



PROPOSED
Minutes of the Planning and Related Matters Meeting

Held on Wednesday 15 December 2021

The Mayor opened the meeting at 6.33 pm and stated the Council meeting is being held on the traditional country of the Wurundjeri Woi Wurrung people and acknowledged them as Traditional Owners. The Mayor paid respects to their Elders, past, present and emerging, and the Elders from other communities who may be here today.

Present	Time In	Time Out
Cr Mark Riley, Mayor	6.33 pm	8.27 pm
Cr Lambros Tapinos, Deputy Mayor	Apology	
Cr Adam Pulford	6.33 pm	8.27 pm
Cr Angelica Panopoulos	8.01 pm	8.26 pm
Cr Annalivia Carli Hannan	Leave of absence	
Cr Helen Davidson	Apology	
Cr Helen Pavlidis	6.33 pm	8.27 pm
Cr James Conlan	6.33 pm	8.27 pm
Cr Milad El-Halabi	Apology	
Cr Oscar Yildiz JP	6.33 pm	8.05 pm
Cr Sue Bolton	6.33 pm	8.27 pm

APOLOGIES/LEAVE OF ABSENCE

Cr Carli Hannan was on a leave of absence - 9 December 2021 to 2 March 2022 inclusive.

Cr Tapinos, Cr Davidson and Cr El-Halabi were apologies to the meeting.

Cr Panopoulos was an apology for the first part of the meeting and joined the meeting at 8.01 pm.

Mayor, Cr Riley, noted that Cr Pavlidis has requested a leave of absence from 16 December 2021 until Sunday 30 January 2022 inclusive. This request will be received at the next Council meeting on 9 February 2022.

OFFICERS

Acting Director City Futures – Phil Priest
Acting Group Manager City Development – Mark Hughes
Acting Unit Manager Urban Planning – Lachlan McGowan
Planning Coordinator – Vita Galante
Planning Coordinator – Darren Camilleri
Senior Urban Planner – Rachel Grounds
Manager Governance and Strategy – Yvonne Callanan
Team Leader Governance – Naomi Ellis

DISCLOSURES OF CONFLICTS OF INTEREST

Cr Pavlidis disclosed a general conflict of interest in her request for a leave of absence.

MINUTE CONFIRMATION

Resolution

Cr Bolton moved, Cr Pulford seconded -

The minutes of the Planning and Related Matters Meeting held on 24 November 2021 be confirmed.

Carried

COUNCIL REPORTS

5.1 495-511 LYGON STREET, BRUNSWICK EAST - PLANNING APPLICATION MPS/2020/57

Property:	495-511 Lygon Street, Brunswick East
Proposal:	Part demolition of existing buildings, and the construction of a six storey building above basement levels, use of the land for a place of assembly (function centre), and dwellings, and reduction of the statutory car parking requirement associated with the function centre, retail and food and drink premises uses
Zoning and Overlay/s:	<ul style="list-style-type: none"> • Commercial 1 Zone • Development Contributions Plan Overlay • Heritage Overlay Schedule 435 • Design and Development Overlay Schedule 19 • Parking Overlay Schedule 1
Strategic setting:	
ESD:	<ul style="list-style-type: none"> • Average NatHERS rating of 7.2 stars.
Accessibility:	<ul style="list-style-type: none"> • 57% adaptable apartments.
Key reasons for support	<ul style="list-style-type: none"> • Reduction in height generally consistent with PARM resolution imposing condition to reduce height. • Results in a development that is respectful of the heritage building. • Continues to provide for a community use.
Recommendation:	<p>Council advise VCAT and all parties that:</p> <ul style="list-style-type: none"> • Council does not consent as the changes shown in the November 2021 plans would result in material detriment and require public notice. • If, the November 2021 plans are formally substituted as the application plans and further persons join as parties to the VCAT review, the Group Manager City Development is provided with delegated authority to consent at any future VCAT Compulsory Conference. • If the November 2021 plans are formally substituted as the application plans and there are no further person seeking to be joined as parties to the VCAT review, Council supports the issue of Planning Permit no. MPS/2020/57 subject to the recommended conditions.

Change to Officer Recommendation as printed in the Agenda

Following the production and distribution of the agenda for the Planning and Related Matters meeting of 15 December 2021, the Officer Recommendation for this item was reissued with the following changes:

- *replacing Part A, B and C with a revised Part A and B to provide clarity on the extent of the notice*

- *clerical correction made to conditions 19, 20 and 21, to match the wording of the Notice of Decision to grant a planning permit dated 4 May 2021.*

The Officer Recommendation below has been changed to reflect these changes.

