but is modified so that:**
 - i. The impervious surfaces total 112 m2.**
 - c) Show the following ESD initiatives on the development plans:**
 - i. An ESD table for items that cannot be drawn e.g. NatHERS ratings, tap and cooling ratings, etc.**
 - ii. Double glazing annotated on each individual glazing unit (windows and glazed doors) on floor plans and elevations and included in the Materials and Finishes Schedule.**
 - iii. External operable shading devices to all east and west facing windows and glazed doors to habitable rooms drawn and labelled on the floor plan and elevations. The devices must be operable from within the dwelling. Include a product diagram or section of the proposed device (must not be roller shutters for any street facing glazing). Ensure windows that have external adjustable shading can open when using the blind.**
 - iv. Materials and finishes schedule to show:**
 - i) The roofing material specified.**
 - ii) Light coloured roofs and driveways. Specified as 'Medium' e.g. with a Solar Absorptance value of less than or equal to 0.60.**

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 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.
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 Sustainable Design Assessment Post Construction 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.

Car Parking and Vehicle Access

11. 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).
12. 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.
13. 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

14. 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

15. 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).
16. Stormwater from the land must not be directed to the surface of the right-of-way to the satisfaction of the Responsible Authority.

Drainage

17. Prior to commencement of works, engineering construction plans must be submitted and approved to the satisfaction of Council as the responsible road and drainage authority designing the construction of the relocated and amended drainage pits, the connecting drainage pipe, the vehicle crossing and the roadside kerb and channel.

18. Prior to occupation of the development, the public drainage infrastructure, the vehicle crossing and the kerb and channel must be constructed in accordance with the engineering construction plans approved by Council's Engineering Services Unit and under the supervision of Council.

General Amenity

19. 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.
20. 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.
21. All external lighting, other than balcony lighting, must be no higher than 1.2 metres above ground level with automatic or sensor-controlled lighting installed and maintained on the land to illuminate pedestrian access between dusk and dawn with no direct light emitted onto adjoining property to the satisfaction of the Responsible Authority.
22. Lighting on each balcony must be designed to not emit light direct onto adjoining property to the satisfaction of the Responsible Authority.
23. 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.

Noise Abatement

24. Prior to the endorsement of plans, an amended Acoustic Report prepared by a qualified Acoustic Engineer. The Acoustic Report must be generally in accordance with the report prepared by O'Callaghan Consulting Engineers, advertised 1 December 2022 but amended to show any changes required to align with the plans for endorsement. 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.
25. 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
26. 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.

Permit Expiry

27. 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/permit or conditions of this notice of decision/permit.

Note 1: Should Council impose car parking restrictions in this street, the owners and/or occupiers of the land would generally not be eligible for 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 2: 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 3: 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).

- 8.28 pm Cr Pavlidis left the meeting.
 8.29 pm Cr Yildiz left the meeting.
 8.31 pm Cr Yildiz returned to the meeting.
 8.34 pm Cr Pavlidis returned to the meeting.

Carried unanimously

5.4 25 GALE STREET, BRUNSWICK - PLANNING PERMIT APPLICATION MPS/2022/709



Property:	25 Gale Street, Brunswick East
Proposal:	Construction of a multi-storey mixed use development (commercial on ground floor, dwellings above and communal rooftop area) and reduction in the car parking requirement
Zoning and Overlay/s:	<ul style="list-style-type: none"> • Mixed Use Zone • Development Contributions Plan Overlay (DCPO1) • Design and Development Overlay (DDO19) • Parking Overlay (PO1) • Environmental Audit Overlay

Strategic setting:	Minimal change	Incremental change	Significant change
Objections:	11 objections received Key issues raised: <ul style="list-style-type: none"> • Car parking • Height/storeys • Character 		
Planning Information and Discussion (PID) Meeting:	<ul style="list-style-type: none"> • Held on: 6 June 2023 • Attendees: Five objectors, the applicant and two Council officers. • No changes were agreed to, however the meeting provided an opportunity for the objectors concerns to be discussed and helped inform the preparation of this report. 		
ESD:	<ul style="list-style-type: none"> • Average NatHERS rating of 7.7 stars. • 9.0kW Solar PV System 		
Accessibility:	<ul style="list-style-type: none"> • Adaptable apartments comprise 100 per cent of the proposal. 		
Key reasons for support	<ul style="list-style-type: none"> • The proposed development exceeds the acceptable test of the Planning Scheme, by providing design excellence in respect to, ESD, architecture and accessibility. • Compliant building height • Public works enhance the pedestrian environment of Gale Street 		
Recommendation:	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/2022/709 be issued for the construction of a multi storey mixed use development (commercial on ground floor, dwellings above and communal rooftop area) and reduction in the car parking requirement at 25 Gale Street, Brunswick East subject to the following conditions:

Amended Plans

- 1) Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans advertised 8 February 2023 but modified to show:
 - a) The openable portions of bedroom windows in the northern light court to be clear glazing or another method to improve outlook.
 - b) The Environmentally Sustainable Design initiatives that are required to be shown on plans, as contained within Condition 7 of this permit.
 - c) Any changes to the plans arising from the:
 - i. Landscape Plan in accordance with Condition 3 of this permit.
 - ii. Accessibility Report in accordance with Condition 11 of this permit.
 - iii. Waste Management Plan in accordance with Condition 13 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, a landscape plan must be submitted to the Responsible Authority. The landscape plan must be generally in accordance with the plan prepared by Wowowa advertised 8 February 2023 but amended to show:
 - a) Any changes required to align with the plans for endorsement.
 - b) Identification of the Council street tree to be retained, including the tree protection zone of the tree to be retained and protected.
 - c) Strategies for the retainment of vegetation (i.e. barriers and signage during the construction process) consistent with any conditions of this permit.
 - d) 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 Merri-bek Landscape Guidelines 2009.
 - e) Notes and diagrams detailing the establishment and maintenance of all proposed trees, shrubs and ground covers.
 - f) 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 or Sustainability Management Plan.
 - g) 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.

Tree Protection

- 6) Prior to development commencing (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), all Council trees must have a Tree Protection Zone (TPZ) in accordance with AS4970

Protection of Trees on Development Sites to the satisfaction of the Responsible Authority. The TPZ must meet the following requirements:

a) Tree Protection Fencing

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

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

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

b) Signage

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

c) Irrigation

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

d) Provision of Services

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

Environmentally Sustainable Design (ESD)

7) 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 and Daylight Report by Makao dated 20 December 2022 but modified to include the following changes:

a) Amend the BESS report (and any other corresponding documentation) to:

i. Increase the solar PV size in the Energy Profile to 9.kW.

b) Show the following ESD initiatives on the development plans:

i. A copy of the WSUD plan within the plan set.

ii. Include a product diagram or section of the proposed external adjustable sun shading devices. Ensure windows that have external adjustable shading can open when using the blind.

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

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

- 8) Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, the development must be constructed in accordance with the Sustainable Management Plan (including any BESS and STORM reports and NatHERS Ratings) to the satisfaction of the Responsible Authority.
- 9) Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, a report from the author of the Sustainability Management Plan (SMP) approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm (with documented evidence) that all measures specified in the SMP have been implemented in accordance with the approved plan.
- 10) All stormwater treatment devices (e.g., raingardens, rainwater tanks etc.) must be maintained to the satisfaction of the Responsible Authority to ensure water quality discharged from the site complies with the performance standard in the endorsed Sustainability Management Plan.

Accessibility

- 11) Prior to the endorsement of plans, an amended Accessibility Report prepared by a suitably qualified person must be submitted to the satisfaction of the Responsible Authority. The report must be generally in accordance with the report prepared by Before Compliance advertised 8 February 2023 but modified to:

- a) Align with the plans for endorsement

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.

- 12) 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.

Waste Management

- 13) 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 Makao advertised 8 February 2023 but modified to:

- a) Align with the plans for endorsement

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.

- 14) 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

- 15) Prior to the commencement of the development, a Public Works Plan directly in front of the site must be submitted to the satisfaction of the Responsible Authority. The Plan must be in accordance with the Merri-bek City Council Technical Notes July 2019, or any updated version, and include:
- a) A feature survey of the footpaths and roads.
 - b) 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).
 - c) 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.
 - d) For any vehicle crossing not being used, the kerb, channel and footpath reinstated.
 - e) The installation of new street furniture and infrastructure, such as parking and traffic signs, public seating, bicycle parking and similar which is to be provided with graffiti-resistant surface.
 - f) The provision of new street tree planting or landscaping along Gale Street in appropriate locations in consultation with the Responsible Authority (Open Space Department).
 - 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.

