



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 24 May 2023

The Mayor opened the meeting at 6.34 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	6.34 pm	8.18 pm
Cr Helen Davidson, Deputy Mayor	6.34 pm	8.18 pm
Cr Adam Pulford	6.34 pm	8.18 pm
Cr Annalivia Carli Hannan	6.34 pm	8.18 pm
Cr Helen Pavlidis	6.34 pm	8.18 pm
Cr James Conlan	6.34 pm	8.18 pm
Cr Lambros Tapinos	6.43 pm	8.18 pm
Cr Mark Riley	6.34 pm	8.18 pm
Cr Monica Harte	6.34 pm	8.18 pm
Cr Oscar Yildiz JP	6.34 pm	7.36 pm
Cr Sue Bolton	6.34 pm	8.18 pm

OFFICERS

Group Manager City Development – Phil Priest
Unit Manager Urban Planning – Mark Hughes
Planning Coordinator - Esha Rahman
Acting Principal Urban Planner - Jessica Thomas
Acting Commercial Priority Senior Urban Planner - Keaton Paterson
Unit Manager Governance – Troy Delia
Team Leader Governance – Naomi Ellis

APOLOGIES/LEAVE OF ABSENCE

Nil

DISCLOSURES OF CONFLICTS OF INTEREST

Nil

MINUTE CONFIRMATION

Resolution

Cr Pulford moved, Cr Yildiz seconded -

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

Carried

COUNCIL REPORTS

5.1 CITY DEVELOPMENT ACTIVITY REPORT MARCH QUARTER 2023

Executive Summary

The City Development Urban Planning Unit is managing to produce positive results with officer caseloads having now returned to more manageable levels. Pleasingly the planning application caseloads awaiting a decision has continued to reduce in the March quarter. Having addressed the higher caseloads that resulted from pandemic years the Unit can now focus on further improvements in customer service and decision-making timeframes with better than the metropolitan average.

The Planning Enforcement Unit experienced some staff turnover over the last quarter but still managed to maintain good results with the outstanding compliance caseload reducing again slightly. With interim measures in place and newly appointed staff members getting up to speed, the potential to further reduce caseloads to ideal levels will need to be closely monitored over the next quarter.

It is evident that in the last quarter of 2022 and continuing into 2023, there has been a reduction in the number of planning applications being received by Council. The planning application reduction over a 12-month period is 9 per cent. Pleasingly the number of decisions continues to be higher than the number of applications received which in turn has returned the team to a much more manageable application caseload.

A reducing planning application caseload will have some implications for public open space and development contributions levies (DCP) which help to fund Council's Park Close to Home activities and open space enhancements, as well as some of the capital works program in the case of the DCP. In the past two decades the public open space reserve funds have been increasing in line with a sustained development boom in Merri-bek. This has enabled the purchase of new open space as well as enhancements within existing open space. A reduction in these contributions, which are realised at the time of subdivision of new apartment or multi-unit developments, is being witnessed in alignment with reduced development activity in Merri-bek.

The area of focus for the Urban Planning Unit is to further improve the timeliness of planning permit decisions, acknowledging that the March quarter saw improvements in timeliness as the current average decision-making within the 60 statutory days matched the metropolitan average of 57 per cent. It is anticipated with individual planning officer caseloads now reduced, there will be further improvement to the timeliness of planning decisions. Pleasingly Vic Smart timeframes, for minor matters, remains above the metropolitan average (88 per cent Merri-bek compared to 79 per cent metro average).

New planning compliance case numbers are around the average expected for the quarter and the number of open cases reduced slightly. The proactive enforcement program is also on track to achieve the end of year targeted number of developments audited.

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

Officer Recommendation

That Council notes the City Development Activity Report – March Quarter 2023.

Resolution

Cr Bolton moved, Cr Pulford seconded -

That Council notes the City Development Activity Report – March Quarter 2023.

Carried

6.43 pm Cr Tapinos entered the meeting.

5.2 165-171 NICHOLSON STREET, BRUNSWICK EAST - MPS/2022/359



Property:	165-171 Nicholson Street, Brunswick East		
Proposal:	Use and development of land to construct a childcare centre and food and drink premises, six triple storey dwellings and a reduction of the car parking requirement		
Zoning and Overlay/s:	<ul style="list-style-type: none"> Mixed Use Zone Schedule 1 (MUZ1) Residential Growth Zone Schedule 1 (RGZ1) Design and Development Overlay Schedule 20 (DDO20) Development Contributions Plan Overlay (DCPO1) Parking Overlay Schedule 1 (PO1) 		
Strategic setting:	Minimal change	Incremental change	Significant change
Objections:	<ul style="list-style-type: none"> 26 objections from 21 properties Key issues: <ul style="list-style-type: none"> Car parking and traffic generation Noise from childcare centre Adverse amenity impacts from townhouse development 		

Planning Information and Discussion (PID) Meeting:	<ul style="list-style-type: none"> • Date: 18 April 2023 • Attendees: 8 objectors, the applicant, 2 Council officers, and Crs Riley and 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"> • 51 per cent BESS Score. • With conditions the minimum average NatHERS rating of 7 stars. • STORM Rating of 102 per cent.
Key reasons for support	<ul style="list-style-type: none"> • Acceptable built form; building height and setbacks do not seek to vary from the planning controls for the site. • Scale of development is reasonable in Activity Centre location. • No unreasonable impacts to adjacent residents.
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/2022/359 be issued for the use and development of land to construct a childcare centre and food and drink premises, six triple storey dwellings and a reduction of the car parking requirement at 165-171 Nicholson Street, Brunswick East, subject to the following conditions:

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 9 December 2022 but modified to show:
 - a) To reduce the vertical emphasis of the design, the windows on the west façade of Townhouse 1 altered to give more scale to the ground floor windows and less scale to the first floor windows.
 - b) The west-facing second floor window of Townhouse 1 centred within the building façade.
 - c) A revised materials palette for the Townhouses incorporating muted colours seen in existing dwellings in Aintree Street.
 - d) The 'mesh screen façade' continued on the west elevation of the child care building to provide a cohesive design treatment.
 - e) The materials external finished legend amended to include details of the size and joint details of the Cemintel Barestone finish.
 - f) The pedestrian accessway on the south side of the Townhouses increased in width to 1.5 metres, with a landscape strip adjacent the south boundary of 0.5 metres in width.
 - g) The tram stop seat which projects from the building façade over the footpath deleted.
 - h) At least one dwelling altered to create a visitable dwelling for persons of limited mobility by providing each of the following:
 - i. A level entry threshold with a clear opening width of at least 850mm;
 - ii. A clear path with a minimum width of 1.2m that connects the dwelling entrance to the ground floor bathroom;

- iii. A bathroom with a toilet and basin and circulation area that complies with the relevant requirements of Design Option A or Design Option B of Clause 58.05-1 of the Merri-bek Planning Scheme.
 - i) Two bicycle parking spaces that meet the criteria for resident bicycle parking and do not require cycling up the steep basement ramp or carrying the bike up and down stairs provided to each dwelling which is allocated only one car parking space.
 - j) The two staff bicycle parking spaces relocated to either a lockable area on the ground floor or a lockable area of the basement.
 - k) The location and dimensions of all proposed tram stop infrastructure.
 - l) The verandah extended across the entirety of the Nicholson Street site frontage. The verandah must be setback not less than 750mm from the face of the kerb and at a height no less than 3m above the level of the footpath in accordance with Regulation 103 of the Building Regulations 2018 to the satisfaction of the Responsible Authority.
 - m) A screen diagram drawn at a scale of 1:50 which details proposed window screening. The diagram must include:
 - i. All dimensions, including the width of slats and the gap between slats.
 - ii. All side screens.
 - iii. How compliance is achieved with the standard of Clause 55.04-6 (Overlooking) of the Merri-bek Planning Scheme.
 - n) Any changes to the plans arising from:
 - i. The Landscape Plan in accordance with Condition 3 of this permit.
 - ii. The Waste Management Plan in accordance with Condition 14 of this permit.
 - o) The Environmentally Sustainable Design initiatives that are required to be shown on plans and any changes to the plans arising from the Sustainability Management Plan (SMP) in accordance with Condition 6 of this permit.
 - p) The location, dimensions and materials of acoustic fencing in accordance with the recommendation of the Acoustic Report in accordance with Condition 10 of this permit.
2. The development and use 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 but amended to show:
- a) Any changes required to align with the plans for endorsement.
- When submitted and approved to the satisfaction of the Responsible Authority, the landscape plan will be endorsed to form part of this permit. No alterations to the plan may occur without the written consent of the Responsible Authority.
4. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all landscaping works must be completed in accordance with the endorsed landscape plan to the satisfaction of the Responsible Authority.
5. All landscaping must be maintained to the satisfaction of the Responsible Authority in accordance with the endorsed landscape plans. Any dead, diseased or damaged

plants must be replaced with a suitable species to the satisfaction of the Responsible Authority.

ESD

6. 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 dated 18th November 2022 / advertised on 9/12/2022 (70 pages) (Council file D22/552514) but modified to include the following changes:
 - a) Amend the BESS report (and any other corresponding documentation) to:
 - i. Draft NatHERS reports for all modelled apartments.
 - ii. Include a marked-up drawing set that shows inputs of NCC 2019 Façade Calculator
 - iii. Include external shading devices for north, east and west facing windows of residential dwellings.
 - iv. Include external shading devices for north, east and west facing windows of Childcare component.
 - v. Ensure consistency between the plans, SMP and STORM report for all WSUD features.
 - vi. Include 1 secure bicycle parking per dwelling and an additional 2 (4 total) for childcare staff.
 - vii. Include provision for electrical vehicle charging for staff vehicles.
 - b) Show the following ESD initiatives on the development plans:
 - i. An ESD table on the plans for items that cannot be drawn e.g. bike parking, tap and cooling/heating ratings, etc.
 - ii. Double glazed window systems, as committed to in the BESS report.
 - iii. Provision of electrical vehicle charging.
 - iv. Additional external shading devices to North, East and west facing windows.
 - c) An amended STORM report and stormwater management response that maintains a minimum STORM score of 100 per cent but is modified so that:
 - i. The buffer strips treating 103sqm are removed and replaced with a more suitable treatment method.
 - d) An amended WSUD (Water Sensitive Urban Design) catchment plan that is consistent with the STORM report, clearly showing:
 - i. The entire site;
 - ii. All permeable areas with dimensions;
 - iii. All stormwater catchment areas (impervious areas and roofs) clearly marked and dimensioned and connected to corresponding Water Sensitive Urban Design (WSUD) treatment measures;
 - iv. A WSUD plan that shows where all stormwater will drain, downpipes clearly marked and the direction of flow shown with arrows.
 - v. Draw and label the location of all water tanks and WSUD features on the plans. Provide dimensions, sections, plant types, etc.
 - vi. Raingardens cannot be on boundaries or near building footings or in secluded private open space areas. They must be a minimum of 1m²

and 2 – 4 per cent of the area to be drained. The catchment area must be a minimum of 25m². Proprietary systems cannot be used.