Officer Recommendation

PART A

That Council advises VCAT and the parties that Council consents to the issue of Planning Permit No. MPS/2020/57 for the partial demolition of existing buildings, and the construction of a multi-storey building above basement levels, use of the land for a place of assembly (function centre) and dwellings, and reduction of car parking subject to the permit conditions below (**changes to existing conditions and new conditions bolded**) provided that either the plans are formally substituted in accordance with VCAT Planning Practice Note PNPE9 or notice of the without prejudice plans is otherwise provided as directed by VCAT and following this further notice;

1. there are no further persons joined as parties to the VCAT review, or
2. if further persons are joined as parties to the VCAT review the Group Manager City Development is provided with delegated authority to consent any mediated outcome at any future VCAT Compulsory Conference.

PART B

That Council advise VCAT and the parties that the extent of notice of the without prejudice plans be to owners and occupiers of 24, 26, 28 and 30 Stanley Street, Brunswick.

PERMIT CONDITIONS

Amended plans required

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 three copies must be provided. The plans must generally accord with **VCAT substituted plans that are dated November 2021 prepared by Cera Stribley Architects but be modified to show:**
 - a) **Deleted**
 - b) **Deleted**
 - c) **Deleted**
 - d) Retention of the original roof of the former Liberty Theatre building for a minimum of 11 metres from the Lygon Street frontage.
 - e) **Deleted**
 - f) A maximum wall height on the western site boundary (rear laneway) of 8 metres to adhere to the rear setback requirements of the Design and Development Overlay (Schedule 19).
 - g) **Deleted**
 - h) **Deleted**
 - i) Deletion of the statement 'Extent of heritage façade to be retained (refer to heritage report)' from the East Elevation plan.
 - j) Details of the retention, conservation and restoration of the former Liberty Theatre heritage building in accordance with the Heritage Report required by Condition 4.

- k) The proposed verandahs (to Lygon Street) setback a minimum of 750mm from the kerb and with a height of less than 3 metres above the level of the footpath in accordance with Clause 507 of the *Building Regulations 2006*.
- l) The entry to the basement from the rear laneway designed with an apex height along the basement access ramp equivalent to 47.21AHD +150mm to prevent stormwater inundation of the basement from the road reserve.
- m) The provision of stairs with an adjacent ramp for cyclists to roll their bicycle wheels on when accessing lifts to and from the residential bike storage area on Basement Level 3(A). The stairs must be constructed with 355mm treads and have a non-slip surface.
- n) Dimensions, line-markings and bollard in accordance with Australian Standard 2890.6 shown to the accessible parking bay on Basement Level 1(A) and adjacent shared space.
- o) An offset of at least 1 metre for all car parking spaces adjacent to walls on Basement Level 3(B).
- p) The location of any substation required by the power company for this development. Any substation must be incorporated within the building (i.e. not free standing or pole mounted in the street) to ensure minimal impact on the visual amenity of the public realm.
- q) All residential and employee bicycle spaces secured with walls, with self-closing and self-locking doors that are only accessible using keys, codes or swipe cards in accordance with the Australian Standard for Bicycle Parking (AS2890.3).
- r) The Environmentally Sustainable Design initiatives that are required to be shown on plans, as detailed in Condition 8 of this permit.
- s) Any changes required by the amended Sustainability Management Plan in accordance with Condition 8 of this permit.
- t) Any changes required by the amended Landscape Plan in accordance with Condition 11 of this permit.
- u) Any changes required by the amended Waste Management Plan in accordance with Condition 15 of this permit.
- v) Any changes required by the Accessibility Report in accordance with Condition 17 of this permit.
- w) Any changes required by the amended Acoustic Report in accordance with Condition 19 of this permit.
- x) Any changes required by the Loading Management Plan in accordance with Condition 22 of this permit.
- y) Any changes required by the Wind Assessment Report in accordance with Condition 33 of this permit.
- z) Introduction of visual aids/signs, as appropriate for vehicles and pedestrians in the laneway.
- aa) **The west facing balconies on levels 1 and 2 to have fixed, permanent screens that meets the requirements of Standard B22 (Overlooking) at Clause 55.04-6 of the Planning Scheme to prevent unreasonable overlooking into the existing secluded open spaces and habitable room windows of the dwellings located at 26, 28 and 30 Stanley Street, Brunswick. The screens must be designed to provide views outward and/or upward through the screens without views downwards into the affected secluded private open spaces and habitable room windows.**