- 16) 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

- 17) Before the construction or carrying out of buildings and works, or where no buildings and works are proposed, prior to the commencement of the permitted use or the issue of a Statement of Compliance under the Subdivision Act 1988 (whichever is earlier), the owner(s) must provide:
- a) A preliminary risk screen assessment statement in accordance with the Environment Protection Act 2017 stating that an environmental audit is not required for the use or, if this permit authorises the construction or carrying out of buildings or works, is not required for the use for which the buildings or works are constructed or carried out; or,
 - b) An environmental audit statement under Part 8.3 of the Environment Protection Act stating that the land is suitable for the use or, if this permit authorises the construction or carrying out of buildings or works, is suitable for the use for which the buildings or works are constructed or carried out; or,
 - c) An environmental audit statement under Part 8.3 of the Environment Protection Act 2017 stating that the land is suitable for the use or, if this permit authorises the construction or carrying out of buildings or works, is suitable for the use for which the buildings or works are constructed or carried out, if the recommendations made in the statement are complied with.

- 18) 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).

- 19) 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.
- 20) 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 17, 18 and 19 are satisfied.
- 21) 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.
- 22) Where a preliminary risk screen assessment has satisfied Condition 17 (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

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

Engineering Matters

- 24) Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority (Merri-bek City Council, City Infrastructure Department).
- 25) 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).
- 26) 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.
- 27) Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, the car park entry gate must be automatic and remote controlled.
- 28) 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).
- 29) Lighting on each balcony must be designed to not emit light direct onto adjoining property to the satisfaction of the Responsible Authority.

Stormwater

- 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 (Note: Please contact Merri-bek City Council, City Infrastructure Department).
- 31) 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.
- 32) 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

- 33) 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.
 - g) Be in accordance with AS2890.1 which requires that columns not be inside parking bays; not be located at the edge of the parking aisle as it increases the

difficulty of manoeuvring into the parking space; and not interfere with the opening of the car doors.

General

- 34) 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.
- 35) 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.
- 36) The shopfront window must not be painted or blocked out in any way to the satisfaction of the Responsible Authority.
- 37) All lighting of external areas must be designed not to emit direct light onto adjoining property to the satisfaction of the Responsible Authority.

Privacy screens to be installed and maintained

- 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.

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: 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.Merri-bek.vic.gov.au/living-in-Merri-bek/parking-and-roads/parking-permits-and-fines/residential-parking-permits/>

Note 2: Environmental Audit Notes

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

- iii. The land owner and all its successors in title or transferees must, upon release for private sale of any part of the land, include in the Vendor's Statement pursuant to Section 32 of the Sale of Land Act 1962, a copy of the Environmental Statement including a copy of any cover letter.

Note 3: 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).

8.51 pm Cr Yildiz left the meeting.

8.52 pm Cr Yildiz returned to the meeting.

9.03 pm Cr Tapinos left the meeting.

Resolution

Cr Riley moved, Cr Pulford seconded -

That a Notice of Decision to Grant a Planning Permit No. MPS/2022/709 be issued for the construction of a multi storey mixed use development (commercial on ground floor, dwellings above and communal rooftop area) and reduction in the car parking requirement at 25 Gale Street, Brunswick East subject to the following conditions:

Amended Plans

- 1) **Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans advertised 8 February 2023 but modified to show:**
 - a) **The openable portions of bedroom windows in the northern light court to be clear glazing or another method to improve outlook.**
 - b) **The Environmentally Sustainable Design initiatives that are required to be shown on plans, as contained within Condition 7 of this permit.**
 - c) **Any changes to the plans arising from the:**
 - i. **Landscape Plan in accordance with Condition 3 of this permit.**
 - ii. **Accessibility Report in accordance with Condition 11 of this permit.**
 - iii. **Waste Management Plan in accordance with Condition 13 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, a landscape plan must be submitted to the Responsible Authority. The landscape plan must be generally in accordance with the plan prepared by Wowowa advertised 8 February 2023 but amended to show:**
 - a) **Any changes required to align with the plans for endorsement.**

- b) Identification of the Council street tree to be retained, including the tree protection zone of the tree to be retained and protected.
- c) Strategies for the retainment of vegetation (i.e. barriers and signage during the construction process) consistent with any conditions of this permit.
- d) 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 Merri-bek Landscape Guidelines 2009.
- e) Notes and diagrams detailing the establishment and maintenance of all proposed trees, shrubs and ground covers.
- f) 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 or Sustainability Management Plan.
- g) 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.

Tree Protection

- 6) Prior to development commencing (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), all Council trees must have a Tree Protection Zone (TPZ) in accordance with AS4970 Protection of Trees on Development Sites to the satisfaction of the Responsible Authority. The TPZ must meet the following requirements:
 - a) **Tree Protection Fencing**
 Tree Protection Fencing (TPF) is to be provided to the extent of the TPZ, calculated as being a radius of 12 x Diameter at Breast Height (DBH – measured at 1.4 metres above ground level as defined by the Australian Standard AS 4970.2009). The TPF may be aligned with roadways, footpaths and boundary fences where they intersect the TPZ.

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

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

b) Signage

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

c) Irrigation

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

d) Provision of Services

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

Environmentally Sustainable Design (ESD)

7) 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 and Daylight Report by Makao dated 20 December 2022 but modified to include the following changes:

a) Amend the BESS report (and any other corresponding documentation) to:

i. Increase the solar PV size in the Energy Profile to 9.kW.

b) Show the following ESD initiatives on the development plans:

i. A copy of the WSUD plan within the plan set.

ii. Include a product diagram or section of the proposed external adjustable sun shading devices. Ensure windows that have external adjustable shading can open when using the blind.

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

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

- 8) Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, the development must be constructed in accordance with the Sustainable Management Plan (including any BESS and STORM reports and NatHERS Ratings) to the satisfaction of the Responsible Authority.
- 9) Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, a report from the author of the Sustainability Management Plan (SMP) approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm (with documented evidence) that all measures specified in the SMP have been implemented in accordance with the approved plan.
- 10) All stormwater treatment devices (e.g., raingardens, rainwater tanks etc.) must be maintained to the satisfaction of the Responsible Authority to ensure water quality discharged from the site complies with the performance standard in the endorsed Sustainability Management Plan.

Accessibility

- 11) Prior to the endorsement of plans, an amended Accessibility Report prepared by a suitably qualified person must be submitted to the satisfaction of the Responsible Authority. The report must be generally in accordance with the report prepared by Before Compliance advertised 8 February 2023 but modified to:
 - a) Align with the plans for endorsementWhen 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.
- 12) 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.

Waste Management

- 13) 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 Makao advertised 8 February 2023 but modified to:
 - a) Align with the plans for endorsementWhen 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.
- 14) 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

- 15) Prior to the commencement of the development, a Public Works Plan directly in front of the site must be submitted to the satisfaction of the Responsible Authority. The Plan must be in accordance with the Merri-bek City Council Technical Notes July 2019, or any updated version, and include:
- a) A feature survey of the footpaths and roads.
 - b) 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).
 - c) 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.
 - d) For any vehicle crossing not being used, the kerb, channel and footpath reinstated.
 - e) The installation of new street furniture and infrastructure, such as parking and traffic signs, public seating, bicycle parking and similar which is to be provided with graffiti-resistant surface.
 - f) The provision of new street tree planting or landscaping along Gale Street in appropriate locations in consultation with the Responsible Authority (Open Space Department).
 - 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.

- 16) 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

- 17) Before the construction or carrying out of buildings and works, or where no buildings and works are proposed, prior to the commencement of the permitted use or the issue of a Statement of Compliance under the Subdivision Act 1988 (whichever is earlier), the owner(s) must provide:
- a) A preliminary risk screen assessment statement in accordance with the Environment Protection Act 2017 stating that an environmental audit is not required for the use or, if this permit authorises the construction or carrying out of buildings or works, is not required for the use for which the buildings or works are constructed or carried out; or,
 - b) An environmental audit statement under Part 8.3 of the Environment Protection Act stating that the land is suitable for the use or, if this permit authorises the construction or carrying out of buildings or works, is suitable for the use for which the buildings or works are constructed or carried out; or,
 - c) An environmental audit statement under Part 8.3 of the Environment Protection Act 2017 stating that the land is suitable for the use or, if this permit authorises the construction or carrying out of buildings or works, is suitable for the use for which the buildings or works are constructed

or carried out, if the recommendations made in the statement are complied with.

- 18) 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).

- 19) 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.
- 20) 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 17, 18 and 19 are satisfied.
- 21) 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.
- 22) Where a preliminary risk screen assessment has satisfied Condition 17 (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

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

Engineering Matters

- 24) Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority (Merri-bek City Council, City Infrastructure Department).
- 25) 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).
- 26) 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.
- 27) Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, the car park entry gate must be automatic and remote controlled.
- 28) 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).
- 29) Lighting on each balcony must be designed to not emit light direct onto adjoining property to the satisfaction of the Responsible Authority.

Stormwater

- 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 (Note: Please contact Merri-bek City Council, City Infrastructure Department).
- 31) 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.
- 32) 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

- 33) 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.
- g) Be in accordance with AS2890.1 which requires that columns not be inside parking bays; not be located at the edge of the parking aisle as it increases the difficulty of manoeuvring into the parking space; and not interfere with the opening of the car doors.

General

- 34) 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.
- 35) 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.
- 36) The shopfront window must not be painted or blocked out in any way to the satisfaction of the Responsible Authority.
- 37) All lighting of external areas must be designed not to emit direct light onto adjoining property to the satisfaction of the Responsible Authority.