- vii. Ensure consistency between the plans, SMP and STORM report for all WSUD features.

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

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

Noise

10. Prior to the endorsement of plans, an amended Acoustic Report prepared by a qualified Acoustic Engineer must be submitted to the satisfaction of the Responsible Authority. The Report must be generally in accordance with the advertised Acoustic Report prepared by Enfield Acoustics, dated 11 October 2022 but modified 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.

11. 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.
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 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.
13. Noise levels associated with the childcare centre use must at all times comply with the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues, Environmental Protection Authority, March 2021), or any other superseding regulation.

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

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.

Waste Management

14. Prior to the endorsement of plans, an amended Waste Management Plan (WMP) must be submitted to the satisfaction of the Responsible Authority. The WMP must be generally in accordance with the WMP prepared by Leigh Design and advertised on 9 December 2022, except it must be amended to include:
- a) Swept path plans confirming suitable waste collection vehicle access to the bin store is required as per the advertised Waste Management Plan and to the satisfaction of the Responsible Authority. The collection vehicle must be able to enter/exit the development whilst driving in a forward direction.

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.

Development Contributions Plan

15. Prior to the issue of a Building Permit in relation to the development approved by this permit, a Development Infrastructure Levy must be paid to Merri-bek City Council in accordance with the approved Development Contributions Plan. The Development Infrastructure Levy is charged per dwelling.

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

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

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

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

Public works

16. Prior to the commencement of the development, a Public Works Plan and associated construction drawing specifications detailing the works to the land directly in front of the site on Nicholson Street must be submitted to the satisfaction of the Responsible Authority. The Plan must include:
- a) All construction details in accordance with the *Merri-bek City Council Technical Notes July 2019* (or any updated version).

- b) A detailed level and feature survey of the footpaths and roads.
- c) Longitudinal plans of the road verge commencing 10 metres beyond the site boundary, together with cross-sections between the kerb and the building line at 5 metre intervals, with levels showing the slope of the public footpath and highlighting how the level difference between footpath and floor levels will be made up within the site to the satisfaction of the Responsible Authority.
- d) The upgrade of the footpath adjacent to the site. Public footpaths are to be reinstated to the previous levels with a maximum cross fall slope of 1 in 40 (2.5 per cent).
- e) Any Council or service authority pole or pit within 1 metre of the proposed vehicle crossing, including the 1 metre splays on the crossings, relocated or modified.
- f) For any vehicle crossing not being used, the kerb, channel and footpath reinstated.
- g) Any necessary drainage works.
- h) The relocation or replacement of existing and installation of new street furniture and infrastructure (in a graffiti-proof finish), such as parking and traffic signs, public seating, bicycle parking and similar.
- i) The provision of new street tree planting in appropriate locations in front of the site (where practicable), with the number of trees maximised based on the space available, in consultation with the Responsible Authority (Open Space Unit).
- j) The relocation of the existing tram stop infrastructure outside the subject site in consultation with and to the satisfaction of the Department of Transport.
- k) 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.

Contamination Assessment and Environmental Audit

17. Before the construction or carrying out of buildings and works (other than investigational works authorised by an environmental consultant), a Preliminary Site Investigation report prepared by a suitably qualified environmental consultant must be submitted to the Responsible Authority. The Preliminary Site Investigation report must be prepared in accordance with the National Environment Protection (Assessment of Site Contamination Measure 1999) and must:
 - a) specify the name and qualifications of the person who has conducted the investigation;
 - b) include a review of regional and local geological conditions and historical land uses on the subject land and surrounds;
 - c) specify the findings from a site inspection and ground penetrating radar survey, if applicable;
 - d) confirm whether the subject land is contaminated within the meaning of s 35 of the Environment Protection Act 2017;
 - e) recommend whether the condition of the subject land warrants an environmental audit, having regard to the existing and proposed land use(s); and
 - f) include a peer review of the Preliminary Site Investigation report by an independent and suitably qualified environmental consultant.

18. If the Preliminary Site Investigation report recommends remedial works, the owner(s) must complete these remedial to the satisfaction of the Responsible Authority before the construction or carrying out of buildings and works (other than demolition work or the recommended remedial works).
19. If the Preliminary Site Investigation report recommends an environmental audit, before the construction or carrying out of buildings and works (other than remedial works authorised by the approved remediation works plan under condition 21), the owner(s) must provide:
 - a) A preliminary risk screen assessment statement in accordance with the Environment Protection Act 2017 stating that an environmental audit is not required for the use or, if this permit authorises the construction or carrying out of buildings or works, is not required for the use for which the buildings or works are constructed or carried out; or,
 - b) An environmental audit statement under Part 8.3 of the Environment Protection Act stating that the land is suitable for the use or, if this permit authorises the construction or carrying out of buildings or works, is suitable for the use for which the buildings or works are constructed or carried out; or
 - c) An environmental audit statement under Part 8.3 of the Environment Protection Act 2017 stating that the land is suitable for the use or, if this permit authorises the construction or carrying out of buildings or works, is suitable for the use for which the buildings or works are constructed or carried out, if the recommendations made in the statement are complied with.
20. Where an environmental audit statement is issued for the land, and any recommendation of that environmental audit statement requires any maintenance and/or monitoring of an ongoing nature, the Responsible Authority may require the Owner(s) to enter into an Agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987 that provides for the undertaking of the ongoing maintenance and/or monitoring as required by the environmental audit statement.

Where a Section 173 Agreement is required, the Agreement must be executed prior to the commencement of the permitted use, the issue of an Occupancy Permit under the Building Act 1993 or the issue of a Statement of Compliance under the Subdivision Act 1988 (whichever occurs first). All expenses involved in the drafting, negotiating, lodging, registering and execution of the Agreement, including those incurred by the Responsible Authority, must be met by the Owner(s).

21. Prior to any remediation works (if required) being undertaken in association with the environmental audit, a 'remediation works' plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must detail all excavation works as well as any proposed structures such as retaining walls required to facilitate the remediation works. Only those works detailed in the approved remediation works plan are permitted to be carried out prior to the issue of an environmental audit statement.
22. No works to construct the development hereby approved shall be carried out on the land and no building contract to construct the development hereby approved may be entered into, other than in accordance with a building contract that stipulates that works must not be commenced until such time as Conditions 17, 18, 19 and 20 are satisfied.

Use

23. The child care centre use allowed by this permit must operate only between the following hours:
 - a) Monday to Friday 6:30am to 6:30pm

24. The maximum number of children cared for in the child care centre must not exceed 118 at any one time.
25. The food and drink premises use allowed by this permit must operate only between 6:30am and 11:00pm.

Engineering

26. 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).
27. 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).
28. 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.
29. 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

30. 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.
31. 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.
32. All external lighting for the dwellings 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.
33. 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.

Expiry

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

permit.

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

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

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

Note 1: This permit contains a condition requiring payment of Development Contributions. The applicable development contribution levies are indexed annually. To calculate the approximate once off levy amount, please visit <http://www.Merri-bek.vic.gov.au/planning-building/> and click on 'Merri-bek Development Contributions Plan (DCP)'. Alternatively, please contact Merri-bek City Council on 9240 1111 and ask to speak to the DCP Officer.

Note 2: 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 3: Further approvals are required from Council's City Infrastructure Department who can be contacted on 8311 4300 for any works beyond the boundaries of the property. Planting and other vegetative works proposed on road reserves can be discussed with Council's Open Space Unit on 8311 4300.

Note 4: Merri-bek City Council is committed to increasing the amount of affordable housing in the municipality. One way to do this, is through Homes for Homes, a social enterprise founded by the Big Issue that aims to raise new funds via voluntary tax-deductible donations on property transactions and invest those funds in building and managing new social and affordable dwellings. If you would like to help build homes for those in need, visit [Homes for Homes](#) and register your commitment to donate 0.1 per cent of the sale price of your dwelling(s).

Motion

Cr Riley moved, Cr Carli Hannan seconded -

That a Notice of Decision to Grant a Planning Permit No. MPS/2022/359 be issued for the use and development of land to construct a childcare centre and food and drink premises, six triple storey dwellings and a reduction of the car parking requirement at 165-171 Nicholson Street, Brunswick East, subject to the following conditions:

(Permit condition amendments are indicated in bold)

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 9 December 2022 but modified to show:
 - a) To reduce the vertical emphasis of the design, the windows on the west façade of Townhouse 1 altered to give more scale to the ground floor windows and less scale to the first floor windows.
 - b) The west-facing second floor window of Townhouse 1 centred within the building façade.
 - c) A revised materials palette for the Townhouses incorporating muted colours seen in existing dwellings in Aintree Street.

- d) The 'mesh screen façade' continued on the west elevation of the child care building to provide a cohesive design treatment.
- e) The materials external finished legend amended to include details of the size and joint details of the Cemintel Barestone finish.
- f) The pedestrian accessway on the south side of the Townhouses increased in width to 1.5 metres, with a landscape strip adjacent the south boundary of 0.5 metres in width.
- g) The tram stop seat which projects from the building façade over the footpath deleted.
- h) At least one dwelling altered to create a visitable dwelling for persons of limited mobility by providing each of the following:
 - i. A level entry threshold with a clear opening width of at least 850mm;
 - ii. A clear path with a minimum width of 1.2m that connects the dwelling entrance to the ground floor bathroom;
 - iii. A bathroom with a toilet and basin and circulation area that complies with the relevant requirements of Design Option A or Design Option B of Clause 58.05-1 of the Merri-bek Planning Scheme.
- i) Two bicycle parking spaces that meet the criteria for resident bicycle parking and do not require cycling up the steep basement ramp or carrying the bike up and down stairs provided to each dwelling which is allocated only one car parking space.
- j) The two staff bicycle parking spaces relocated to either a lockable area on the ground floor or a lockable area of the basement.
- k) The location and dimensions of all proposed tram stop infrastructure.
- l) The verandah extended across the entirety of the Nicholson Street site frontage. The verandah must be setback not less than 750mm from the face of the kerb and at a height no less than 3m above the level of the footpath in accordance with Regulation 103 of the Building Regulations 2018 to the satisfaction of the Responsible Authority.
- m) A screen diagram drawn at a scale of 1:50 which details proposed window screening. The diagram must include:
 - i. All dimensions, including the width of slats and the gap between slats.
 - ii. All side screens.
 - iii. How compliance is achieved with the standard of Clause 55.04-6 (Overlooking) of the Merri-bek Planning Scheme.
- n) Any changes to the plans arising from:
 - i. The Landscape Plan in accordance with Condition 3 of this permit.
 - ii. The Waste Management Plan in accordance with Condition 14 of this permit.
 - iii. Department of Transport requirements in accordance with Condition 36 of this permit
- o) The Environmentally Sustainable Design initiatives that are required to be shown on plans and any changes to the plans arising from the Sustainability Management Plan (SMP) in accordance with Condition 6 of this permit.
- p) The location, dimensions and materials of acoustic fencing in accordance with the recommendation of the Acoustic Report in accordance with Condition 10 of this permit.