- bb) A screen diagram drawn at a scale of 1:50 which details the screens associated with the west facing balconies on levels 1 and 2. This 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 Moreland Planning Scheme.**
- cc) The horizontal bicycle spaces dimensioned to be 1800mm long and 500mm wide and the vertical bicycle spaces dimensioned to be 1200mm long and 500mm wide, and each space accessed from a 1500mm wide access aisle as required by the Australian Standard for Parking Facilities- Bicycle parking (AS2890.3).**
- dd) The shared area of the Accessible parking space identified with bollards and chevron line marking as required by the Australian Standard AS2890.6.**
- ee) The splay on the south-west corner of the building to be dimensioned 5.035 metres by 3.805 metres to allow vehicles to turn from one laneway to the other.**

Development not to be altered

- 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 Moreland Planning Scheme unless specifically noted as a permit condition.

Easement to be removed

- 3. This permit shall have no force or effect until such time as the issue of a separate planning permit in accordance with Clause 52.02 of the Moreland Planning Scheme for removal of the passageway easement reserved by Transfer A773707 shown on Lot 1 on Title Plan 959398C and the easement is removed in accordance with section 23 of the Subdivision Act 1988.

Heritage

- 4. Prior to the endorsement of plans, a Heritage Report must be submitted to and then endorsed to the satisfaction of the Responsible Authority. Once endorsed, the Heritage Report will form part of this permit. The Heritage Report must:
 - a) outline the precise retention of the former Liberty Theatre building generally in accordance with the plans advertised on 19 February 2021 prepared by Cera Stribley Architects, other than any updates resulting from the changes required by Condition 1 of this permit including the retention of at least 11 metres of the original roof of the former Liberty Theatre as required by Condition 1d.
 - b) outline the restoration and conservation of the former Liberty Theatre building based on available historic material and inspections of the building fabric.
- 5. The original roof must not be altered without the further written permission of the Responsible Authority

Function Centre use

- 6. The function centre use allowed by this permit (except cleaning) must operate only between 8:00am and 11:00pm. Cleaning may take place until 11:30pm.
- 7. The maximum number of patrons permitted in the function centre premises must not exceed 100 at any one time.

Sustainability Management Plan

8. Prior to the endorsement of plans, a Sustainability Management Plan (SMP) and associated plans must be submitted to and approved to the satisfaction by the Responsible Authority. The SMP must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the SMP prepared by Sustainable Development Consultants dated 22 December 2020 version v5D but modified to include the following changes:
 - a) An amended Green Star 'Design & As Built' assessment which:
 - i. Confirms with evidence how all of the claimed credits will be achieved and maintained;
 - ii. Includes accompanying supporting documentation as per the claimed credits;
 - iii. Deletes claimed Innovation credit 30D Financial Transparency and other Innovation credits that are not suitably claimed or explained how they will be ensured as being met; and
 - iv. Includes a minimum of 10 per cent buffer points to achieve the minimum points required in a 4 star Green Star building.
 - b) The NCC 2019 JV3 modelling for the commercial area's improvement increased from 4 per cent to a minimum of 10 per cent.
 - c) Confirmation of the overall NatHERS ratings as an average of 7.2 stars and deletion of other contradictory wording.
 - d) Show the following ESD initiatives on the development plans:
 - i. External operable shading devices to exposed north, east and west facing glazing of all bedrooms and living rooms, to block peak summer afternoon sun. An indicative product diagram of the proposed device must be provided;
 - ii. The capacity of the total 23kW solar PV system on the rooftop and size of the panels as 385 watts;
 - iii. Solar panels on top of the solar canopy and the communal lobby/lift cores (as per the SMP);
 - iv. The electric vehicle car charging spaces available for use by all residents and tenants as per the SMP and a power capacity of 32A (unless otherwise justified by supporting electrical infrastructure information);
 - v. Apartment waste chutes within the corridors nominated as one for garbage (landfill waste) and one for recycling ; and
 - vi. The colour and material schedule to contain reference to materials in the SMP and the Green Star credits (including steel, timber, PVC, extra low VOC, low formaldehyde, etc).
 - e) A MUSIC model and stormwater management response that achieves the best practice stormwater targets but is modified so that:
 - i. Proprietary devices are not used;
 - ii. Rainwater tank harvesting and reuse is justified, including reuse rates and irrigation rates that accord with the plans and planning report; and
 - iii. An electronic copy of the MUSIC model is included.
 - f) An amended stormwater catchment plan that is consistent with the MUSIC model, clearly showing:
 - i. The entire site area;