Privacy screens to be installed and maintained

- 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.

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: 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.Merri-bek.vic.gov.au/living-in-Merri-bek/parking-and-roads/parking-permits-and-fines/residential-parking-permits/>

Note 2: Environmental Audit Notes

- i. A copy of the Environmental Audit Statement, including the Environmental Audit Report, must be submitted to the responsible authority within 5 business days of issue, as set out in s 210 of the Environment Protection Act 2017.
- ii. The person in management or control of the site must also provide a copy of any statement to any person who proposes to become the person in management or control of the site, such as a potential occupier or potential purchaser.
- iii. The land owner and all its successors in title or transferees must, upon release for private sale of any part of the land, include in the Vendor's Statement pursuant to Section 32 of the Sale of Land Act 1962, a copy of the Environmental Statement including a copy of any cover letter.

Note 3: 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).

9.11 pm Cr Davidson left the meeting during the debate.

9.14 pm Cr Davidson returned to the meeting during the debate.

Carried unanimously

9.22 pm Cr Bolton left the meeting.

Time Extension

Resolution

Cr Panopoulos moved, Cr Pavlidis seconded -

That the Council meeting be extended by 30 minutes until 10.00 pm.

Carried

5.5 10 BALLARAT STREET, BRUNSWICK - AMENDMENT TO PLANNING PERMIT MPS/2018/856/A



Property:	10 Ballarat Street, Brunswick
Permitted development:	Construction of a multi-storey mixed-use development over basement car parking

Proposed amendments:	<ul style="list-style-type: none"> • An alternative building design which increases building height and number of dwellings. • Detailed design changes (external and internal) and amended siting of development. • Reducing the standard car parking requirement. • Providing a publicly accessible linear open space area within an increased western setback.
Zoning and Overlays:	<ul style="list-style-type: none"> • Mixed Use Zone • Design & Development Overlay (Schedule 18) • Environmental Audit Overlay • Parking Overlay (Schedule 1) • Development Contributions Plan Overlay
Strategic setting:	<div style="display: flex; justify-content: space-around; border: 1px solid black; padding: 5px;"> Minimal change Incremental change Significant change </div>
Objections:	<ul style="list-style-type: none"> • Four objections received • Key issues: <ul style="list-style-type: none"> ○ Increased building height ○ Increased visual bulk & overshadowing neighbours ○ Car parking
Planning Information and Discussion (PID) Meeting:	<p>A Planning Information and Discussion Meeting was not held given the limited number of objectors.</p> <p>Discussions with each objector has occurred. An outcome of this engagement is that changes contemplated by Discussion Plans received 27 June 2023 will result in reduced height and overshadowing to the adjoining property to the east.</p>
ESD:	<ul style="list-style-type: none"> • Certified 5-star GreenStar preliminary design • Average NatHERS rating of 7.5 stars
Accessibility:	<ul style="list-style-type: none"> • Adaptable apartments comprise 68 per cent of the proposal
Key reasons for support:	<ul style="list-style-type: none"> • High quality building design • Excellence in ESD • Community benefit via the provision of approximately 800m² of publicly-accessible open space within the western setback
Recommendation :	<p>A Notice of Decision to Grant a Planning Permit be issued for the proposal.</p>

Officer Recommendation

That a Notice of Decision to Grant a Planning Permit No. MPS/2018/856/A be issued for the construction of a multi-storey mixed-use development over basement car parking and a reduction to the standard car parking requirement at 10 Ballarat Street, Brunswick, subject to the following conditions (**new and amended conditions are bolded**):

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 generally accord with the plans prepared by Cox Architecture and Breathe (TP00-01 to TP90-01) advertised on 8 May 2023, but modified to show:**

- a) **A reduction in overall building height by one storey through the deletion of Level 9.**
- b) **Improved connection from Ballarat Street to the Upfield Shared Path and improved pedestrian amenity adjacent to the southern boundary footpath, through all, or a combination of:**
 - i. **Deletion or relocation of brick columns to the ground-floor building line;**
 - ii. **Removal of ground-level planters and relocation of other services;**
 - iii. **Relocation of visitor bicycle spaces;**
 - iv. **Chamfering of south-west corner of the westernmost commercial tenancy;**
 - v. **Removal or reduction of concrete columns; and**
 - vi. **Provision of an at grade widened footpath**
- c) **Amended design treatment to the east elevation as depicted in the Artist Impression contained in the Discussion Plans received 27 June 2023, including but not necessarily limited to:**
 - i. **A reduction in solidity to the framed east-facing balconies of Level 7; and**
 - ii. **Visually permeable balustrades to the east-facing balconies of Level 7.**
- d) **Detailed facade elevations (with dimensions) at a scale of 1:50 (or as otherwise agreed by the Responsible Authority) for the southern and western interfaces of the development (i.e. Ballarat Street and the western setback) for the lower three levels. These elevations must include detail relating to openings, services and external finishes & treatments. Any services on the facade must be treated to integrate with the building architecture.**
- e) **At least one car parking space within the basement levels provided to each retail tenancy within the development.**
- f) **An enhanced detailed design treatment of the substation wall/door at the south-eastern corner of the site's Ballarat Street interface at ground-floor level, with the area west of the basement ramp identified to be provided with public art (or similar).**
- g) **At least 20 per cent of the bicycle parking devices designed to park bicycles horizontally (i.e. 1.8m long) at ground level in accordance with the Australian Standard for Bicycle Parking (AS2890.3).**
- h) **Notation added to Clause 58 drawings for the accessible apartments confirming that the shower will be step-free, or as otherwise agreed by the Responsible Authority.**
- i) **The height and permeability of terrace fencing to the ground-floor, west-facing dwellings confirmed through agreed plan notations. Fence permeability must be at least 25 per cent.**
- j) **Removal of 'green wall treatment' notations on east elevation where works would be located on the adjoining property at 8 Ballarat Street.**
- k) **Replacement of 'Retail' notation on the ground-floor commercial tenancies with 'Section 1 Retail Uses'.**

- l) **Bedroom windows associated with Apartment Type 1.A (for dwellings where windows are adjacent to the southern internal stairwell) relocated south in order to achieve an outlook to the southernmost courtyard/void.**
 - m) **Wayfinding signage provided at ground-floor level to improve the connection between Ballarat Street and the residential lobby.**
 - n) **Any changes required to align with the amended Sustainability Management Plan required by Condition 9 of this permit.**
 - o) **Any changes required to align with the amended Landscape Plan required by Condition 13 of this permit.**
 - p) **Any changes required to align with the Tree Management Plan required by Condition 12 of this permit.**
 - q) **Any changes required to align with the amended Waste Management Plan required by Condition 17 of this permit.**
 - r) **Any changes required to align with the amended Accessibility Report required by Condition 19 of this permit.**
 - s) **Any changes required to align with the amended Acoustic Report required by Condition 21 of this permit.**
 - t) **Any changes required to align with the amended Environmental Wind Assessment required by Condition 24 of this permit.**
 - u) **A schedule of materials, finishes and colours, including physical samples of all external finishes.**
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.**

Retention of architect(s)

3. **The owner of the land must retain Cox Architects and Breathe to 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.**

Easements to be removed

4. This permit shall have no force or effect until such time as a separate permit or permits are issued in accordance with Clause 52.02 of the **Merri-bek Planning Scheme** for:
- a) the removal of the carriageway easements identified on Plan of Subdivision PS503482A, and the carriageway easements are removed in accordance with section 23 of the *Subdivision Act 1988*; and
 - b) the relocation of the drainage easement identified on Plan of Subdivision PS503482A.
5. Prior to the issue of an occupancy permit for the development, the drainage asset and drainage easement must be relocated in accordance with section 23 of the *Subdivision Act 1988*.

Public Realm Works Plan

6. **Prior to the commencement of any development works hereby approved, a Public Realm Works Plan and associated construction drawing specifications detailing the works to the land must be submitted to and approved by the Responsible Authority. When approved, the plan(s) will be endorsed and will then form part of the permit. The plan(s) must be drawn to scale with dimensions. The plan must show the following, all to the satisfaction of the Responsible Authority and to Council's standards as appropriate:**
 - 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) **Construction of the widened Upfield Shared Path a width of approximately 2 metres from the western property boundary (to the extent depicted on TP21-10), to the satisfaction of the Responsible Authority;**
 - d) **Reconstruction and widening of the Ballarat Street footpath along the entire southern frontage of the site, and extended west to the eastern boundary of 33 Ballarat Street consistent with condition 1(b) of this permit;**
 - e) **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;**
 - f) **The location and species of at least six new street trees to the Ballarat Street frontage;**
 - g) **Details of the location and type of all paved and sealed areas;**
 - h) **New or reconstructed footpaths, nature strips and other associated street furniture/infrastructure which is to be provided with graffiti-resistant surfaces;**
 - i) **Relocation of the drainage asset as required by Conditions 4 and 5 of this permit; and**
 - j) **Details of the timing for implementation/delivery of the Public Realm Works to Council's satisfaction.**
7. **Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance (whichever comes first), the works shown in the endorsed public realm works plan are to be constructed at the cost of the developer in accordance with engineering construction plans approved to the satisfaction of the Responsible Authority.**
8. **The public realm works 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.**

Sustainability Management Plan

9. **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 ADP Consulting dated May 2023, but modified to include the following changes:**

- a) **Relating to the Green Star assessment:**
 - i. **Provide evidence that the project will be registered and approved by the Green Building Council of Australia, including contracts with ESD Consultants engaged to perform these tasks.**
 - ii. **Provide an updated Green Star assessment which confirms all targeted credits and confirms the methodology for achieving a minimum 5 star building. Preliminary NatHERS ratings for all thermally-unique dwellings demonstrating the 7.5 star average, performed by an accredited NatHERS assessor and containing complete cooling load, heating loads, star ratings and proposed building fabric.**
- b) **An amended stormwater catchment plan that is consistent with the MUSIC model and ground-floor clearly showing:**
 - i. **Deletion of the 'OSD pipes - OSD Short Chamber' but still meeting the Best Practice Environment Management Guidelines pollutant reduction targets, unless otherwise agreed by the Responsible Authority.**

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.