2. The development and use 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 but amended to show:
 - a) Any changes required to align with the plans for endorsement.When submitted and approved to the satisfaction of the Responsible Authority, the landscape plan will be endorsed to form part of this permit. No alterations to the plan may occur without the written consent of the Responsible Authority.
4. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all landscaping works must be completed in accordance with the endorsed landscape plan to the satisfaction of the Responsible Authority.
5. All landscaping must be maintained to the satisfaction of the Responsible Authority in accordance with the endorsed landscape plans. Any dead, diseased or damaged plants must be replaced with a suitable species to the satisfaction of the Responsible Authority.

ESD

6. 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 dated 18th November 2022 / advertised on 9/12/2022 (70 pages) (Council file D22/552514) but modified to include the following changes:
 - a) Amend the BESS report (and any other corresponding documentation) to:
 - i. **Provide preliminary NatHERS ratings assessments for all dwellings (or all to be thermally represented) which achieves an average NatHERS rating of at least 7.5 stars, or lesser if suitably justified to the satisfaction of the Responsible Authority.**
 - i. Draft NatHERS reports for all modelled apartments.
 - ii. Include a marked-up drawing set that shows inputs of NCC 2019 Façade Calculator
 - iii. Include external shading devices for north, east and west facing windows of residential dwellings.
 - iv. Include external shading devices for north, east and west facing windows of Childcare component.
 - v. Ensure consistency between the plans, SMP and STORM report for all WSUD features.
 - vi. Include 1 secure bicycle parking per dwelling and an additional 2 (4 total) for childcare staff.
 - vii. Include provision for electrical vehicle charging for staff vehicles.
 - b) Show the following ESD initiatives on the development plans:
 - i. An ESD table on the plans for items that cannot be drawn e.g. bike parking, tap and cooling/heating ratings, etc.
 - ii. Double glazed window systems, as committed to in the BESS report.

- iii. Provision of electrical vehicle charging.
 - iv. Additional external shading devices to North, East and west facing windows.
- c) An amended STORM report and stormwater management response that maintains a minimum STORM score of 100 per cent but is modified so that:
- i. The buffer strips treating 103sqm are removed and replaced with a more suitable treatment method.
- d) An amended WSUD (Water Sensitive Urban Design) catchment plan that is consistent with the STORM report, clearly showing:
- i. The entire site;
 - ii. All permeable areas with dimensions;
 - iii. All stormwater catchment areas (impervious areas and roofs) clearly marked and dimensioned and connected to corresponding Water Sensitive Urban Design (WSUD) treatment measures;
 - iv. A WSUD plan that shows where all stormwater will drain, downpipes clearly marked and the direction of flow shown with arrows.
 - v. Draw and label the location of all water tanks and WSUD features on the plans. Provide dimensions, sections, plant types, etc.
 - vi. Raingardens cannot be on boundaries or near building footings or in secluded private open space areas. They must be a minimum of 1m² and 2 – 4 per cent of the area to be drained. The catchment area must be a minimum of 25m². Proprietary systems cannot be used.
 - vii. Ensure consistency between the plans, SMP and STORM report for all WSUD features.

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

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

Noise

10. Prior to the endorsement of plans, an amended Acoustic Report prepared by a qualified Acoustic Engineer must be submitted to the satisfaction of the Responsible Authority. The Report must be generally in accordance with the advertised Acoustic Report prepared by Enfield Acoustics, dated 11 October 2022 but modified 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.

11. 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.
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 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.
13. Noise levels associated with the childcare centre use must at all times comply with the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues, Environmental Protection Authority, March 2021), or any other superseding regulation.

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

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.

Waste Management

14. Prior to the endorsement of plans, an amended Waste Management Plan (WMP) must be submitted to the satisfaction of the Responsible Authority. The WMP must be generally in accordance with the WMP prepared by Leigh Design and advertised on 9 December 2022, except it must be amended to include:
 - a) Swept path plans confirming suitable waste collection vehicle access to the bin store is required as per the advertised Waste Management Plan and to the satisfaction of the Responsible Authority. The collection vehicle must be able to enter/exit the development whilst driving in a forward direction.
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.

Development Contributions Plan

16. Prior to the issue of a Building Permit in relation to the development approved by this permit, a Development Infrastructure Levy must be paid to Merri-bek City Council in

accordance with the approved Development Contributions Plan. The Development Infrastructure Levy is charged per dwelling.

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

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

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

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

Public works

17. Prior to the commencement of the development, a Public Works Plan and associated construction drawing specifications detailing the works to the land directly in front of the site on Nicholson Street must be submitted to the satisfaction of the Responsible Authority. The Plan must include:
 - a) All construction details in accordance with the *Merri-bek City Council Technical Notes July 2019* (or any updated version).
 - b) A detailed level and feature survey of the footpaths and roads.
 - c) Longitudinal plans of the road verge commencing 10 metres beyond the site boundary, together with cross-sections between the kerb and the building line at 5 metre intervals, with levels showing the slope of the public footpath and highlighting how the level difference between footpath and floor levels will be made up within the site to the satisfaction of the Responsible Authority.
 - d) The upgrade of the footpath adjacent to the site. Public footpaths are to be reinstated to the previous levels with a maximum cross fall slope of 1 in 40 (2.5 per cent).
 - e) Any Council or service authority pole or pit within 1 metre of the proposed vehicle crossing, including the 1 metre splays on the crossings, relocated or modified.
 - f) For any vehicle crossing not being used, the kerb, channel and footpath reinstated.
 - g) Any necessary drainage works.
 - h) The relocation or replacement of existing and installation of new street furniture and infrastructure (in a graffiti-proof finish), such as parking and traffic signs, public seating, bicycle parking and similar.
 - i) The provision of new street tree planting in appropriate locations in front of the site (where practicable), with the number of trees maximised based on the space available, in consultation with the Responsible Authority (Open Space Unit).
 - j) The relocation of the existing tram stop infrastructure outside the subject site in consultation with and to the satisfaction of the Department of Transport.
 - k) Any other works to the public land adjacent to the development.

- l) A pedestrian safety barrier adjacent to the building entry in consultation with the Department of Transport.**
- m) Traffic calming measure in Aintree Street, in consultation with the Merri-bek City Council's City Infrastructure Department.**

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

Contamination Assessment and Environmental Audit

18. Before the construction or carrying out of buildings and works (other than investigational works authorised by an environmental consultant), a Preliminary Site Investigation report prepared by a suitably qualified environmental consultant must be submitted to the Responsible Authority. The Preliminary Site Investigation report must be prepared in accordance with the National Environment Protection (Assessment of Site Contamination Measure 1999) and must:
 - a) specify the name and qualifications of the person who has conducted the investigation;
 - b) include a review of regional and local geological conditions and historical land uses on the subject land and surrounds;
 - c) specify the findings from a site inspection and ground penetrating radar survey, if applicable;
 - d) confirm whether the subject land is contaminated within the meaning of s 35 of the Environment Protection Act 2017;
 - e) recommend whether the condition of the subject land warrants an environmental audit, having regard to the existing and proposed land use(s); and
 - f) include a peer review of the Preliminary Site Investigation report by an independent and suitably qualified environmental consultant.
19. If the Preliminary Site Investigation report recommends remedial works, the owner(s) must complete these remedial to the satisfaction of the Responsible Authority before the construction or carrying out of buildings and works (other than demolition work or the recommended remedial works).
20. If the Preliminary Site Investigation report recommends an environmental audit, before the construction or carrying out of buildings and works (other than remedial works authorised by the approved remediation works plan under condition 21), 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.

21. 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).

22. 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.
23. 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, 19 and 20 are satisfied.

Use

24. The child care centre use allowed by this permit must operate only between the following hours:
 - a) Monday to Friday 6:30am to 6:30pm
25. The maximum number of children cared for in the child care centre must not exceed 118 at any one time.
26. The food and drink premises use allowed by this permit must operate only between 6:30am and 11:00pm.

Engineering

27. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, a vehicle crossing must be constructed in every location shown on the endorsed plans to a standard satisfactory to the Responsible Authority (Merri-bek City Council, City Infrastructure Department).
28. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, 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).
29. 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.
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).

General

31. 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.
32. 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.
33. All external lighting for the dwellings 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.
34. 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.

Expiry

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

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

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

Department of Transport

36. **Prior to commencement of use, the Tram Stop 22 alterations (generally in accordance with the advertised plans Ground Floor TP004, Level 1 TP005, Elevations TP007 Revision E dated 21/11/22), are to be constructed to the satisfaction of the Head, Transport for Victoria and the Responsible Authority and at no cost to the Head, Transport for Victoria and Yarra Trams.**
37. **Before development starts (including demolition and bulk excavation), a Demolition and Construction Management Plan must be submitted to and approved by Yarra Trams. When approved, the Construction Management Plan will form a part of this permit. The Demolition and Construction Management Plan must include (but not be limited to) the following:**
 - a) **the buildings, works and other measures necessary to:**
 - i. **protect tramway land, tram stop 22, track, overhead power and associated infrastructure.**

- ii. Minimise disruption to the operation of the tram route 96 services along Nicholson Street.
 - b) the remediation of any damage to tramway lane, track, overhead and underground power and communication assets, and associated infrastructure.
 - c) details of required access to the tramway land during demolition and construction of the development with appropriate durations and schedules.
 - d) arrangements for:
 - i. any hoarding associated with the construction of the development at the tramway boundary or that encroaches onto or overhangs tram stop.
 - ii. piling, excavation, shoring, stabilising, anchoring, filling, earthworks or construction associated with the development occurring on or next to the boundary of the tramway land.
 - iii. the deposit or store of waste, fill or other materials associated with the development on the tramway land.
 - iv. air and dust management.
 - v. operating hours.
 - vi. noise and vibration controls.
 - vii. the management of site drainage, effluent and waste.
 - viii. the security of the tramway land and associated infrastructure.
38. The Demolition and Construction Management Plan must be prepared, implemented and monitored at no cost to Yarra Trams and the Head, Transport for Victoria. All tram operator costs must be met by the permit holder for any review required of the Plan.
39. All demolition and construction works must be carried out in accordance with the approved Demolition and Construction Management Plan at no cost to and to the satisfaction of Yarra Trams and the Head, Transport for Victoria.
40. The permit holder must ensure that all track, tram and overhead infrastructure is not damaged. Any damage to public transport infrastructure must be rectified to the satisfaction of the Head, Transport for Victoria at the full cost of the permit holder.
41. Unless otherwise agreed in writing with Yarra Trams and the Head, Transport and Victoria, the land owner must enter into an agreement with Yarra Trams and/or Head, Transport for Victoria (Department of Transport and Planning, Metro Tram Team), for the ongoing maintenance of the tram shelter and Variable Passenger Information System (VPIS), to the satisfaction of and at no cost to both Yarra Trams and Head, Transport for Victoria.