- ii. The rainwater harvesting tanks noted on the basement plan as being used for toilet flushing and landscape irrigation; and
 - iii. The catchment plans for the rainwater harvesting tanks and any other treatments.
9. Prior to the issue of a Statement of Compliance or Certificate(s) of Occupancy, whichever occurs first, all works must be undertaken in accordance with the endorsed Sustainability Management Plan report to the satisfaction of the Responsible Authority. No alterations to these plans may occur without the written consent of the Responsible Authority.
10. Prior to the issue of a Statement of Compliance or Certificate(s) of Occupancy, whichever occurs first, of any dwelling approved under this permit, 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 (and include evidence) that all measures specified in the SMP have been implemented in accordance with the approved plan.

Landscape Plan

11. Prior to the commencement of any development works, an amended landscape plan must be submitted to and approved by the Responsible Authority. When to the satisfaction of the Responsible Authority, the report will be endorsed and will form part of this permit. The landscape plan must be generally in accordance with the landscape plan prepared by Rupert Baynes Landscape Design and dated December 2020 (Revision C) but amended to show:
- a) Any updates resulting from the changes required by Condition 1 of this permit;
 - b) Landscaping in the form of planting within planter boxes on or adjacent to all west-facing balconies;
 - c) Details of all planter boxes, above basement planting areas, green walls, rooftop gardens and similar, including:
 - i. Soil volume sufficient for the proposed vegetation
 - ii. Soil mix
 - iii. Drainage design
 - iv. Details of an automatic irrigation system, including maintenance program and responsibility for maintenance.
12. All vegetation in planter boxes, green walls and rooftop gardens or similar must be maintained and any dead, diseased or damaged plants replaced with a suitable species to the satisfaction of the Responsible Authority.
13. Prior to the issuing of a Statement of Compliance or occupancy permit for any part of the development, whichever occurs first, all landscaping works must be completed and maintained in accordance with the approved and endorsed landscape drawing to the satisfaction of the Responsible Authority.
14. Prior to the commencement of works a tree protection zone must be established around the existing street trees with barriers/fencing placed at a distance of at least 12 times the trunk diameter (measured 1.4m above the ground) or 2 metres (whichever is greater) in accordance with the Australian Standard for Protection of trees on development sites (AS4970-2009) or in accordance with the direction of Council's Arborist to the satisfaction of the Responsible Authority. Alternatively, if construction scaffolding and movement of construction materials are determined to have an impact on the health of the street trees, they may be removed and replaced prior to the issuing of a Statement of Compliance or occupancy permit for any part of the development, whichever occurs first, with replacement species selection and planting method to the satisfaction of the Responsible Authority.

Waste Management Plan

15. Prior to the endorsement of plans an amended waste management plan must be submitted to and approved by the Responsible Authority. The plan must be generally in accordance with the Waste Management Plan prepared by One Mile Grid and dated 2 February 2021 but must be amended to include the following:
- a) Any updates resulting from the changes required by Condition 1 of this permit;
 - b) Provision for separate food waste collection and in accordance with Clause 58.06-3 of the Moreland Planning Scheme and details of how residents will be encouraged to separate food waste from general waste; and
 - c) Provision for separate glass collection when that becomes available.

When the waste management plan is to the satisfaction of the Responsible Authority it will be endorsed and will form part of this permit.

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

Accessibility Report

17. Prior to the endorsement of plans an accessibility report prepared by a suitability qualified professional must be submitted to and approved by the Responsible Authority. The report must:

- a) Detail how the residential portion of the development will incorporate design features in accordance with Standard D17 (Accessibility) of Clause 58 of the Moreland Planning Scheme, including the detailed design of the bathrooms; and
- b) Detail how the retail, function centre and café uses will be accessible by people with limited mobility.

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

18. Prior to the issue of a Statement of Compliance or an occupancy permit for any part of the building approved under this permit, whichever occurs first, a report from the author of the accessibility report approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the accessibility report have been implemented in accordance with the approved report.