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.

- 10. **Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance (whichever comes first), a report from the author of the 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. This must include confirmation from the Green Building Council of Australia that the 5 Star Green Star rating commitment has either been met or sufficiently progressed to the satisfaction of the Responsible Authority.**
- 11. **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.**

Tree Management Plan (TMP)

- 12. **Prior to the endorsement of plans, a Tree Management Plan (TMP) must be submitted to the satisfaction of the Responsible Authority. The TMP must be prepared by a suitably qualified Arborist and make specific recommendations in accordance with the Australian Standard AS4970: 2009 - Protection of Trees on Development Sites to ensure that Tree 1 (existing eucalypt within the western setback) remains healthy and viable during construction. The TMP must include the following to the satisfaction of the Responsible Authority:**
 - a) **A tree protection plan to scale that shows:**
 - i. **All Tree Protection Zones and Structural Root Zones**
 - ii. **All Tree Protection Fencing**

- iii. Areas where ground protection systems will be used
 - iv. The type of footings within any Tree Protection Zone
 - v. The location of services within any Tree Protection Zone
 - vi. The location and design of Tree Protection Fencing.
 - vii. Details of appropriate footings within the Tree Protection Zone.
- b) How surfacing and underground services will be installed within the TPZ (this must include annotation on the TPP for use of hydro-excavation under project arborist supervision for earthworks that cannot be relocated outside the TPZ)
 - c) Details of how the root zone and canopy will be protected throughout the project.
 - d) A timetable outlining works requiring supervision by the Project Arborist (including supervision of removal of existing surfacing within the TPZ).
 - e) All remedial pruning works that are required to be performed on the tree during the development of the site. The pruning comments must reference Australian Standards 4373:2007, Pruning of Amenity Trees and a detailed photographic diagram specifying what pruning will occur.

When submitted and approved to the satisfaction of the Responsible Authority, the TMP will be endorsed to form part of this permit. The recommendations of the endorsed TMP must be implemented to the satisfaction of the Responsible Authority. No changes can be made to the plan without the written consent of the Responsible Authority.

Landscape Plan

13. Prior to the commencement of development, an amended detailed Landscape Plan must be submitted to and approved by the Responsible Authority. The landscape plan must be generally in accordance with the plan advertised on 5 May 2023 but provide for the following:
- a) Planting schedule including quantities and locations suitable for Ecological Vegetation Class 55 (EVC55).
 - b) The location of relocated easements/drainage assets considered and shown.
 - c) A maintenance and planting schedule for the replacement of dead, diseased or damaged plants which anticipates the future low-light context of the area adjacent to the elevated rail, and nominates alternative planting in the event the original planting is no longer suitable.
 - d) Details of landscaping and planters at podium and balcony level.
 - e) Maintenance schedule and plan for the satisfactory upkeep and management of the publicly-accessible linear open space.
 - f) A Lighting Plan with LUX levels and tested against CPTED principles, including integrated lighting.
 - g) Detail and proposed heights of mounding in linear publicly-accessible open space.
 - h) How the design of the area takes into consideration the elevated rail project immediately adjacent to the site, with the linear publicly-accessible open space to be suitably integrated with the future open space beneath the elevated rail.

- i) **Suitably integrated water sensitive urban design, to the satisfaction of the Responsible Authority.**
- j) **The species of any new street trees.**
- k) **Removal of 'green wall treatment' on east elevation where works would be located on the adjoining property at 8 Ballarat Street.**

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

- 14. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance (whichever comes first), all landscaping works must be completed and maintained in accordance with the approved and endorsed landscape drawing to the satisfaction of the Responsible Authority.
- 15. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance (whichever comes first), the street trees as shown on the landscape plan must be planted, subject to any site constraints as determined by Council. All street tree works must be undertaken by Council at the cost of the permit holder.
- 16. **All landscaping and irrigation systems must be maintained to the satisfaction of the Responsible Authority in accordance with the endorsed landscape plans and/or the maintenance schedule, as applicable. Any dead, diseased or damaged plants must be replaced with a suitable species to the satisfaction of the Responsible Authority.**

Waste Management Plan

- 17. **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 advertised WMP prepared by Ratio Consultants but modified to reflect the development hereby approved. Unless otherwise agreed by the Responsible Authority, the amended WMP must remove reference to chute system unless organics waste stream can be managed with a similar level of convenience to avoid contamination of the streams and support resource recovery, to the satisfaction of the Responsible Authority.**

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

- 18. 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.

Accessibility Report

- 19. **Prior to the endorsement of plans, an amended Accessibility Report must be submitted to the satisfaction of the Responsible Authority. The plan must be generally in accordance with the advertised Accessibility Report prepared by MGAC but modified to consider the development hereby approved, and to reflect the changes required by Condition 1 of this permit.**

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 Accessibility Report may occur without the written consent of the Responsible Authority.

20. Prior to the issue of an occupancy permit for any dwelling approved under this permit, 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

21. **Prior to the endorsement of plans, an amended Acoustic Report must be submitted to the satisfaction of the Responsible Authority. The report must be generally in accordance with the advertised Acoustic Report prepared by Acoustic Logic, and must:**
- a) **Reflect the development hereby approved and the changes required by Condition 1 of this permit; and**
 - b) **Detail how construction methods and materials will mitigate noise impacts from the railway line (including from its future elevated position).**

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.

22. **The building must be constructed and maintained in accordance with the recommendations contained within the approved Acoustic Report to the satisfaction of the Responsible Authority. The Acoustic Report endorsed 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.**
23. **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 Wind Assessment

24. **Prior to the endorsement of plans, an amended Environmental Wind Assessment must be submitted to the satisfaction of the Responsible Authority. The plan must be generally in accordance with the advertised Environmental Wind Assessment but it must be amended as required, to show the development layout updated to reflect the changes required by Condition 1 of this permit.**

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

25. **The Environmental Wind Assessment 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.**

Melbourne Water

26. **The ground floor of the building must be constructed with finished floor levels set no lower than 46.0 metres to Australian Height Datum (AHD), with the exception of that**

portion of the building located on the southern part of the site, identified by Melbourne Water in the image titled 'Graded Flood Level' dated 7 April 2020 as having a flood level of 45.5 metres to Australian Height Datum (AHD), which must be constructed with finished floor levels set no lower than 45.8 metres to Australian Height Datum (AHD).

27. The Entry/Exit apex & all opening to the proposed basement carpark must be set no lower than 300mm above the flood level by Melbourne Water (in the image titled 'Graded Flood Level' dated 7 April 2020).
28. The building must be setback 3 metres from western boundary at ground floor to allow for the passage of overland flows. The set setback area must be set at current natural surface levels. If fencing is proposed along the western boundary, it must be 50 per cent open style fence to allow the passage of overland flows within 3 metre setback area.
29. Any new fencing/gates must be of an open style of construction (minimum 50 per cent open) to allow for the passage of overland flows.
30. Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.

VicTrack

31. The permit holder must, at all times, ensure that the common boundary with railway land is fenced at the permit holder's expense during construction.
32. The permit holder must not, at any time:
 - a) Allow any drainage, effluent, waste, soil or other materials to enter or be directed to the railway land; or
 - b) Store or deposit any waste, soil or other materials on the railway land.
33. The permit holder must not plant any plants or tree species that are likely to cause any future overhang onto the railway land or disturbance to the railway operations.
34. Entry onto railway land is at the discretion of the Rail Operator and is subject to the Rail Operator's Site Access Procedures and conditions. The rail operator contact is: metrositeaccess@metrotrains.com.au.
35. Prior to the commencement of works, including demolition and bulk excavation, the permit holder must enter into all necessary construction control and indemnity agreements as required by the Rail Operator to ensure that the disruption to train operation within the railway corridor is kept to a minimum during construction and in compliance with the Rail Operators Safety and Environmental requirements contained within the Rail Operators construction control and indemnity agreement.
36. The permit holder must not carry out, or allow to be carried out, any excavation, filling or construction on the common boundary between the subject land and the railway land unless it has obtained the prior written approval of VicTrack and the Rail Operator.
37. All works, including hoardings, must be undertaken within the subject land and must not encroach onto the railway land.
38. The permit holder must not at any time erect lighting (permanent or temporary) that spills light onto the railway tracks or which interferes with the visibility of signals and rail lines by train drivers.
39. Building materials (including glass/window/balcony treatments) or advertising signs likely to have an effect on train driver operations along the rail corridor must be shown by a reflectivity and or light study not to cause reflections or glare that may interfere with train driver operations and avoid using red, green or yellow colour

schemes or shapes capable of being mistaken for train signals.