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

Note 1: This permit contains a condition requiring payment of Development Contributions. The applicable development contribution levies are indexed annually. To calculate the approximate once off levy amount, please visit <http://www.Merri-bek.vic.gov.au/planning-building/> and click on 'Merri-bek Development Contributions Plan (DCP)'. Alternatively, please contact Merri-bek City Council on 9240 1111 and ask to speak to the DCP Officer.

Note 2: 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 3: Further approvals are required from Council's City Infrastructure Department who can be contacted on 8311 4300 for any works beyond the boundaries of the property. Planting and other vegetative works proposed on road reserves can be discussed with Council's Open Space Unit on 8311 4300.

Note 4: Merri-bek City Council is committed to increasing the amount of affordable housing in the municipality. One way to do this, is through Homes for Homes, a social enterprise founded by the Big Issue that aims to raise new funds via voluntary tax-deductible donations on property transactions and invest those funds in building and managing new social and affordable dwellings. If you would like to help build homes for those in need, visit [Homes for Homes](#) and register your commitment to donate 0.1 per cent of the sale price of your dwelling(s).

Note 5: Separate approvals for works in the vicinity of Yarra Trams stops and network infrastructure is required. The process and documents required to be included are noted on Yarra Trams website, Permits for Works. <https://yarratrams.com.au/permits-for-works>. Please note: this permit process can take a minimum of 6 weeks.

7.07 pm Cr Conlan left the meeting.

7.07 pm Cr Conlan returned to the meeting.

Amendment

Cr Conlan moved, Cr Bolton seconded –

Insert Condition 1(q):

1(q) The front setback of the new development from Aintree Street increased to 6 metres.

Lost

7.24 pm Cr Carli Hannan left the meeting.

Amendment

Cr Conlan moved, Cr Bolton seconded –

Insert Condition 1(q):

1(q) The deletion of a basement car parking space and provision of at least one on-site visitor bicycle parking space for the childcare centre use that is of sufficient dimensions to accommodate trailer/cargo bikes.

7.31 pm Cr Davidson left the meeting.

7.31 pm Cr Carli Hannan returned to the meeting.

The Amendment was acceptable to mover and seconder, and therefore became part of the Substantive Motion.

7.32 pm Cr Davidson returned to the meeting.

Motion

Cr Riley moved, Cr Carli Hannan seconded -

That a Notice of Decision to Grant a Planning Permit No. MPS/2022/359 be issued for the use and development of land to construct a childcare centre and food and drink premises, six triple storey dwellings and a reduction of the car parking requirement at 165-171 Nicholson Street, Brunswick East, subject to the following conditions:

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 9 December 2022 but modified to show:**
 - a) **To reduce the vertical emphasis of the design, the windows on the west façade of Townhouse 1 altered to give more scale to the ground floor windows and less scale to the first floor windows.**
 - b) **The west-facing second floor window of Townhouse 1 centred within the building façade.**
 - c) **A revised materials palette for the Townhouses incorporating muted colours seen in existing dwellings in Aintree Street.**
 - d) **The ‘mesh screen façade’ continued on the west elevation of the child care building to provide a cohesive design treatment.**
 - e) **The materials external finished legend amended to include details of the size and joint details of the Cemintel Barestone finish.**
 - f) **The pedestrian accessway on the south side of the Townhouses increased in width to 1.5 metres, with a landscape strip adjacent the south boundary of 0.5 metres in width.**
 - g) **The tram stop seat which projects from the building façade over the footpath deleted.**
 - h) **At least one dwelling altered to create a visitable dwelling for persons of limited mobility by providing each of the following:**
 - i. **A level entry threshold with a clear opening width of at least 850mm;**
 - ii. **A clear path with a minimum width of 1.2m that connects the dwelling entrance to the ground floor bathroom;**
 - iii. **A bathroom with a toilet and basin and circulation area that complies with the relevant requirements of Design Option A or Design Option B of Clause 58.05-1 of the Merri-bek Planning Scheme.**
 - i) **Two bicycle parking spaces that meet the criteria for resident bicycle parking and do not require cycling up the steep basement ramp or carrying the bike up and down stairs provided to each dwelling which is allocated only one car parking space.**
 - j) **The two staff bicycle parking spaces relocated to either a lockable area on the ground floor or a lockable area of the basement.**
 - k) **The location and dimensions of all proposed tram stop infrastructure.**
 - l) **The verandah extended across the entirety of the Nicholson Street site frontage. The verandah must be setback not less than 750mm from the face of the kerb and at a height no less than 3m above the level of the footpath in accordance with Regulation 103 of the Building Regulations 2018 to the satisfaction of the Responsible Authority.**
 - m) **A screen diagram drawn at a scale of 1:50 which details proposed window screening. The diagram must include:**
 - i. **All dimensions, including the width of slats and the gap between slats.**
 - ii. **All side screens.**

- iii. How compliance is achieved with the standard of Clause 55.04-6 (Overlooking) of the Merri-bek Planning Scheme.
 - n) Any changes to the plans arising from:
 - i. The Landscape Plan in accordance with Condition 3 of this permit.
 - ii. The Waste Management Plan in accordance with Condition 14 of this permit.
 - iii. Department of Transport requirements in accordance with Condition 36 of this permit
 - o) The Environmentally Sustainable Design initiatives that are required to be shown on plans and any changes to the plans arising from the Sustainability Management Plan (SMP) in accordance with Condition 6 of this permit.
 - p) The location, dimensions and materials of acoustic fencing in accordance with the recommendation of the Acoustic Report in accordance with Condition 10 of this permit.
 - q) The deletion of a basement car parking space and provision of at least one on-site visitor bicycle parking space for the childcare centre use that is of sufficient dimensions to accommodate trailer/cargo bikes.
2. The development and use 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 but amended to show:
- a) Any changes required to align with the plans for endorsement.
- When submitted and approved to the satisfaction of the Responsible Authority, the landscape plan will be endorsed to form part of this permit. No alterations to the plan may occur without the written consent of the Responsible Authority.
4. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all landscaping works must be completed in accordance with the endorsed landscape plan to the satisfaction of the Responsible Authority.
5. All landscaping must be maintained to the satisfaction of the Responsible Authority in accordance with the endorsed landscape plans. Any dead, diseased or damaged plants must be replaced with a suitable species to the satisfaction of the Responsible Authority.

ESD

6. 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 dated 18th November 2022 / advertised on 9/12/2022 (70 pages) (Council file D22/552514) but modified to include the following changes:

- a) Amend the BESS report (and any other corresponding documentation) to:
- i. Provide preliminary NatHERS ratings assessments for all dwellings (or all to be thermally represented) which achieves an average NatHERS rating of at least 7.5 stars, or lesser if suitably justified to the satisfaction of the Responsible Authority.
 - ii. Draft NatHERS reports for all modelled apartments.
 - iii. Include a marked-up drawing set that shows inputs of NCC 2019 Façade Calculator
 - iv. Include external shading devices for north, east and west facing windows of residential dwellings.
 - v. Include external shading devices for north, east and west facing windows of Childcare component.
 - vi. Ensure consistency between the plans, SMP and STORM report for all WSUD features.
 - vii. Include 1 secure bicycle parking per dwelling and an additional 2 (4 total) for childcare staff.
 - viii. Include provision for electrical vehicle charging for staff vehicles.
- b) Show the following ESD initiatives on the development plans:
- i. An ESD table on the plans for items that cannot be drawn e.g. bike parking, tap and cooling/heating ratings, etc.
 - ii. Double glazed window systems, as committed to in the BESS report.
 - iii. Provision of electrical vehicle charging.
 - iv. Additional external shading devices to North, East and west facing windows.
- c) An amended STORM report and stormwater management response that maintains a minimum STORM score of 100 per cent but is modified so that:
- i. The buffer strips treating 103sqm are removed and replaced with a more suitable treatment method.
- d) An amended WSUD (Water Sensitive Urban Design) catchment plan that is consistent with the STORM report, clearly showing:
- i. The entire site;
 - ii. All permeable areas with dimensions;
 - iii. All stormwater catchment areas (impervious areas and roofs) clearly marked and dimensioned and connected to corresponding Water Sensitive Urban Design (WSUD) treatment measures;
 - iv. A WSUD plan that shows where all stormwater will drain, downpipes clearly marked and the direction of flow shown with arrows.
 - v. Draw and label the location of all water tanks and WSUD features on the plans. Provide dimensions, sections, plant types, etc.
 - vi. Raingardens cannot be on boundaries or near building footings or in secluded private open space areas. They must be a minimum of 1m² and 2 – 4 per cent of the area to be drained. The catchment area must be a minimum of 25m². Proprietary systems cannot be

used.

- vii. **Ensure consistency between the plans, SMP and STORM report for all WSUD features.**

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

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

Noise

10. **Prior to the endorsement of plans, an amended Acoustic Report prepared by a qualified Acoustic Engineer must be submitted to the satisfaction of the Responsible Authority. The Report must be generally in accordance with the advertised Acoustic Report prepared by Enfield Acoustics, dated 11 October 2022 but modified 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.

11. **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.**
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 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.**
13. **Noise levels associated with the childcare centre use must at all times comply with the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues, Environmental Protection Authority, March 2021), or any other superseding**

regulation.

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

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.

Waste Management

14. Prior to the endorsement of plans, an amended Waste Management Plan (WMP) must be submitted to the satisfaction of the Responsible Authority. The WMP must be generally in accordance with the WMP prepared by Leigh Design and advertised on 9 December 2022, except it must be amended to include:
 - a) Swept path plans confirming suitable waste collection vehicle access to the bin store is required as per the advertised Waste Management Plan and to the satisfaction of the Responsible Authority. The collection vehicle must be able to enter/exit the development whilst driving in a forward direction.
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.

Development Contributions Plan

16. Prior to the issue of a Building Permit in relation to the development approved by this permit, a Development Infrastructure Levy must be paid to Merri-bek City Council in accordance with the approved Development Contributions Plan. The Development Infrastructure Levy is charged per dwelling.