Acoustic Report

19. **Prior to the endorsement of plans an amended acoustic report must be submitted to and approved by the Responsible Authority. The plan must be generally in accordance with the Acoustic Assessment prepared by Watson Moss Growcott and dated 17 February 2021 but must be amended to:**
- a) **include the any updates resulting from the changes required by Condition 1 of this permit;**
 - b) **include an assessment of the noise impact of the function centre use on the proposed apartments within the development and the surrounding area, taking into account the approved patron numbers and hours of operation (as detailed by Conditions 5 and 6 of this permit); and**
 - c) **Demonstrate that the development will bear full responsibility for**

attenuating the building to prevent noise intrusion from the existing acoustic environment, including from the entertainment venue at 524 Lygon Street, by amending the design of the development. Compliance with the intention of this condition must be assessed via a peer-reviewed acoustic report, to be funded at the cost of the developer, to the satisfaction of the Responsible Authority. For the purpose of assessing whether the above noise standards are met, the noise measurement point must be located inside a habitable room of the apartments with windows and doors closed (Schedule B1 of SEPP N2 does not apply), and must consider the cumulative effect of external noise and the proposed function centre. The attenuation measures must not substantially alter the external appearance of the building and must not substantially reduce the amenity for future occupants of the apartments to the satisfaction of the Responsible Authority.

- d) Prior to the issue of a Certificate of Occupancy/Statement of Compliance, a peer-reviewed Acoustic Report must be submitted, to the satisfaction of the Responsible Authority, at the developer's cost, certifying that the acoustic attenuation measures have been constructed in accordance with the noise attenuation intentions of this condition.**
- 20. Within 3 months of occupation of the dwellings permitted by this permit, a peer-reviewed Acoustic Report must be submitted to the satisfaction of the Responsible Authority, at the developer's cost, demonstrating that the noise attenuation design changes incorporated in to the development are successfully preventing noise intrusion into the development from the external, acoustic environment, including from the entertainment venue at 524 Lygon Street, as well as from the internal function centre.**
- 21. 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.**

Loading management plan

- 22. Prior to the endorsement of plans a loading management plan prepared by a suitability qualified professional must be submitted to and approved by the Responsible Authority. The report must include all recommendations for loading bay operation outlined on page 33 (Loading Dock Use) of the Acoustic Assessment prepared by Watson Moss Growcott dated 17 February 2021. When submitted and approved to the satisfaction of the Responsible Authority, the Loading Management 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. The recommendations of the plan must be implemented to the satisfaction of the Responsible Authority.**

Development Contributions

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

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

- For a maximum of 12 months from the date of issue of the Building Permit for the development hereby approved; or

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

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

Environmental Audit

24. **Prior to the commencement of the use or buildings and works associated with the use, either:**
 - a) **A preliminary risk screen assessment statement in accordance with the Environment Protection Act 2017 must be issued stating that an environmental audit is not required for the use and development allowed by this permit; or**
 - b) **An environmental audit statement under Part 8.3 of the *Environment Protection Act 2017* must be issued stating that the land is suitable for the use and development allowed by this permit.**
25. **Where an environmental audit statement is issued for the land, and any condition of that statement requires any maintenance or monitoring of an ongoing nature, the Owner(s) must enter into an Agreement with Council pursuant to Section 173 of the *Planning and Environment Act 1987*. Where a Section 173 Agreement is required, the Agreement must be executed prior to the commencement of the permitted use, and prior to the certification of the plan of subdivision under the *Subdivision Act 1988*. 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).**
26. **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 24 and 25 of this permit are satisfied.**
27. **Where an environmental audit statement is issued for the land, the buildings and works and the use(s) of the land that are the subject of this permit must comply with all directions and conditions contained within the statement.**
28. **Where an environmental audit statement is issued for the land, prior to the commencement of the use, and prior to the issue of a Statement of Compliance under the *Subdivision Act 1988*, and prior to the issue of an Occupancy Permit under the Building Act 1993, a letter prepared by an Environmental Auditor appointed under the *Environment Protection Act 2017* must be submitted to the Responsible Authority to verify that the directions and conditions contained within the statement have been satisfied.**

Public Works Plan

29. **Prior to the commencement of development, a Public Works Plan and associated construction drawing specifications detailing the works to the public realm adjacent to the site must be submitted and approved to the satisfaction of the Responsible Authority. The Plan must be in accordance the Moreland City Council Technical Notes July 2019 or any updated version and detail works in front of the approved building along Lygon Street and including:**
 - a) **The upgrade of the public realm adjacent to the site including new or reconstructed footpaths, water sensitive urban design treatments, seating, bicycle hoops, nature strips and other associated street furniture/infrastructure.**
 - b) **The footpaths are to be reinstated with the standard crossfall slope of 1 in 40 from the top of roadside kerb to the property boundary, with any level**

difference made up within the site.