40. The permit holder must not install, or cause to be installed, any permanent or temporary ground anchors within the railway land.
41. No building or structure is to be erected that interferes with or restricts train driver lines of sight to train signals.
42. Before the development starts, detailed construction/engineering plans and computations for any construction or works likely to have an impact on railway operations, railway infrastructure assets or railway land are to be submitted and approved by VicTrack, and the Rail Operator (MTM). The plans must detail all excavation design and controls of the site adjacent to the railway corridor having any impact on the railway land. The Design Plans to ensure compliance regarding building clearances to aerial power lines as per the applicable Victorian Electrical Safety (Installations) Regulations (particularly Part 3 Division 2) and design loadings where within 20m of the nearest rail track in compliance with AS5100.2-2017 Design Loads.
43. Before development starts, including demolition and bulk excavation, Demolition and Construction Management Plans must be submitted to VicTrack, and the Rail Operator which must be to the satisfaction of VicTrack, and the Rail Operator. The Construction Management Plan must include details of (but not limited to) management proposals to minimise impacts to VicTrack assets and the operation of the railway during construction and must set out objectives and performance and monitoring requirements for –
 - a) Access to the rail environment, including designation of any areas to be used under license during the construction process.
 - b) Approvals and permits required from VicTrack and the accredited Rail Operator prior to works commencing and prior to accessing the railway land.
 - c) Rail safety requirements that must be adhered to by the permit holder.
 - d) Protection of all rail infrastructure to ensure rail infrastructure is not damaged during demolition or construction.
 - e) Minimising disruption to train services and railway commuter access.
 - f) Management of drainage, effluent, material stockpiles, fencing, hoardings to ensure VicTrack land is not used for, or impacted on by these activities outside of the licence area.
 - g) Public safety, amenity and site security.
 - h) Operating hours, noise and vibration controls.
 - i) Air and dust management.

All demolition and construction works must be carried out in accordance with the approved Demolition and Construction Management Plan. The Demolition and Construction Management Plan must be implemented at no cost to VicTrack, and/or the Rail Operator.

44. Any damage to the Rail Operator's infrastructure as a consequence of the construction works must be rectified to the satisfaction of the Rail Operator at full cost of the Building Permit Applicant.

Transport for Victoria

45. Before the endorsement of the planning permit plans, or such other time agreed in writing by the Head, Transport for Victoria, the permit holder must prepare and submit to TfV for approval, a safety audit/risk assessment that considers the safety aspects of the proposed design from the perspective of users of the Shared User Path (SUP).

46. **Before the development starts, or such other time agreed to in writing by the Head, Transport for Victoria amended plans to the satisfaction of the Head, Transport for Victoria 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 digital copies must be provided. The plans must be generally in accordance with the plans submitted with the application (dated 28/02/23 Revision 2 prepared by 'COX Architects' and 'BREATHE' - Project 2173) but modified to show:**
- a) **Confirmation of the exit points to the bike track;**
 - b) **Provision of adequate sightline from the exits to the bike track;**
 - c) **There is no reliance on VicTrack land for the maintenance of the communication tower on the land;**
 - d) **Any modifications in accordance with the safety audit/risk assessment (refer to Condition 45 of this permit);**
 - e) **All buildings and works in compliance with the requirements in the Disability Discrimination Act 1992;**
 - f) **The external building materials (including glass/window treatments) visible from the railway track must not be reflective or of a red, green or yellow colour palette;**
 - g) **A notation specifying all walls abutting the railway land must be cleaned and finished with a graffiti resistant finish or identifying alternative measures to reduce the potential for graffiti on the walls abutting the railway land.**

Engineering plans

47. Prior to the occupation of the development, the buildings and works shown on the endorsed plans must be completed and maintained to the satisfaction of the Head, Transport for Victoria.
48. Prior to construction of the development commencing (including excavation and demolition) the permit applicant must enter into a construction control and indemnity agreement with Head Transport for Victoria, Victorian Rail Track and the Rail Operator at the cost of the permit applicant.

Traffic Management Plan

49. Before development starts (including demolition and bulk excavation), a Traffic Management Plan must be submitted to and approved by the Head, Transport for Victoria. The Traffic Management Plan must provide for:
- a) How public transport operations, traffic, walking and cycling movements will be managed during the demolition and construction; and
 - b) How any traffic impact on the railway land and associated infrastructure will be mitigated.

The Traffic Management Plan must be implemented and complied with to the satisfaction of the Head, Transport for Victoria.

All costs associated with the preparation and implementation of the Traffic Management Plan will be at no cost to the Head, Transport for Victoria.

The endorsed Traffic Management Plan must not be modified without the prior written consent of the Secretary, Department for Transport.

Demolition and Construction Management Plan

50. Before development starts (including demolition and bulk excavation), a Demolition and Construction Management Plan must be submitted to and approved by the Head, Transport for Victoria. When approved, the Demolition and Construction Management Plan will form a part of this permit. The Demolition and Construction Management Plan must include (but not be limited to) details of:
- a) The buildings, works and other measures necessary to:
 - i. Protect railway land, track, overhead power and associated infrastructure;
 - ii. Prevent/minimise disruption to the operation of the railway;
 - b) The remediation of any damage to railway land, track, overhead power and associated infrastructure;
 - c) Access to the railway land during demolition and construction of the development (if required);
 - d) Arrangements for:
 - i. Any hoarding associated with the construction of the development that encroaches onto or overhangs railway land;
 - ii. The excavation, filling, earthworks or construction associated with the development occurring on or next to the boundary of the railway land;
 - iii. The deposit or store of waste, fill or other materials associated with the development on the railway land;
 - iv. Air and dust management;
 - v. Operating hours;
 - vi. Noise and vibration controls;
 - vii. The security of the railway land and associated infrastructure; and
 - e) The safety requirements relevant to the railway land and associated infrastructure and the operation of the railway.

All demolition and construction works must be carried out in accordance with the approved Demolition and Construction Management Plan unless with the prior written consent of the Head, Transport for Victoria. The Demolition and Construction Management Plan must be prepared, implemented and monitored at no cost to the Head, Transport for Victoria.

The Demolition and Construction Plan must be consistent with any Construction Management Plan required by the Responsible Authority.

Development Contribution Plan

51. 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.

Environmental Audit

- 52. Before the construction or carrying out of buildings and works (other than demolition of existing buildings and structures, removal of vegetation, site investigation works necessary to determine the level of contamination on the land, and remediation 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.**
- 53. 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.**
- 54. 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).**
- 55. 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.**

56. **No works to construct the development hereby approved (other than demolition of existing buildings and structures, removal of vegetation, site investigation works necessary to determine the level of contamination on the land, and remediation works) 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 52, 53 and 54 of this permit are satisfied.**
57. **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.**
58. **Where a preliminary risk screen assessment has satisfied Condition 51 (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.**

General

59. The pump wet well for the basement is to be designed so that it can cater for 1 per cent AEP instead of 10 per cent as per Section (8) of AS/NZS 3500.3.2018.
60. 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).
61. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance (whichever comes first), any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority (**Merri-bek City Council**, City Infrastructure Department).
62. **All commercial parking spaces are to be marked with the associated commercial tenancy number or loading status to facilitate management of the car park to the satisfaction of the Responsible Authority.**
63. 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.
64. 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).
65. 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 or installed to the satisfaction of the Responsible Authority.

66. 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.
67. All external lighting, other than balcony lighting, must be no higher than 1.2 metres above ground level (unless otherwise agreed by the Responsible Authority) with automatic or sensor-controlled lighting installed and maintained on the land to illuminate pedestrian access between dusk and dawn with no direct light emitted onto adjoining property, to the satisfaction of the Responsible Authority.
68. Lighting on each balcony must be designed to not emit light direct onto adjoining property to the satisfaction of the Responsible Authority.

Car-share

69. Five car parking spaces must be reserved for car-share operation at all times ('Car Share Spaces').
70. The Car Share Spaces must be available to all members of the carshare scheme 24/7 and should be well-lit with safe pedestrian access, to the satisfaction of the Responsible Authority.
71. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance (whichever comes first), the Car Share Spaces must be contracted to an operator (i.e. a Car-share provider), with evidence of agreement submitted to Council. The agreement must ensure appropriate insurance and vehicle maintenance is in place, including public liability.
72. The car-share operation must be in place within two months of issue of an Occupancy Permit, to the satisfaction of the Responsible Authority.
73. At the request of the Responsible Authority, the carshare operator must report utilisation of the Car Share Spaces to Council (or in accordance with Council's on-street reporting requirements). This report is to be sent by email to info@merri-bek.vic.gov.au with "Attention Development Engineering" in the subject line.