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

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

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

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

Public works

17. Prior to the commencement of the development, a Public Works Plan and associated construction drawing specifications detailing the works to the land directly in front of the site on Nicholson Street must be submitted to the satisfaction of the Responsible Authority. The Plan must include:
- a) All construction details in accordance with the *Merri-bek City Council Technical Notes July 2019* (or any updated version).
 - b) A detailed level and feature survey of the footpaths and roads.
 - c) Longitudinal plans of the road verge commencing 10 metres beyond the site boundary, together with cross-sections between the kerb and the building line at 5 metre intervals, with levels showing the slope of the public footpath and highlighting how the level difference between footpath and floor levels will be made up within the site to the satisfaction of the Responsible Authority.
 - d) The upgrade of the footpath adjacent to the site. Public footpaths are to be reinstated to the previous levels with a maximum cross fall slope of 1 in 40 (2.5 per cent).
 - e) Any Council or service authority pole or pit within 1 metre of the proposed vehicle crossing, including the 1 metre splays on the crossings, relocated or modified.
 - f) For any vehicle crossing not being used, the kerb, channel and footpath reinstated.
 - g) Any necessary drainage works.
 - h) The relocation or replacement of existing and installation of new street furniture and infrastructure (in a graffiti-proof finish), such as parking and traffic signs, public seating, bicycle parking and similar.
 - i) The provision of new street tree planting in appropriate locations in front of the site (where practicable), with the number of trees maximised based on the space available, in consultation with the Responsible Authority (Open Space Unit).
 - j) The relocation of the existing tram stop infrastructure outside the subject site in consultation with and to the satisfaction of the Department of Transport.
 - k) Any other works to the public land adjacent to the development.
 - l) A pedestrian safety barrier adjacent to the building entry in consultation with the Department of Transport.
 - m) Traffic calming measure in Aintree Street, in consultation with the Merri-bek City Council's City Infrastructure Department.

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

Contamination Assessment and Environmental Audit

18. Before the construction or carrying out of buildings and works (other than investigational works authorised by an environmental consultant), a Preliminary Site Investigation report prepared by a suitably qualified environmental consultant must be submitted to the Responsible Authority. The Preliminary Site Investigation report must be prepared in accordance with the National Environment Protection (Assessment of Site Contamination

Measure 1999) and must:

- a) **specify the name and qualifications of the person who has conducted the investigation;**
 - b) **include a review of regional and local geological conditions and historical land uses on the subject land and surrounds;**
 - c) **specify the findings from a site inspection and ground penetrating radar survey, if applicable;**
 - d) **confirm whether the subject land is contaminated within the meaning of s 35 of the Environment Protection Act 2017;**
 - e) **recommend whether the condition of the subject land warrants an environmental audit, having regard to the existing and proposed land use(s); and**
 - f) **include a peer review of the Preliminary Site Investigation report by an independent and suitably qualified environmental consultant.**
- 19. If the Preliminary Site Investigation report recommends remedial works, the owner(s) must complete these remedial to the satisfaction of the Responsible Authority before the construction or carrying out of buildings and works (other than demolition work or the recommended remedial works).**
- 20. If the Preliminary Site Investigation report recommends an environmental audit, before the construction or carrying out of buildings and works (other than remedial works authorised by the approved remediation works plan under condition 21), 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.**
- 21. 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).

22. 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.
23. 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, 19 and 20 are satisfied.

Use

24. The child care centre use allowed by this permit must operate only between the following hours:
 - a) Monday to Friday 6:30am to 6:30pm
25. The maximum number of children cared for in the child care centre must not exceed 118 at any one time.
26. The food and drink premises use allowed by this permit must operate only between 6:30am and 11:00pm.

Engineering

27. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, a vehicle crossing must be constructed in every location shown on the endorsed plans to a standard satisfactory to the Responsible Authority (Merri-bek City Council, City Infrastructure Department).
28. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, 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).
29. 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.
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).

General

31. 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.
32. 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.

33. All external lighting for the dwellings 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.
34. 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.

Expiry

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

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

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

Department of Transport

36. Prior to commencement of use, the Tram Stop 22 alterations (generally in accordance with the advertised plans Ground Floor TP004, Level 1 TP005, Elevations TP007 Revision E dated 21/11/22), are to be constructed to the satisfaction of the Head, Transport for Victoria and the Responsible Authority and at no cost to the Head, Transport for Victoria and Yarra Trams.
37. Before development starts (including demolition and bulk excavation), a Demolition and Construction Management Plan must be submitted to and approved by Yarra Trams. When approved, the Construction Management Plan will form a part of this permit. The Demolition and Construction Management Plan must include (but not be limited to) the following:
 - d) the buildings, works and other measures necessary to:
 - i. protect tramway land, tram stop 22, track, overhead power and associated infrastructure.
 - ii. Minimise disruption to the operation of the tram route 96 services along Nicholson Street.
 - e) the remediation of any damage to tramway lane, track, overhead and underground power and communication assets, and associated infrastructure.

- f) details of required access to the tramway land during demolition and construction of the development with appropriate durations and schedules.
 - g) arrangements for:
 - i. any hoarding associated with the construction of the development at the tramway boundary or that encroaches onto or overhangs tram stop.
 - ii. piling, excavation, shoring, stabilising, anchoring, filling, earthworks or construction associated with the development occurring on or next to the boundary of the tramway land.
 - iii. the deposit or store of waste, fill or other materials associated with the development on the tramway land.
 - iv. air and dust management.
 - v. operating hours.
 - vi. noise and vibration controls.
 - vii. the management of site drainage, effluent and waste.
 - viii. the security of the tramway land and associated infrastructure.
38. The Demolition and Construction Management Plan must be prepared, implemented and monitored at no cost to Yarra Trams and the Head, Transport for Victoria. All tram operator costs must be met by the permit holder for any review required of the Plan.
39. All demolition and construction works must be carried out in accordance with the approved Demolition and Construction Management Plan at no cost to and to the satisfaction of Yarra Trams and the Head, Transport for Victoria.
40. The permit holder must ensure that all track, tram and overhead infrastructure is not damaged. Any damage to public transport infrastructure must be rectified to the satisfaction of the Head, Transport for Victoria at the full cost of the permit holder.
41. Unless otherwise agreed in writing with Yarra Trams and the Head, Transport and Victoria, the land owner must enter into an agreement with Yarra Trams and/or Head, Transport for Victoria (Department of Transport and Planning, Metro Tram Team), for the ongoing maintenance of the tram shelter and Variable Passenger Information System (VPIS), to the satisfaction of and at no cost to both Yarra Trams and Head, Transport for Victoria.

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

Note 1: This permit contains a condition requiring payment of Development Contributions. The applicable development contribution levies are indexed annually. To calculate the approximate once off levy amount, please visit <http://www.Merri-bek.vic.gov.au/planning-building/> and click on 'Merri-bek Development Contributions Plan (DCP)'. Alternatively, please contact Merri-bek City Council on 9240 1111 and ask to speak to the DCP Officer.

Note 2: 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 3: Further approvals are required from Council's City Infrastructure Department who can be contacted on 8311 4300 for any works beyond the boundaries of the property. Planting and other vegetative works proposed on road reserves can be discussed with Council's Open Space Unit on 8311 4300.

Note 4: Merri-bek City Council is committed to increasing the amount of affordable housing in the municipality. One way to do this, is through Homes for Homes, a social enterprise founded by the Big Issue that aims to raise new funds via voluntary tax-deductible donations on property transactions and invest those funds in building and managing new social and affordable dwellings. If you would like to help build homes for those in need, visit [Homes for Homes](#) and register your commitment to donate 0.1 per cent of the sale price of your dwelling(s).

Note 5: Separate approvals for works in the vicinity of Yarra Trams stops and network infrastructure is required. The process and documents required to be included are noted on Yarra Trams website, Permits for Works. <https://yarratrams.com.au/permits-for-works>. Please note: this permit process can take a minimum of 6 weeks.

Carried

Cr Riley called for a division.

For	Against
Cr Davidson	Cr Bolton
Cr Yildiz	Cr Pavlidis
Cr Pulford	Cr Harte
Cr Panopoulos	
Cr Conlan	
Cr Carli Hannan	
Cr Riley	
Cr Tapinos	
Total For (8)	Total Against (3)

- 7.35 pm Cr Conlan left the meeting.
- 7.35 pm Cr Carli Hannan left the meeting.
- 7.36 pm Cr Davidson left the meeting.
- 7.36 pm Cr Yildiz left the meeting and did not return.
- 7.42 pm Cr Davidson returned to the meeting.
- 7.43 pm Cr Conlan returned to the meeting.

5.3 6 LEICESTER SQUARE, TULLAMARINE - PLANNING APPLICATION MPS/2022/368



Property:	6 Leicester Square, Tullamarine
Proposal:	Use and development of land for a Child Care Centre
Zoning and Overlay/s:	<ul style="list-style-type: none"> Neighbourhood Residential Zone Schedule 1 (NRZ1) Development Contributions Plan Overlay (DCPO1)
Objections:	<ul style="list-style-type: none"> 23 Key issues are traffic and congestion
Planning Information and Discussion (PID) Meeting:	<ul style="list-style-type: none"> Date: 20th April 2023 Attendees: 2 objectors, the applicant, 2 Council Officers, and Cr Harte No changes were agreed to, however the meeting provided an opportunity for the objectors concerns to be discussed and helped inform the preparation of this report.
ESD:	<ul style="list-style-type: none"> 5kW solar panels 10,000L rainwater tank and 4.3 square metre raingarden
Key reasons for support	<ul style="list-style-type: none"> The child care centre will serve the local community. Minimisation of off-site amenity impacts through the siting of built form and play areas, provision of acoustic fencing, and provision of all required parking spaces on site
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/2022/368 be issued for the use and development of land for a Child Care Centre at 6 Leicester Square, Tullamarine, subject to the following conditions

Amended Plans

1. Before the use or development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans prepared by The Ellis Group Architects, dated 20 January 2023 but modified to show:
 - a) The fence to the north-eastern side of the basement ramp on the ground floor plan, shown to taper down to 0.9 metres in height toward the front boundary.
 - b) The provision of four secure, undercover and weatherproof bicycle parks for staff.
 - c) The provision of six visitor bicycle parks, including enough space for a bicycle trailer to at least one of the spaces.
 - d) Details of the “acoustic paling fence” in accordance with Condition 9 (amended acoustic report) of this permit.

- e) The lightweight cladding to the lifts and stairwells replaced with timber wall look cladding to match the first floor balustrades.
- f) The finishes schedule to include product details, including samples.
- g) The signage deleted from the front elevation.
- h) The Environmentally Sustainable Design initiatives that are required to be shown on plans, as contained within Condition 4 of this permit.
- i) Tree protection measures, including the location of tree protection fencing, in accordance with Condition 8 of this permit.
- j) Any changes to the plans arising from the:
 - i. Waste Management Plan in accordance with Condition 13 of this permit.
 - ii. Public Works Plan in accordance with Condition 15 of this permit.

Compliance with Endorsed Plans

- 2. The use and development as shown on the endorsed plans, including the location, dimensions, shape and associated structures of every sign must not be altered without the written consent of the Responsible Authority. This does not apply to any exemption specified in Clauses 62.01, 62.02-1 and 62.02-2 of the 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 Keystone Alliance, dated 31 October 2022 but amended to show:
 - a) Any modifications required to align with the plans for endorsement.
 - b) Surface details of the play areas, including whether they are impervious or not to correlate with the details on the WSUD plan.
 - c) Tree protection measures, including the location of tree protection fencing, in accordance with Condition 8 of this permit.