- c) A detailed level and feature survey of the footpaths and roads.
- d) Any crossovers not required removed and the kerb and channel, footpath and nature strip reinstated to Council's standards using construction plans approved by Moreland City Council, City Infrastructure Department.
- e) The location, method and number of bicycle parking to be accommodated within the road reserve.
- f) Tree(s) and other landscaping in the street frontages adjacent to or near the development.

The approved Public Works Plan will form part of the endorsed plans under the permit and must be implemented to the satisfaction of the Responsible Authority at the expense of the owner of the land, prior to the issue of a Statement of Compliance or occupancy permit for any part of the development, whichever occurs first, unless otherwise agreed with prior written consent of the Responsible Authority.

Wind Impact

- 30. Prior to the endorsement of plans a Wind Impact Assessment Report must be prepared by a suitability qualified person. The report must assess the possible wind impacts of the building to Lygon Street and the adjacent laneways and make recommendations for design changes, if required, to mitigate these impacts. When submitted and approved to the satisfaction of the Responsible Authority, the Wind Impact Assessment Report will be endorsed to form part of this permit.
- 31. The building must be constructed and maintained in accordance with the recommendations contained within the approved Wind Impact Assessment Report to the satisfaction of the Responsible Authority. The report endorsed under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority.

Car parking

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

General

- 33. Prior to the issue of a Statement of Compliance or an occupancy permit for any part of the development, whichever occurs first, all telecommunications and power connections (whereby means of a cable) and associated infrastructure to the land must be underground to the satisfaction of the Responsible Authority.
- 34. Prior to the commencement of the development, a legal point of discharge is to be obtained, and where required, a stormwater drainage plan showing how the site will be drained from the property boundary to the stated point of discharge, must be submitted to and approved by the Responsible Authority.

35. All stormwater from the land, where it is not collected in rainwater tanks for re-use, must be collected by an underground pipe drain approved by and to the satisfaction of the Responsible Authority (Note: Please contact Moreland City Council, City Infrastructure Department).
36. Stormwater from the land must not be directed to the surface of the laneway to the satisfaction of the Responsible Authority.
37. The ramp to the basement must be designed to avoid stormwater run-off flowing along the laneway from entering the basements to the satisfaction of the Responsible Authority.
38. The pump we-well for the basement must be designed so that it can cater for a 1 per cent AEP instead of 10 per cent in accordance with Section (8) of A/NZS3500.3:2018 to the satisfaction of the Responsible Authority.
39. Prior to the issue of a Statement of Compliance or an occupancy permit for any part of the development, whichever occurs first, any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority (Moreland City Council, City Infrastructure Department).
40. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance of each stage of the development, whichever comes first, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.
41. Prior to the commencement of the development, a 3D digital model of the approved development which is compatible for use on Council's Virtual Moreland tools and software for Council and community must be submitted to the satisfaction of the Responsible Authority. The model must be prepared in accordance with Moreland City Council's 3D model submission guidelines. A copy of the 3D model submission guidelines and further information on the Virtual Moreland Project can be found at <https://www.moreland.vic.gov.au/planning-building/3D-Guidelines/>. In the event that substantial modifications to the building envelope are approved under an amendment to this planning permit, a revised 3D digital model must be submitted to, and be to the satisfaction of the Responsible Authority.
42. Prior to the issuing of Statement of Compliance or occupation of each stage of the development, whichever occurs first, all visual screening measures shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. All visual screening and measures to prevent overlooking must be maintained to the satisfaction of the Responsible Authority. Any screening measure that is removed or unsatisfactorily maintained must be replaced to the satisfaction of the Responsible Authority.
43. All lighting of external areas must be designed not to emit direct light onto adjoining and nearby dwellings to the satisfaction of the Responsible Authority.