Section 173 Agreement

74. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance (whichever comes first) 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:

Pedestrian access/indemnify

- a) Unrestricted public pedestrian access through the ground-level western setback marked 'Upfield Park' on TP21.10 (immediately adjacent to the Upfield Shared Path) for 24 hours a day (365 days a year) unless otherwise agreed to by the Responsible Authority. Public access is to be provided from the property's western boundary up to the western wall of the building hereby approved, the west-facing terraces of the ground-floor apartments, and the western ground-floor lobby.
- b) The owners of the land to indemnify the Merri-bek City Council against any claims associated with the use of this linear publicly-accessible open space area and responsibility for the on-going maintenance of the areas.

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.

3D Model

75. 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.

Expiry

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

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

- Within 6 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: Prior to the occupation of the development, 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.

Note 2: Should Council impose car parking restrictions in this street, the owners and/or occupiers of the land would not be eligible for any Council parking permits to allow for on street parking.

9.41 pm Cr Yildiz left the meeting.

9.42 pm Cr Yildiz returned to the meeting.

9.43 pm Cr Yildiz left the meeting.

9.46 pm Cr Yildiz returned to the meeting.

Time Extension

Resolution

Cr Panopoulos moved, Cr Pavlidis seconded -

That the Council meeting be extended by 30 minutes until 10.30 pm..

Carried

Resolution

Cr Pulford moved, Cr Tapinos seconded -

That a Notice of Decision to Grant a Planning Permit No. MPS/2018/856/A be issued for the construction of a multi-storey mixed-use development over basement car parking and a reduction to the standard car parking requirement at 10 Ballarat Street, Brunswick, subject to the following conditions (new and amended conditions are bolded):

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 generally accord with the plans prepared by Cox Architecture and Breathe (TP00-01 to TP90-01) advertised on 8 May 2023, but modified to show:
 - a) A reduction in overall building height by one storey through the deletion of Level 9.
 - b) Improved connection from Ballarat Street to the Upfield Shared Path and improved pedestrian amenity adjacent to the southern boundary footpath, through all, or a combination of:
 - i. Deletion or relocation of brick columns to the ground-floor building line;
 - ii. Removal of ground-level planters and relocation of other services;
 - iii. Relocation of visitor bicycle spaces;
 - iv. Chamfering of south-west corner of the westernmost commercial tenancy;
 - v. Removal or reduction of concrete columns; and
 - vi. Provision of an at grade widened footpath
 - c) Amended design treatment to the east elevation as depicted in the Artist Impression contained in the Discussion Plans received 27 June 2023, including but not necessarily limited to:
 - i. A reduction in solidity to the framed east-facing balconies of Level 7; and
 - ii. Visually permeable balustrades to the east-facing balconies of Level 7.
 - d) Detailed facade elevations (with dimensions) at a scale of 1:50 (or as otherwise agreed by the Responsible Authority) for the southern and western interfaces of the development (i.e. Ballarat Street and the western setback) for the lower three levels. These elevations must include detail relating to openings, services and external finishes & treatments. Any services on the facade must be treated to integrate with the building architecture.
 - e) At least one car parking space within the basement levels provided to each retail tenancy within the development.
 - f) An enhanced detailed design treatment of the substation wall/door at the south-eastern corner of the site's Ballarat Street interface at ground-floor level, with the area west of the basement ramp identified to be provided with public art (or similar).

- g) At least 20 per cent of the bicycle parking devices designed to park bicycles horizontally (i.e. 1.8m long) at ground level in accordance with the Australian Standard for Bicycle Parking (AS2890.3).
 - h) Notation added to Clause 58 drawings for the accessible apartments confirming that the shower will be step-free, or as otherwise agreed by the Responsible Authority.
 - i) The height and permeability of terrace fencing to the ground-floor, west-facing dwellings confirmed through agreed plan notations. Fence permeability must be at least 25 per cent.
 - j) Removal of 'green wall treatment' notations on east elevation where works would be located on the adjoining property at 8 Ballarat Street.
 - k) Replacement of 'Retail' notation on the ground-floor commercial tenancies with 'Section 1 Retail Uses'
 - l) Bedroom windows associated with Apartment Type 1.A (for dwellings where windows are adjacent to the southern internal stairwell) relocated south in order to achieve an outlook to the southernmost courtyard/void.
 - m) Wayfinding signage provided at ground-floor level to improve the connection between Ballarat Street and the residential lobby.
 - n) Any changes required to align with the amended Sustainability Management Plan required by Condition 9 of this permit.
 - o) Any changes required to align with the amended Landscape Plan required by Condition 13 of this permit.
 - p) Any changes required to align with the Tree Management Plan required by Condition 12 of this permit.
 - q) Any changes required to align with the amended Waste Management Plan required by Condition 17 of this permit.
 - r) Any changes required to align with the amended Accessibility Report required by Condition 19 of this permit.
 - s) Any changes required to align with the amended Acoustic Report required by Condition 21 of this permit.
 - t) Any changes required to align with the amended Environmental Wind Assessment required by Condition 24 of this permit.
 - u) A schedule of materials, finishes and colours, including physical samples of all external finishes.
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.

Retention of architect(s)

3. The owner of the land must retain Cox Architects and Breathe to 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.

Easements to be removed

4. This permit shall have no force or effect until such time as a separate permit or permits are issued in accordance with Clause 52.02 of the Merri-bek Planning Scheme for:

- a) the removal of the carriageway easements identified on Plan of Subdivision PS503482A, and the carriageway easements are removed in accordance with section 23 of the Subdivision Act 1988; and
 - b) the relocation of the drainage easement identified on Plan of Subdivision PS503482A.
5. Prior to the issue of an occupancy permit for the development, the drainage asset and drainage easement must be relocated in accordance with section 23 of the Subdivision Act 1988.

Public Realm Works Plan

6. Prior to the commencement of any development works hereby approved, a Public Realm Works Plan and associated construction drawing specifications detailing the works to the land must be submitted to and approved by the Responsible Authority. When approved, the plan(s) will be endorsed and will then form part of the permit. The plan(s) must be drawn to scale with dimensions. The plan must show the following, all to the satisfaction of the Responsible Authority and to Council's standards as appropriate:
- 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) Construction of the widened Upfield Shared Path a width of approximately 2 metres from the western property boundary (to the extent depicted on TP21-10), to the satisfaction of the Responsible Authority;
 - d) Reconstruction and widening of the Ballarat Street footpath along the entire southern frontage of the site, and extended west to the eastern boundary of 33 Ballarat Street consistent with condition 1(b) of this permit;
 - e) 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;
 - f) The location and species of at least six new street trees to the Ballarat Street frontage;
 - g) Details of the location and type of all paved and sealed areas;
 - h) New or reconstructed footpaths, nature strips and other associated street furniture/infrastructure which is to be provided with graffiti-resistant surfaces;
 - i) Relocation of the drainage asset as required by Conditions 4 and 5 of this permit; and
 - j) Details of the timing for implementation/delivery of the Public Realm Works to Council's satisfaction.
7. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance (whichever comes first), the works shown in the endorsed public realm works plan are to be constructed at the cost of the developer in accordance with engineering construction plans approved to the satisfaction of the Responsible Authority.

8. The public realm works 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.

Sustainability Management Plan

9. 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 ADP Consulting dated May 2023, but modified to include the following changes:
 - a) Relating to the Green Star assessment:
 - i. Provide evidence that the project will be registered and approved by the Green Building Council of Australia, including contracts with ESD Consultants engaged to perform these tasks.
 - ii. Provide an updated Green Star assessment which confirms all targeted credits and confirms the methodology for achieving a minimum 5 star building.
Preliminary NatHERS ratings for all thermally-unique dwellings demonstrating the 7.5 star average, performed by an accredited NatHERS assessor and containing complete cooling load, heating loads, star ratings and proposed building fabric.
 - b) An amended stormwater catchment plan that is consistent with the MUSIC model and ground-floor clearly showing:
 - i. Deletion of the 'OSD pipes - OSD Short Chamber' but still meeting the Best Practice Environment Management Guidelines pollutant reduction targets, unless otherwise agreed by the Responsible Authority.

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.

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.

10. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance (whichever comes first), a report from the author of the 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. This must include confirmation from the Green Building Council of Australia that the 5 Star Green Star rating commitment has either been met or sufficiently progressed to the satisfaction of the Responsible Authority.
11. 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.