Sustainability Management Plan

- 4. Prior to the endorsement of plans, an amended Sustainability Management Plan (SMP) and plans must be submitted to the satisfaction of the Responsible Authority. The SMP must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the plan prepared by Frater Consulting Services, dated 25 January 2023 but modified to include the following changes:
 - a) Provide a preliminary Section J façade calculator that demonstrates NCC 2019 will at minimum be met, include a commitment to minimum double glazing.
 - b) Provide details of materials and insulation to demonstrate how ceiling and floors will be achieving 10 per cent improvement on NCC 2019.
 - c) Provide a Daylight Modelling Report that includes the following information:
 - i. Description of the software used to produce the model.
 - ii. The sky conditions.
 - iii. Glazing properties -VLT of all windows ensuring that the VLT and glazing specifications match the glazing specifications used Section J façade calculator.
 - iv. Internal reflectance of walls, floors and ceilings.
 - v. All surrounding future equitable (including proposed) development modelled where relevant.

- vi. Overlay daylight maps on to floor plans such that it is easy to ascertain that the modelling accurately depicts the dimensions and design of the space.
 - vii. Clear scale to accompany daylight maps.
 - viii. Produce a summary table showing the daylight value for each space with their floor area and the compliant area as both a percentage and as a sqm area.
 - ix. An image of the development as modelled in the software which demonstrates that all external architectural features, overhangs, lightwells, screening, adjacent buildings and structures and other daylight obstructions have been accurately modelled and incorporated.
- d) A STORM report and stormwater management response that maintains a minimum STORM score of 100 per cent but is modified so that the rainwater tank size is minimum 10,000L and achieves reliability of minimum 80 per cent.
- e) An amended stormwater catchment plan that is consistent with the STORM report, clearly showing:
- i. The raingarden set back at least 300mm from site boundaries or building footings.
 - ii. Details of how the ground floor play area drains to the permeable paving at the front of the site.
 - iii. Details of how the stormwater from the level 1 play area will reach the raingarden at the front of the site.
 - iv. Details and sections of the permeable paving.
- f) The following ESD initiatives shown on the plans:
- i. Ventilation paths for all regularly occupied rooms to demonstrate compliance with BESS Credit 2.3 Ventilation – Non- Residential. The number of operable windows should be increased to encourage cross ventilation.
 - ii. The proposed minimum 5kW solar panels at a tilt angle of 10 degrees.
 - iii. Ceiling fans to all the children’s rooms to reduce the need for cooling.
 - iv. Double glazing 'DG' to all habitable room windows and glazed doors annotated on each individual glazing unit and specified on the material/colour schedule.
 - v. External operable shading devices to all west and southwest facing windows and glazed doors including, ground floor reception, kitchen, cot room, children’s rooms 5 & 6, and first floor staff room, drawn and labelled on the floor plan and elevations. The first-floor windows and sliding glazed door devices must be operable from within the building. Include a product diagram or section of the proposed device (must not be roller shutters for any street facing glazing).
 - vi. The location of the downpipe connections from the allocated roof area and used to flush toilets.
 - vii. The water tanks labelled as being connected to all toilets.

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.

5. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, the development must be constructed in accordance with the endorsed Sustainability Management Plan to the satisfaction of the Responsible Authority.
6. 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.

Tree Protection

7. At the commencement of the vehicle crossing widening works, a Project arborist (AQF Level 5+) must supervise the manual excavation for the crossover widening, conduct root pruning as required, document results, and contact Council's Open Space Unit if significant root severance is required (e.g. roots 50mm+ diameter) to the satisfaction of the Responsible Authority.
8. 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 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.

Noise

9. Prior to the endorsement of plans, an amended Acoustic Report prepared by a qualified Acoustic Engineer must be submitted to the satisfaction of the Responsible Authority. The Report must be generally in accordance with the Acoustic Report prepared by Renzo Tonin and Associates, dated 9 February 2022 but modified to:
 - a) Detail the specifications of the 2100mm high acoustic fencing proposed to common boundaries.
 - b) Details aligned 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.

10. 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.
11. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, a report from the author of the Acoustic Report approved pursuant to this permit or similarly qualified person or company must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Acoustic Report have been implemented in accordance with the approved Acoustic Report.
12. Noise levels associated with the use must at all times comply with the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues, Environmental Protection authority, March 2021), or any other superseding regulation.

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

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.

Waste Management

13. Prior to the endorsement of plans, an amended Waste Management Plan (WMP) must be submitted to the satisfaction by the Responsible Authority. The WMP must be generally in accordance with the plan prepared by Frater Consulting Services, dated 21 April 2022 but modified to include all four waste stream types (General waste, recycling, glass and food and organics).

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 and associated construction drawing specifications detailing the works to the land proximate of the site must be submitted to the satisfaction of the Responsible Authority. The Plan must include:
 - a) A sign schedule (prepared by a suitably qualified traffic engineer) detailing additional signage in Leicester Square to avoid possible patron traffic exiting the wrong way towards Melrose Drive.
 - b) All construction details included in the Public Works Plan in accordance with the *Moreland City Council Technical Notes July 2019* (or any updated version).
 - c) A detailed level and feature survey of the footpaths and roads.
 - d) The upgrade of the footpath adjacent to the site. Public footpaths are to be reinstated to the previous levels with a maximum cross fall slope of 1 in 40 (2.5 per cent).
 - e) Any necessary parking signs.
 - f) Any necessary drainage works.
 - g) The provision of other works and street furniture including and seating (where practicable), which is to be provided with graffiti-resistant surfaces.
 - h) The provision of new street tree planting in Leicester Square in appropriate locations in front of the site (where practicable), with the number of trees maximised based on the space available, in consultation with the Responsible Authority (Open Space Unit).

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

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.

Car Parking

17. 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) Allocate at least 6 spaces at the north-western end of the basement as staff parking with appropriate markings to identify the spaces as for staff.
- h) Include location of signage to direct parents and carers to the non-staff car spaces.
- i) Include the location of signage in Leicester Square to avoid possible patron traffic exiting the wrong way towards Melrose Drive.

Hours of Operation

18. The use allowed by this permit must operate only between the following hours:

- a) Monday to Friday 6:30 a.m. to 6:30 p.m.

Maximum Number of Children

19. The maximum number of children cared for in the child care centre must not exceed 113 at any one time.

Development Contributions

20. Prior to the issue of a Building Permit in relation to the development approved by this permit, a Development Infrastructure Levy must be paid to Merri-bek City Council in accordance with the approved Development Contributions Plan. The Development Infrastructure Levy is charged per dwelling.

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

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

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

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

Site services

21. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land (including all existing and new buildings) must be underground to the satisfaction of the Responsible Authority.

22. 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).

23. Prior to the commencement of works cctv footage of the existing condition of the pipes in the easements (south and east boundaries of the property) is required to be submitted to Council, then again at the completion of construction, with any damage to the pipes rectified at no cost to and to the satisfaction of Council.

Vehicle Crossings

24. Prior to the endorsement of plans confirmation of the power companies' requirements for the power pole in relation to the proposed accessway must be provided in writing. If required, the power pole is to be relocated to a point in front of the development over 1 metre from the proposed vehicle crossing, including the 1 metre splays on the crossing.
25. Prior to the issue of an Occupancy Permit whichever comes first, a vehicle crossing must be constructed in every location shown on the endorsed plans to a standard satisfactory to the Responsible Authority (Merri-bek City Council, City Infrastructure Department).
26. The Project arborist (AQF Level 5+) must supervise manual excavation for the crossover widening, conduct root pruning as required, document results, and contact council if significant root severance was required (e.g. roots 50mm+ diameter).

Signs

27. Every sign on the land must be maintained in good condition to the satisfaction of the Responsible Authority.
28. The signage approved by this permit must not be animated or contain any flashing or intermittent lights.
29. No part of the signage approved by this permit must be internally or externally illuminated

Department of Transport Conditions

30. Prior to the endorsement of plans, amended plan(s) must be submitted to and approved by the Head, Transport for Victoria. When approved, the amended plan(s) must be endorsed by the Responsible Authority and will form part of the permit. The plans must be drawn to scale with dimensions and generally in accordance with the submitted plan (Drawing 'Proposed Site Plan"', Drawing No. SK 100 B, Issue B, dated 20/ 01/ 2023, prepared by the ELLIS Group Architects) but amended to show the below notations:
 - a) Illegal trespass of people onto railway land is prohibited.
 - b) The development and its buildings must avoid interfering with train driver's visibility or train driver's interpretation of rail signals by:
 - i. Not causing reflected sunlight.
 - ii. Not reflecting or refracting artificial light.
 - iii. Avoiding the use of red, green or yellow colour schemes in its exterior.
 - c) Ground stabilisation devices, such as temporary or permanent ground anchors, soil nails, reinforced earth straps must not penetrate onto railway land.
31. Prior to commencement of demolition or construction works, an application to the Rail Operator (ARTC) through the Internet web address <https://www.artc.com.au/work/external-parties/> to obtain the Rail Operator's conditions and safety requirements for works on, over or adjacent to railway land.
32. The permit holder must always ensure that the common boundary with railway land is fenced to prohibit unauthorised access to the railway land, to the satisfaction of VicTrack and Head, Transport for Victoria. Any permanent walls or fences on the common boundary with railway land must be designed and constructed in accordance with VicTrack Rail Development Interface Guidelines (VicTrack, 2019). with the agreement of Head, Transport for Victoria. They must be cleaned and finished using a graffiti proof finish or alternative measures used to prevent or reduce the potential of graffiti.

33. The development's landscaping and planting upon completion and in the future must:
- a) Not interfere with train driver's visibility or train driver's interpretation of rail signals.
 - b) Not facilitate illegal access to railway land over boundary fence/ wall via tree climbing.
 - c) Not cause damage to any rail assets or infrastructure via root or branch ingress.
34. No drainage, effluent, waste soil or other materials are allowed to be directed to railway land from the development site or to be stored on railway land by the development.

Permit Expiry

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

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

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

36. This permit as it relates to signage expires 15 years from the date of issue, at which time the sign and all supporting structures must be removed and the site made good to the satisfaction of the Responsible Authority.

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

Resolution

Cr Bolton moved, Cr Pulford seconded -

That a Notice of Decision to Grant a Planning Permit No. MPS/2022/368 be issued for the use and development of land for a Child Care Centre at 6 Leicester Square, Tullamarine, subject to the following conditions

Amended Plans

1. **Before the use or development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans prepared by The Ellis Group Architects, dated 20 January 2023 but modified to show:**
 - a) **The fence to the north-eastern side of the basement ramp on the ground floor plan, shown to taper down to 0.9 metres in height toward the front boundary.**
 - b) **The provision of four secure, undercover and weatherproof bicycle parks for staff.**

- c) The provision of six visitor bicycle parks, including enough space for a bicycle trailer to at least one of the spaces.
- d) Details of the “acoustic paling fence” in accordance with Condition 9 (amended acoustic report) of this permit.
- e) The lightweight cladding to the lifts and stairwells replaced with timber wall look cladding to match the first floor balustrades.
- f) The finishes schedule to include product details, including samples.
- g) The signage deleted from the front elevation.
- h) The Environmentally Sustainable Design initiatives that are required to be shown on plans, as contained within Condition 4 of this permit.
- i) Tree protection measures, including the location of tree protection fencing, in accordance with Condition 8 of this permit.
- j) Any changes to the plans arising from the:
 - i. Waste Management Plan in accordance with Condition 13 of this permit.
 - ii. Public Works Plan in accordance with Condition 15 of this permit.