Time

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

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

- Within 6 months after the permit expires to extend the commencement date.

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

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

Note 1:

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

Note 2:

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

6.59 pm Cr Yildiz left the meeting.

6.59 pm Cr Yildiz returned to the meeting.

Motion

Cr Bolton moved, Cr Pavlidis seconded -

The Council resolves:

To advise VCAT and the parties that it consents to the issue of Planning Permit No. MPS/2020/57 for the partial demolition of existing buildings, and the construction of a multi-storey building above basement levels, use of the land for a place of assembly (function centre) and dwellings, and reduction of car parking subject to the permit conditions below (**changes to existing conditions and new conditions bolded**)

PERMIT CONDITIONS

Amended plans required

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 three copies must be provided. The plans must generally accord with **VCAT substituted plans that are dated November 2021 prepared by Cera Stribley Architects but be modified to show:**
 - a) **Deleted**
 - b) **Deleted**
 - c) **Deleted**
 - d) Retention of the original roof of the former Liberty Theatre building for a minimum of 11 metres from the Lygon Street frontage.
 - e) **Deleted**
 - f) A maximum wall height on the western site boundary (rear laneway) of 8 metres to adhere to the rear setback requirements of the Design and Development Overlay (Schedule 19).
 - g) **Deleted**
 - h) **Deleted**
 - i) Deletion of the statement 'Extent of heritage façade to be retained (refer to heritage report)' from the East Elevation plan.

- j) Details of the retention, conservation and restoration of the former Liberty Theatre heritage building in accordance with the Heritage Report required by Condition 4.
- k) The proposed verandahs (to Lygon Street) setback a minimum of 750mm from the kerb and with a height of less than 3 metres above the level of the footpath in accordance with Clause 507 of the *Building Regulations 2006*.
- l) The entry to the basement from the rear laneway designed with an apex height along the basement access ramp equivalent to 47.21AHD +150mm to prevent stormwater inundation of the basement from the road reserve.
- m) The provision of stairs with an adjacent ramp for cyclists to roll their bicycle wheels on when accessing lifts to and from the residential bike storage area on Basement Level 3(A). The stairs must be constructed with 355mm treads and have a non-slip surface.
- n) Dimensions, line-markings and bollard in accordance with Australian Standard 2890.6 shown to the accessible parking bay on Basement Level 1(A) and adjacent shared space.
- o) An offset of at least 1 metre for all car parking spaces adjacent to walls on Basement Level 3(B).
- p) The location of any substation required by the power company for this development. Any substation must be incorporated within the building (i.e. not free standing or pole mounted in the street) to ensure minimal impact on the visual amenity of the public realm.
- q) All residential and employee bicycle spaces secured with walls, with self-closing and self-locking doors that are only accessible using keys, codes or swipe cards in accordance with the Australian Standard for Bicycle Parking (AS2890.3).
- r) The Environmentally Sustainable Design initiatives that are required to be shown on plans, as detailed in Condition 8 of this permit.
- s) Any changes required by the amended Sustainability Management Plan in accordance with Condition 8 of this permit.
- t) Any changes required by the amended Landscape Plan in accordance with Condition 11 of this permit.
- u) Any changes required by the amended Waste Management Plan in accordance with Condition 15 of this permit.
- v) Any changes required by the Accessibility Report in accordance with Condition 17 of this permit.
- w) Any changes required by the amended Acoustic Report in accordance with Condition 19 of this permit.
- x) Any changes required by the Loading Management Plan in accordance with Condition 22 of this permit.
- y) Any changes required by the Wind Assessment Report in accordance with Condition 33 of this permit.
- z) Introduction of visual aids/signs, as appropriate for vehicles and pedestrians in the laneway.
- aa) The west facing balconies on levels 1 and 2 to have fixed, permanent screens that meets the requirements of Standard B22 (Overlooking) at Clause 55.04-6 of the Planning Scheme to prevent unreasonable overlooking into the existing secluded open spaces and habitable room windows of the dwellings located at 26, 28 and 30 Stanley Street,**

Brunswick. The screens must be designed to provide views outward and/or upward through the screens without views downwards into the affected secluded private open spaces and habitable room windows.