Tree Management Plan (TMP)

12. Prior to the endorsement of plans, a Tree Management Plan (TMP) must be submitted to the satisfaction of the Responsible Authority. The TMP must be prepared by a suitably qualified Arborist and make specific recommendations in accordance with the Australian Standard AS4970: 2009 - Protection of Trees on Development Sites to ensure that Tree 1 (existing eucalypt within the western setback) remains healthy and viable during construction. The TMP must include the following to the satisfaction of the Responsible Authority:
- a) A tree protection plan to scale that shows:
 - i. All Tree Protection Zones and Structural Root Zones
 - ii. All Tree Protection Fencing
 - iii. Areas where ground protection systems will be used
 - iv. The type of footings within any Tree Protection Zone
 - v. The location of services within any Tree Protection Zone
 - vi. The location and design of Tree Protection Fencing.
 - vii. Details of appropriate footings within the Tree Protection Zone.
 - b) How surfacing and underground services will be installed within the TPZ (this must include annotation on the TPP for use of hydro-excavation under project arborist supervision for earthworks that cannot be relocated outside the TPZ)
 - c) Details of how the root zone and canopy will be protected throughout the project.
 - d) A timetable outlining works requiring supervision by the Project Arborist (including supervision of removal of existing surfacing within the TPZ).
 - e) All remedial pruning works that are required to be performed on the tree during the development of the site. The pruning comments must reference Australian Standards 4373:2007, Pruning of Amenity Trees and a detailed photographic diagram specifying what pruning will occur.

When submitted and approved to the satisfaction of the Responsible Authority, the TMP will be endorsed to form part of this permit. The recommendations of the endorsed TMP must be implemented to the satisfaction of the Responsible Authority. No changes can be made to the plan without the written consent of the Responsible Authority.

Landscape Plan

13. Prior to the commencement of development, an amended detailed Landscape Plan must be submitted to and approved by the Responsible Authority. The landscape plan must be generally in accordance with the plan advertised on 5 May 2023 but provide for the following:
- a) Planting schedule including quantities and locations suitable for Ecological Vegetation Class 55 (EVC55).
 - b) The location of relocated easements/drainage assets considered and shown.
 - c) A maintenance and planting schedule for the replacement of dead, diseased or damaged plants which anticipates the future low-light context of the area adjacent to the elevated rail, and nominates alternative planting in the event the original planting is no longer suitable.
 - d) Details of landscaping and planters at podium and balcony level.

- e) **Maintenance schedule and plan for the satisfactory upkeep and management of the publicly-accessible linear open space.**
- f) **A Lighting Plan with LUX levels and tested against CPTED principles, including integrated lighting.**
- g) **Detail and proposed heights of mounding in linear publicly-accessible open space.**
- h) **How the design of the area takes into consideration the elevated rail project immediately adjacent to the site, with the linear publicly-accessible open space to be suitably integrated with the future open space beneath the elevated rail.**
- i) **Suitably integrated water sensitive urban design, to the satisfaction of the Responsible Authority.**
- j) **The species of any new street trees.**
- k) **Removal of 'green wall treatment' on east elevation where works would be located on the adjoining property at 8 Ballarat Street.**

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

- 14. **Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance (whichever comes first), all landscaping works must be completed and maintained in accordance with the approved and endorsed landscape drawing to the satisfaction of the Responsible Authority.**
- 15. **Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance (whichever comes first), the street trees as shown on the landscape plan must be planted, subject to any site constraints as determined by Council. All street tree works must be undertaken by Council at the cost of the permit holder.**
- 16. **All landscaping and irrigation systems must be maintained to the satisfaction of the Responsible Authority in accordance with the endorsed landscape plans and/or the maintenance schedule, as applicable. Any dead, diseased or damaged plants must be replaced with a suitable species to the satisfaction of the Responsible Authority.**

Waste Management Plan

- 17. **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 advertised WMP prepared by Ratio Consultants but modified to reflect the development hereby approved. Unless otherwise agreed by the Responsible Authority, the amended WMP must remove reference to chute system unless organics waste stream can be managed with a similar level of convenience to avoid contamination of the streams and support resource recovery, to the satisfaction of the Responsible Authority.**

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

- 18. **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.**

Accessibility Report

19. Prior to the endorsement of plans, an amended Accessibility Report must be submitted to the satisfaction of the Responsible Authority. The plan must be generally in accordance with the advertised Accessibility Report prepared by MGAC but modified to consider the development hereby approved, and to reflect the changes required by Condition 1 of this permit.

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 Accessibility Report may occur without the written consent of the Responsible Authority.

20. Prior to the issue of an occupancy permit for any dwelling approved under this permit, 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

21. Prior to the endorsement of plans, an amended Acoustic Report must be submitted to the satisfaction of the Responsible Authority. The report must be generally in accordance with the advertised Acoustic Report prepared by Acoustic Logic, and must:

- a) Reflect the development hereby approved and the changes required by Condition 1 of this permit; and
- b) Detail how construction methods and materials will mitigate noise impacts from the railway line (including from its future elevated position).

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.

22. The building must be constructed and maintained in accordance with the recommendations contained within the approved Acoustic Report to the satisfaction of the Responsible Authority. The Acoustic Report endorsed 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.
23. 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 Wind Assessment

24. Prior to the endorsement of plans, an amended Environmental Wind Assessment must be submitted to the satisfaction of the Responsible Authority. The plan must be generally in accordance with the advertised Environmental Wind Assessment but it must be amended as required, to show the development layout updated to reflect the changes required by Condition 1 of this permit.

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

- 25. The Environmental Wind Assessment 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.**

Melbourne Water

- 26. The ground floor of the building must be constructed with finished floor levels set no lower than 46.0 metres to Australian Height Datum (AHD), with the exception of that portion of the building located on the southern part of the site, identified by Melbourne Water in the image titled 'Graded Flood Level' dated 7 April 2020 as having a flood level of 45.5 metres to Australian Height Datum (AHD), which must be constructed with finished floor levels set no lower than 45.8 metres to Australian Height Datum (AHD).**
- 27. The Entry/Exit apex & all opening to the proposed basement carpark must be set no lower than 300mm above the flood level by Melbourne Water (in the image titled 'Graded Flood Level' dated 7 April 2020).**
- 28. The building must be setback 3 metres from western boundary at ground floor to allow for the passage of overland flows. The set setback area must be set at current natural surface levels. If fencing is proposed along the western boundary, it must be 50 per cent open style fence to allow the passage of overland flows within 3 metre setback area.**
- 29. Any new fencing/gates must be of an open style of construction (minimum 50 per cent open) to allow for the passage of overland flows.**
- 30. Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.**

VicTrack

- 31. The permit holder must, at all times, ensure that the common boundary with railway land is fenced at the permit holder's expense during construction.**
- 32. The permit holder must not, at any time:**
 - a) Allow any drainage, effluent, waste, soil or other materials to enter or be directed to the railway land; or**
 - b) Store or deposit any waste, soil or other materials on the railway land.**
- 33. The permit holder must not plant any plants or tree species that are likely to cause any future overhang onto the railway land or disturbance to the railway operations.**
- 34. Entry onto railway land is at the discretion of the Rail Operator and is subject to the Rail Operator's Site Access Procedures and conditions. The rail operator contact is: metrositeaccess@metrotrains.com.au.**
- 35. Prior to the commencement of works, including demolition and bulk excavation, the permit holder must enter into all necessary construction control and indemnity agreements as required by the Rail Operator to ensure that the disruption to train operation within the railway corridor is kept to a minimum during construction and in compliance with the Rail Operators Safety and Environmental requirements contained within the Rail Operators construction control and indemnity agreement.**

36. The permit holder must not carry out, or allow to be carried out, any excavation, filling or construction on the common boundary between the subject land and the railway land unless it has obtained the prior written approval of VicTrack and the Rail Operator.
37. All works, including hoardings, must be undertaken within the subject land and must not encroach onto the railway land.
38. The permit holder must not at any time erect lighting (permanent or temporary) that spills light onto the railway tracks or which interferes with the visibility of signals and rail lines by train drivers.
39. Building materials (including glass/window/balcony treatments) or advertising signs likely to have an effect on train driver operations along the rail corridor must be shown by a reflectivity and or light study not to cause reflections or glare that may interfere with train driver operations and avoid using red, green or yellow colour schemes or shapes capable of being mistaken for train signals.
40. The permit holder must not install, or cause to be installed, any permanent or temporary ground anchors within the railway land.
41. No building or structure is to be erected that interferes with or restricts train driver lines of sight to train signals.
42. Before the development starts, detailed construction/engineering plans and computations for any construction or works likely to have an impact on railway operations, railway infrastructure assets or railway land are to be submitted and approved by VicTrack, and the Rail Operator (MTM). The plans must detail all excavation design and controls of the site adjacent to the railway corridor having any impact on the railway land. The Design Plans to ensure compliance regarding building clearances to aerial power lines as per the applicable Victorian Electrical Safety (Installations) Regulations (particularly Part 3 Division 2) and design loadings where within 20m of the nearest rail track in compliance with AS5100.2-2017 Design Loads.
43. Before development starts, including demolition and bulk excavation, Demolition and Construction Management Plans must be submitted to VicTrack, and the Rail Operator which must be to the satisfaction of VicTrack, and the Rail Operator. The Construction Management Plan must include details of (but not limited to) management proposals to minimise impacts to VicTrack assets and the operation of the railway during construction and must set out objectives and performance and monitoring requirements for –
 - a) Access to the rail environment, including designation of any areas to be used under license during the construction process.
 - b) Approvals and permits required from VicTrack and the accredited Rail Operator prior to works commencing and prior to accessing the railway land.
 - c) Rail safety requirements that must be adhered to by the permit holder.
 - d) Protection of all rail infrastructure to ensure rail infrastructure is not damaged during demolition or construction.
 - e) Minimising disruption to train services and railway commuter access.
 - f) Management of drainage, effluent, material stockpiles, fencing, hoardings to ensure VicTrack land is not used for, or impacted on by these activities outside of the licence area.
 - g) Public safety, amenity and site security.
 - h) Operating hours, noise and vibration controls.

i) Air and dust management.