Compliance with Endorsed Plans

- 2. The use and development as shown on the endorsed plans, including the location, dimensions, shape and associated structures of every sign must not be altered without the written consent of the Responsible Authority. This does not apply to any exemption specified in Clauses 62.01, 62.02-1 and 62.02-2 of the 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 Keystone Alliance, dated 31 October 2022 but amended to show:
 - a) Any modifications required to align with the plans for endorsement.
 - b) Surface details of the play areas, including whether they are impervious or not to correlate with the details on the WSUD plan.
 - c) Tree protection measures, including the location of tree protection fencing, in accordance with Condition 8 of this permit.

Sustainability Management Plan

- 4. Prior to the endorsement of plans, an amended Sustainability Management Plan (SMP) and plans must be submitted to the satisfaction of the Responsible Authority. The SMP must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the plan prepared by Frater Consulting Services, dated 25 January 2023 but modified to include the following changes:
 - a) Provide a preliminary Section J façade calculator that demonstrates NCC 2019 will at minimum be met, include a commitment to minimum double glazing.
 - b) Provide details of materials and insulation to demonstrate how ceiling and floors will be achieving 10 per cent improvement on NCC 2019.
 - c) Provide a Daylight Modelling Report that includes the following information:

- i. Description of the software used to produce the model.
 - ii. The sky conditions.
 - iii. Glazing properties -VLT of all windows ensuring that the VLT and glazing specifications match the glazing specifications used Section J façade calculator.
 - iv. Internal reflectance of walls, floors and ceilings.
 - v. All surrounding future equitable (including proposed) development modelled where relevant.
 - vi. Overlay daylight maps on to floor plans such that it is easy to ascertain that the modelling accurately depicts the dimensions and design of the space.
 - vii. Clear scale to accompany daylight maps.
 - viii. Produce a summary table showing the daylight value for each space with their floor area and the compliant area as both a percentage and as a sqm area.
 - ix. An image of the development as modelled in the software which demonstrates that all external architectural features, overhangs, lightwells, screening, adjacent buildings and structures and other daylight obstructions have been accurately modelled and incorporated.
- d) A STORM report and stormwater management response that maintains a minimum STORM score of 100 per cent but is modified so that the rainwater tank size is minimum 10,000L and achieves reliability of minimum 80 per cent.
- e) An amended stormwater catchment plan that is consistent with the STORM report, clearly showing:
- i. The raingarden set back at least 300mm from site boundaries or building footings.
 - ii. Details of how the ground floor play area drains to the permeable paving at the front of the site.
 - iii. Details of how the stormwater from the level 1 play area will reach the raingarden at the front of the site.
 - iv. Details and sections of the permeable paving.
- f) The following ESD initiatives shown on the plans:
- i. Ventilation paths for all regularly occupied rooms to demonstrate compliance with BESS Credit 2.3 Ventilation – Non- Residential. The number of operable windows should be increased to encourage cross ventilation.
 - ii. The proposed minimum 5kW solar panels at a tilt angle of 10 degrees.
 - iii. Ceiling fans to all the children’s rooms to reduce the need for cooling.
 - iv. Double glazing 'DG' to all habitable room windows and glazed doors annotated on each individual glazing unit and specified on the material/colour schedule.

- v. External operable shading devices to all west and southwest facing windows and glazed doors including, ground floor reception, kitchen, cot room, children's rooms 5 & 6, and first floor staff room, drawn and labelled on the floor plan and elevations. The first-floor windows and sliding glazed door devices must be operable from within the building. Include a product diagram or section of the proposed device (must not be roller shutters for any street facing glazing).
- vi. The location of the downpipe connections from the allocated roof area and used to flush toilets.
- vii. The water tanks labelled as being connected to all toilets.

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.

- 5. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, the development must be constructed in accordance with the endorsed Sustainability Management Plan to the satisfaction of the Responsible Authority.
- 6. 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.

Tree Protection

- 7. At the commencement of the vehicle crossing widening works, a Project arborist (AQF Level 5+) must supervise the manual excavation for the crossover widening, conduct root pruning as required, document results, and contact Council's Open Space Unit if significant root severance is required (e.g. roots 50mm+ diameter) to the satisfaction of the Responsible Authority.
- 8. 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 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.

Noise

9. Prior to the endorsement of plans, an amended Acoustic Report prepared by a qualified Acoustic Engineer must be submitted to the satisfaction of the Responsible Authority. The Report must be generally in accordance with the Acoustic Report prepared by Renzo Tonin and Associates, dated 9 February 2022 but modified to:

- a) Detail the specifications of the 2100mm high acoustic fencing proposed to common boundaries.
- b) Details aligned 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.

- 10. 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.
- 11. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, a report from the author of the Acoustic Report approved pursuant to this permit or similarly qualified person or company must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Acoustic Report have been implemented in accordance with the approved Acoustic Report.
- 12. Noise levels associated with the use must at all times comply with the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues, Environmental Protection authority, March 2021), or any other superseding regulation.

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

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.

Waste Management

- 13. Prior to the endorsement of plans, an amended Waste Management Plan (WMP) must be submitted to the satisfaction by the Responsible Authority. The WMP must be generally in accordance with the plan prepared by Frater Consulting Services, dated 21 April 2022 but modified to include all four waste stream types (General waste, recycling, glass and food and organics).**

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 and associated construction drawing specifications detailing the works to the land proximate of the site must be submitted to the satisfaction of the Responsible Authority. The Plan must include:**

- a) A sign schedule (prepared by a suitably qualified traffic engineer) detailing additional signage in Leicester Square to avoid possible patron traffic exiting the wrong way towards Melrose Drive.**
- b) All construction details included in the Public Works Plan in accordance with the Moreland City Council Technical Notes July 2019 (or any updated version).**
- c) A detailed level and feature survey of the footpaths and roads.**
- d) The upgrade of the footpath adjacent to the site. Public footpaths are to be reinstated to the previous levels with a maximum cross fall slope of 1 in 40 (2.5 per cent).**
- e) Any necessary parking signs.**
- f) Any necessary drainage works.**
- g) The provision of other works and street furniture including and seating (where practicable), which is to be provided with graffiti-resistant surfaces.**
- h) The provision of new street tree planting in Leicester Square in appropriate locations in front of the site (where practicable), with the number of trees maximised based on the space available, in consultation with the Responsible Authority (Open Space Unit).**

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

- 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.**

Car Parking

- 17. 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) Allocate at least 6 spaces at the north-western end of the basement as staff parking with appropriate markings to identify the spaces as for staff.**
 - h) Include location of signage to direct parents and carers to the non-staff car spaces.**
 - i) Include the location of signage in Leicester Square to avoid possible patron traffic exiting the wrong way towards Melrose Drive.**

Hours of Operation

- 18. The use allowed by this permit must operate only between the following hours:**
- a) Monday to Friday 6:30 a.m. to 6:30 p.m.**

Maximum Number of Children

- 19. The maximum number of children cared for in the child care centre must not exceed 113 at any one time.**

Development Contributions

- 20. Prior to the issue of a Building Permit in relation to the development approved by this permit, a Development Infrastructure Levy must be paid to Merri-bek City Council in accordance with the approved Development Contributions Plan. The Development Infrastructure Levy is charged per dwelling.**

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

- a maximum of 12 months from the date of issue of the Building Permit;**
or

- prior to the issue of a Statement of Compliance for the subdivision;

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

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

Site services

21. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land (including all existing and new buildings) must be underground to the satisfaction of the Responsible Authority.
22. 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).
23. Prior to the commencement of works cctv footage of the existing condition of the pipes in the easements (south and east boundaries of the property) is required to be submitted to Council, then again at the completion of construction, with any damage to the pipes rectified at no cost to and to the satisfaction of Council.

Vehicle Crossings

24. Prior to the endorsement of plans confirmation of the power companies' requirements for the power pole in relation to the proposed accessway must be provided in writing. If required, the power pole is to be relocated to a point in front of the development over 1 metre from the proposed vehicle crossing, including the 1 metre splays on the crossing.
25. Prior to the issue of an Occupancy Permit whichever comes first, a vehicle crossing must be constructed in every location shown on the endorsed plans to a standard satisfactory to the Responsible Authority (Merri-bek City Council, City Infrastructure Department).
26. The Project arborist (AQF Level 5+) must supervise manual excavation for the crossover widening, conduct root pruning as required, document results, and contact council if significant root severance was required (e.g. roots 50mm+ diameter).

Signs

27. Every sign on the land must be maintained in good condition to the satisfaction of the Responsible Authority.
28. The signage approved by this permit must not be animated or contain any flashing or intermittent lights.
29. No part of the signage approved by this permit must be internally or externally illuminated

Department of Transport Conditions

30. Prior to the endorsement of plans, amended plan(s) must be submitted to and approved by the Head, Transport for Victoria. When approved, the amended plan(s) must be endorsed by the Responsible Authority and will form part of

the permit. The plans must be drawn to scale with dimensions and generally in accordance with the submitted plan (Drawing 'Proposed Site Plan"', Drawing No. SK 100 B, Issue B, dated 20/ 01/ 2023, prepared by the ELLIS Group Architects) but amended to show the below notations:

- a) Illegal trespass of people onto railway land is prohibited.
 - b) The development and its buildings must avoid interfering with train driver's visibility or train driver's interpretation of rail signals by:
 - i. Not causing reflected sunlight.
 - ii. Not reflecting or refracting artificial light.
 - iii. Avoiding the use of red, green or yellow colour schemes in its exterior.
 - c) Ground stabilisation devices, such as temporary or permanent ground anchors, soil nails, reinforced earth straps must not penetrate onto railway land.
31. Prior to commencement of demolition or construction works, an application to the Rail Operator (ARTC) through the Internet web address <https://www.artc.com.au/work/external-parties/> to obtain the Rail Operator's conditions and safety requirements for works on, over or adjacent to railway land.
32. The permit holder must always ensure that the common boundary with railway land is fenced to prohibit unauthorised access to the railway land, to the satisfaction of VicTrack and Head, Transport for Victoria. Any permanent walls or fences on the common boundary with railway land must be designed and constructed in accordance with VicTrack Rail Development Interface Guidelines (VicTrack, 2019). with the agreement of Head, Transport for Victoria. They must be cleaned and finished using a graffiti proof finish or alternative measures used to prevent or reduce the potential of graffiti.
33. The development's landscaping and planting upon completion and in the future must:
- a) Not interfere with train driver's visibility or train driver's interpretation of rail signals.
 - b) Not facilitate illegal access to railway land over boundary fence/ wall via tree climbing.
 - c) Not cause damage to any rail assets or infrastructure via root or branch ingress.
34. No drainage, effluent, waste soil or other materials are allowed to be directed to railway land from the development site or to be stored on railway land by the development.