All demolition and construction works must be carried out in accordance with the approved Demolition and Construction Management Plan. The Demolition and Construction Management Plan must be implemented at no cost to VicTrack, and/or the Rail Operator.

- 44. Any damage to the Rail Operator's infrastructure as a consequence of the construction works must be rectified to the satisfaction of the Rail Operator at full cost of the Building Permit Applicant.**

Transport for Victoria

- 45. Before the endorsement of the planning permit plans, or such other time agreed in writing by the Head, Transport for Victoria, the permit holder must prepare and submit to TfV for approval, a safety audit/risk assessment that considers the safety aspects of the proposed design from the perspective of users of the Shared User Path (SUP).**
- 46. Before the development starts, or such other time agreed to in writing by the Head, Transport for Victoria amended plans to the satisfaction of the Head, Transport for Victoria 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 digital copies must be provided. The plans must be generally in accordance with the plans submitted with the application (dated 28/02/23 Revision 2 prepared by 'COX Architects' and 'BREATHE' - Project 2173) but modified to show:**
- a) Confirmation of the exit points to the bike track;**
 - b) Provision of adequate sightline from the exits to the bike track;**
 - c) There is no reliance on VicTrack land for the maintenance of the communication tower on the land;**
 - d) Any modifications in accordance with the safety audit/risk assessment (refer to Condition 45 of this permit);**
 - e) All buildings and works in compliance with the requirements in the Disability Discrimination Act 1992;**
 - f) The external building materials (including glass/window treatments) visible from the railway track must not be reflective or of a red, green or yellow colour palette;**
 - g) A notation specifying all walls abutting the railway land must be cleaned and finished with a graffiti resistant finish or identifying alternative measures to reduce the potential for graffiti on the walls abutting the railway land.**

Engineering plans

- 47. Prior to the occupation of the development, the buildings and works shown on the endorsed plans must be completed and maintained to the satisfaction of the Head, Transport for Victoria.**
- 48. Prior to construction of the development commencing (including excavation and demolition) the permit applicant must enter into a construction control and indemnity agreement with Head Transport for Victoria, Victorian Rail Track and the Rail Operator at the cost of the permit applicant.**

Traffic Management Plan

- 49. Before development starts (including demolition and bulk excavation), a Traffic Management Plan must be submitted to and approved by the Head, Transport for Victoria. The Traffic Management Plan must provide for:**

- a) How public transport operations, traffic, walking and cycling movements will be managed during the demolition and construction; and
- b) How any traffic impact on the railway land and associated infrastructure will be mitigated.

The Traffic Management Plan must be implemented and complied with to the satisfaction of the Head, Transport for Victoria.

All costs associated with the preparation and implementation of the Traffic Management Plan will be at no cost to the Head, Transport for Victoria.

The endorsed Traffic Management Plan must not be modified without the prior written consent of the Secretary, Department for Transport.

Demolition and Construction Management Plan

50. Before development starts (including demolition and bulk excavation), a Demolition and Construction Management Plan must be submitted to and approved by the Head, Transport for Victoria. When approved, the Demolition and Construction Management Plan will form a part of this permit. The Demolition and Construction Management Plan must include (but not be limited to) details of:

- a) The buildings, works and other measures necessary to:
 - i. Protect railway land, track, overhead power and associated infrastructure;
 - ii. Prevent/minimise disruption to the operation of the railway;
- b) The remediation of any damage to railway land, track, overhead power and associated infrastructure;
- c) Access to the railway land during demolition and construction of the development (if required);
- d) Arrangements for:
 - i. Any hoarding associated with the construction of the development that encroaches onto or overhangs railway land;
 - ii. The excavation, filling, earthworks or construction associated with the development occurring on or next to the boundary of the railway land;
 - iii. The deposit or store of waste, fill or other materials associated with the development on the railway land;
 - iv. Air and dust management;
 - v. Operating hours;
 - vi. Noise and vibration controls;
 - vii. The security of the railway land and associated infrastructure; and
- e) The safety requirements relevant to the railway land and associated infrastructure and the operation of the railway.

All demolition and construction works must be carried out in accordance with the approved Demolition and Construction Management Plan unless with the prior written consent of the Head, Transport for Victoria. The Demolition and Construction Management Plan must be prepared, implemented and monitored at no cost to the Head, Transport for Victoria.

The Demolition and Construction Plan must be consistent with any Construction Management Plan required by the Responsible Authority.

Development Contribution Plan

- 51. 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.

Environmental Audit

- 52. Before the construction or carrying out of buildings and works (other than demolition of existing buildings and structures, removal of vegetation, site investigation works necessary to determine the level of contamination on the land, and remediation 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.**
- 53. 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.**
- 54. 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).

55. 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.
56. No works to construct the development hereby approved (other than demolition of existing buildings and structures, removal of vegetation, site investigation works necessary to determine the level of contamination on the land, and remediation works) 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 52, 53 and 54 of this permit are satisfied.
57. 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.
58. Where a preliminary risk screen assessment has satisfied Condition 51 (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.

General

59. The pump wet well for the basement is to be designed so that it can cater for 1 per cent AEP instead of 10 per cent as per Section (8) of AS/NZS 3500.3.2018.
60. 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).
61. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance (whichever comes first), any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority (Merri-bek City Council, City Infrastructure Department).
62. All commercial parking spaces are to be marked with the associated commercial tenancy number or loading status to facilitate management of the car park to the satisfaction of the Responsible Authority.

63. 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.
64. 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).
65. 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 or installed to the satisfaction of the Responsible Authority.
66. 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.
67. All external lighting, other than balcony lighting, must be no higher than 1.2 metres above ground level (unless otherwise agreed by the Responsible Authority) with automatic or sensor-controlled lighting installed and maintained on the land to illuminate pedestrian access between dusk and dawn with no direct light emitted onto adjoining property, to the satisfaction of the Responsible Authority.
68. Lighting on each balcony must be designed to not emit light direct onto adjoining property to the satisfaction of the Responsible Authority.

Car-share

69. Five car parking spaces must be reserved for car-share operation at all times ('Car Share Spaces').
70. The Car Share Spaces must be available to all members of the carshare scheme 24/7 and should be well-lit with safe pedestrian access, to the satisfaction of the Responsible Authority.
71. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance (whichever comes first), the Car Share Spaces must be contracted to an operator (i.e. a Car-share provider), with evidence of agreement submitted to Council. The agreement must ensure appropriate insurance and vehicle maintenance is in place, including public liability.
72. The car-share operation must be in place within two months of issue of an Occupancy Permit, to the satisfaction of the Responsible Authority.
73. At the request of the Responsible Authority, the carshare operator must report utilisation of the Car Share Spaces to Council (or in accordance with Council's on-street reporting requirements). This report is to be sent by email to info@merri-bek.vic.gov.au with "Attention Development Engineering" in the subject line.

Section 173 Agreement

74. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance (whichever comes first) 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:

Pedestrian access/indemnify

- a) **Unrestricted public pedestrian access through the ground-level western setback marked 'Upfield Park' on TP21.10 (immediately adjacent to the Upfield Shared Path) for 24 hours a day (365 days a year) unless otherwise agreed to by the Responsible Authority. Public access is to be provided from the property's western boundary up to the western wall of the building hereby approved, the west-facing terraces of the ground-floor apartments, and the western ground-floor lobby.**
- b) **The owners of the land to indemnify the Merri-bek City Council against any claims associated with the use of this linear publicly-accessible open space area and responsibility for the on-going maintenance of the areas.**

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.

3D Model

75. **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.**

Expiry

76. **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; or**
 - c) **The use is not commenced within five (5) years from the date of issue of this permit.**

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

- **Within 6 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: Prior to the occupation of the development, 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.

Note 2: Should Council impose car parking restrictions in this street, the owners and/or occupiers of the land would not be eligible for any Council parking permits to allow for on street parking.

Carried

Cr Panopoulos called for a division.

For

Cr Yildiz
Cr Pulford
Cr Panopoulos
Cr Conlan
Cr Riley
Cr Tapinos

Total For (6)

Against

Cr Bolton
Cr Harte

Total Against (2)

Abstained

Cr Davidson
Cr Pavlidis

Total Abstained (2)

URGENT BUSINESS REPORTS

Nil

The meeting closed at 10.05 pm.