Permit Expiry

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

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

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

36. This permit as it relates to signage expires 15 years from the date of issue, at which time the sign and all supporting structures must be removed and the site made good to the satisfaction of the Responsible Authority.

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

7.44 pm Cr Conlan left the meeting.

7.44 pm Cr Conlan returned to the meeting.

Carried unanimously

7.55 pm Cr Carli Hannan returned to the meeting.

5.4 300-302 LYGON STREET, BRUNSWICK EAST VIC 3057 - PLANNING AND RELATED MATTERS MEETING REPORT



Property:	300-302 Lygon Street, Brunswick East		
Existing Permit:	Construction of a multi storey building containing offices and a reduction in the statutory car parking rate		
Proposed Amendment:	Construct an additional storey resulting in an 8 storey building containing offices and a reduction in the statutory car parking rate		
Zoning and Overlay/s:	<ul style="list-style-type: none"> • Commercial 1 Zone • Design and Development Overlay – Schedule 19 • Parking Overlay- Schedule 1 		
Strategic setting:	Minimal change	Incremental change	Significant change
Objections:	<ul style="list-style-type: none"> • Eleven (11) objections • Key issues: <ul style="list-style-type: none"> • Excessive Building Height • Overdevelopment • Overshadowing 		
Planning Information and Discussion (PID) Meeting:	<ul style="list-style-type: none"> • Scheduled 1 May 2023. However, no objectors attended. 		
ESD:	<ul style="list-style-type: none"> • BESS score of 52 per cent. • 10Kw solar system 		

Key reasons for support	<ul style="list-style-type: none"> • High quality architectural response. • Solely commercial use which is encouraged by the Commercial 1 Zone and local facilitates employment growth. • No unreasonable impacts to adjacent residents.
Recommendation:	Notice of Decision to Grant an Amended Planning Permit

Officer Recommendation

That a Notice of Decision to Grant an Amended Planning Permit No. MPS/2021/138/B be issued for the construction of a multi storey building containing offices and a reduction in the statutory car parking rate at 300-302 Lygon Street, Brunswick East, subject to the following conditions (**changes 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 be generally in accordance with the plans advertised on **21 December 2022 and must** show:
 - a) **Deleted.**
 - b) 44 bicycle spaces on the Development Summary.
 - c) Provision of obscure glazing to a height of 1700 mm to the rear east facing windows of the tenancies from Level 5 to **Level 7**.
 - d) The depth of the awning to Lygon Street clearly annotated as being 1.5 metres.
 - e) The Environmentally Sustainable Design initiatives that are required to be shown on plans, as contained within Condition 3 of this permit.
 - f) Any changes to the plans arising from the Public Works Plan in accordance with Condition 13 of this permit.

Development not to be altered

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.

Sustainability Management plan

3. 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 by NJM Design dated 5 July 2021 but modified to include the following changes:
 - a) Details of onsite organic waste management
 - b) Show the following ESD initiatives on the development plans:
 - i. Proposed location of electric heat pump hot water systems.
 - ii. Double glazing to all air-conditioned areas annotated on elevation plans and specified on the material/colour schedule.
 - iii. External operable shading devices to west facing glazing; including details of the type/section detail of the proposed shading and its operability.

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.

4. Where alternative ESD initiatives are proposed to those specified in Condition 3, the Responsible Authority may vary the requirements of this condition at its discretion, subject to the development achieving equivalent (or greater) ESD outcomes in association with the development.
5. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all works must be undertaken in accordance with the endorsed Sustainability Management Plan to the satisfaction of the Responsible Authority.
6. Prior to the issue of Statement of Compliance or an occupancy permit for any part of the building approved under this permit, whichever occurs first, a report (or reports) from the author of the Sustainability Management Plan (SMP) report, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the SMP report have been implemented in accordance with the approved report.

Waste Management Plan

7. Prior to the commencement of the development, a report that is generally in accordance with the Waste Management Plan prepared by NJM Design dated 7 May 2021 must be endorsed to form part of the permit. No changes to the Waste Management Plan may occur without the prior written consent of the Responsible Authority.
8. The Waste Management Plan approved under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.

Acoustic Report

9. Prior to the commencement of the development, a report that is generally in accordance with the Acoustic Planning Report by SLR dated April 2021 must be endorsed to form part of the permit. No changes to the Acoustic Planning Report may occur without the prior written consent of the Responsible Authority.
10. 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. 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.
11. Prior to the issue of a Statement of Compliance or occupancy permit for any part of the building approved under this permit, whichever occurs 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.

Development Contributions

12. Prior to the issue of a Building Permit in relation to the development approved by this permit, a Development Infrastructure Levy and Community Infrastructure Levy must be paid to **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 and the Development and Community Infrastructure Levy is charged per dwelling.

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

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

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

Public works plan

13. Prior to the commencement of development, a Public Works Plan and associated construction drawing specifications detailing the works to the Lygon Street footpath must be submitted to the satisfaction of the Responsible Authority. The Plan must detail works in front of the approved building and include:
- a) 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).
 - b) A detailed level and feature survey of the footpaths and roads.
 - c) The existing crossovers at the front of the site removed and the kerb and channel, footpath and nature strip reinstated to Council's standards using construction plans approved by **Merri-bek** City Council, City Infrastructure Department.
 - d) Any necessary drainage works.
 - e) The other works to the public land adjacent to the development including new or reconstructed footpaths, nature strips and other associated street furniture/infrastructure.

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.

14. Prior to the issue of a Statement of Compliance or Certificate(s) of Occupancy, whichever occurs 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

15. Deleted.
16. Deleted.
17. Deleted.
18. Deleted.
19. Deleted.

3D model

20. Prior to the commencement of the development, a 3D digital model of the approved development which is compatible for use on Council's Virtual **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.moreland.vic.gov.au/planning-building/3D-Guidelines/>. In the event that substantial modifications to the building envelope are approved under an amendment to this planning permit, a revised 3D digital model must be submitted to, and be to the satisfaction of the Responsible Authority.

Retention of architect

21. Miceli Oldfield Sinton Architects must provide architectural oversight of the delivery of the detailed design, as shown in the endorsed plans and endorsed schedule of materials and finishes, during construction unless with the prior written approval of the Responsible Authority

General

22. Prior to the occupation of the development, the on-street car parking spaces created by the removal of the vehicle crossing must be line-marked in a material and in a manner acceptable to the Responsible Authority.
23. The ramp from the garage floor to the laneway must be contained entirely within the site leaving the laneway levels unaltered.
24. The verandah must not project beyond the street alignment unless it is setback not less than 750mm from the kerb and at a height **of not** less than 3m above the level of the footpath in accordance with Clause 507 of the Building Regulations 2018 to the satisfaction of the Responsible Authority.
25. Prior to the occupation of the development all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land must be underground to the satisfaction of the Responsible Authority.
26. All stormwater from the land, where it is not collected in rainwater tanks for re-use, must be collected by an underground pipe drain approved by and to the satisfaction of the Responsible Authority (Note: Please contact **Merri-bek** City Council, City Infrastructure Department).
27. Stormwater from the land must not be directed to the surface of the laneway to the satisfaction of the Responsible Authority.

Time limit

29. This permit will expire if one of the following circumstances applies:
- a) the development is not commenced within 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 permit or conditions of this permit.

Note 1: This permit contains a condition requiring payment of Development Contributions. The applicable development contribution levies are indexed annually. To calculate the approximate once off levy amount, please <https://www.moreland.vic.gov.au/building-and-business/planning-and-building/planning/development-contributions/> and click on '[Moreland Development Contributions Plan \(DCP\)](#)'. Alternatively, please contact **Merri-bek** City Council on 9240 1111 and ask to speak to the DCP Officer.

Date of amendment: 09-Aug-2022
Amendment Number: MPS/2021/138/A
Brief description of amendment: <ul style="list-style-type: none"> Deleted Conditions 15, 16, 17, 18 and 19

Motion

Cr Bolton moved, Cr Conlan seconded -

That a Refusal to Grant an Amended Planning Permit No. MPS/2021/138/B be issued to allow the construction of an additional storey resulting in an 8 storey building containing offices and a further reduction in the statutory car parking rate at 300–302 Lygon Street, Brunswick East on the following grounds:

- The additional height takes the development one further storey over the preferred building height of 23 metres as required by Schedule 19 to the Design and Development Overlay at Clause 43.02 of the Merri-bek Planning Scheme.

7.58 pm Cr Davidson left the meeting.

7.59 pm Cr Davidson returned to the meeting.

8.01 pm Cr Davidson left the meeting.

8.02 pm Cr Davidson returned to the meeting.

Lost

Cr Panopoulos called for a division.

For

Cr Bolton
Cr Pavlidis
Cr Conlan
Cr Harte

Total For (4)

Against

Cr Davidson
Cr Pulford
Cr Panopoulos
Cr Carli Hannan
Cr Riley
Cr Tapinos

Total Against (6)

Resolution

Cr Riley moved, Cr Carli Hannan seconded -

That a Notice of Decision to Grant an Amended Planning Permit No. **MPS/2021/138/B** be issued for the construction of a multi storey building containing offices and a reduction in the statutory car parking rate at 300-302 Lygon Street, Brunswick East, subject to the following conditions (changes bolded):

Amended plans

- 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 21 December 2022 and must show:**

- a) Deleted.
- b) 44 bicycle spaces on the Development Summary.
- c) Provision of obscure glazing to a height of 1700 mm to the rear east facing windows of the tenancies from Level 5 to Level 7.
- d) The depth of the awning to Lygon Street clearly annotated as being 1.5 metres.
- e) The Environmentally Sustainable Design initiatives that are required to be shown on plans, as contained within Condition 3 of this permit.
- f) Any changes to the plans arising from the Public Works Plan in accordance with Condition 13 of this permit.

Development not to be altered

- 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.

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Date of amendment: 09-Aug-2022
Amendment Number: MPS/2021/138/A
Brief description of amendment: <ul style="list-style-type: none">• Deleted Conditions 15, 16, 17, 18 and 19

Carried

Cr Panopoulos called for a division.

For

Cr Davidson
Cr Pulford
Cr Panopoulos
Cr Carli Hannan
Cr Riley
Cr Tapinos

Total For (6)

Against

Cr Bolton
Cr Pavlidis
Cr Conlan
Cr Harte

Total Against (4)

URGENT BUSINESS REPORTS

Nil

The meeting closed at 8.18 pm.