- bb) A screen diagram drawn at a scale of 1:50 which details the screens associated with the west facing balconies on levels 1 and 2. This 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 Moreland Planning Scheme.**
- cc) The horizontal bicycle spaces dimensioned to be 1800mm long and 500mm wide and the vertical bicycle spaces dimensioned to be 1200mm long and 500mm wide, and each space accessed from a 1500mm wide access aisle as required by the Australian Standard for Parking Facilities- Bicycle parking (AS2890.3).**
- dd) The shared area of the Accessible parking space identified with bollards and chevron line marking as required by the Australian Standard AS2890.6.**
- ee) The splay on the south-west corner of the building to be dimensioned 5.035 metres by 3.805 metres to allow vehicles to turn from one laneway to the other.**

Development not to be altered

- 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 Moreland Planning Scheme unless specifically noted as a permit condition.

Easement to be removed

- 3. This permit shall have no force or effect until such time as the issue of a separate planning permit in accordance with Clause 52.02 of the Moreland Planning Scheme for removal of the passageway easement reserved by Transfer A773707 shown on Lot 1 on Title Plan 959398C and the easement is removed in accordance with section 23 of the Subdivision Act 1988.

Heritage

- 4. Prior to the endorsement of plans, a Heritage Report must be submitted to and then endorsed to the satisfaction of the Responsible Authority. Once endorsed, the Heritage Report will form part of this permit. The Heritage Report must:
 - a) outline the precise retention of the former Liberty Theatre building generally in accordance with the plans advertised on 19 February 2021 prepared by Cera Stribley Architects, other than any updates resulting from the changes required by Condition 1 of this permit including the retention of at least 11 metres of the original roof of the former Liberty Theatre as required by Condition 1d.
 - b) outline the restoration and conservation of the former Liberty Theatre building based on available historic material and inspections of the building fabric.
- 5. The original roof must not be altered without the further written permission of the Responsible Authority

Function Centre use

- 6. The function centre use allowed by this permit (except cleaning) must operate only between 8:00am and 11:00pm. Cleaning may take place until 11:30pm.

7. The maximum number of patrons permitted in the function centre premises must not exceed 100 at any one time.

Sustainability Management Plan

8. Prior to the endorsement of plans, a Sustainability Management Plan (SMP) and associated plans must be submitted to and approved to the satisfaction by the Responsible Authority. The SMP must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the SMP prepared by Sustainable Development Consultants dated 22 December 2020 version v5D but modified to include the following changes:
 - a) An amended Green Star 'Design & As Built' assessment which:
 - i. Confirms with evidence how all of the claimed credits will be achieved and maintained;
 - ii. Includes accompanying supporting documentation as per the claimed credits;
 - iii. Deletes claimed Innovation credit 30D Financial Transparency and other Innovation credits that are not suitably claimed or explained how they will be ensured as being met; and
 - iv. Includes a minimum of 10 per cent buffer points to achieve the minimum points required in a 4 star Green Star building.
 - b) The NCC 2019 JV3 modelling for the commercial area's improvement increased from 4 per cent to a minimum of 10 per cent.
 - c) Confirmation of the overall NatHERS ratings as an average of 7.2 stars and deletion of other contradictory wording.
 - d) Show the following ESD initiatives on the development plans:
 - i. External operable shading devices to exposed north, east and west facing glazing of all bedrooms and living rooms, to block peak summer afternoon sun. An indicative product diagram of the proposed device must be provided;
 - ii. The capacity of the total 23kW solar PV system on the rooftop and size of the panels as 385 watts;
 - iii. Solar panels on top of the solar canopy and the communal lobby/lift cores (as per the SMP);
 - iv. The electric vehicle car charging spaces available for use by all residents and tenants as per the SMP and a power capacity of 32A (unless otherwise justified by supporting electrical infrastructure information);
 - v. Apartment waste chutes within the corridors nominated as one for garbage (landfill waste) and one for recycling ; and
 - vi. The colour and material schedule to contain reference to materials in the SMP and the Green Star credits (including steel, timber, PVC, extra low VOC, low formaldehyde, etc).
 - e) A MUSIC model and stormwater management response that achieves the best practice stormwater targets but is modified so that:
 - i. Proprietary devices are not used;
 - ii. Rainwater tank harvesting and reuse is justified, including reuse rates and irrigation rates that accord with the plans and planning report; and
 - iii. An electronic copy of the MUSIC model is included.

- f) An amended stormwater catchment plan that is consistent with the MUSIC model, clearly showing:
 - i. The entire site area;
 - ii. The rainwater harvesting tanks noted on the basement plan as being used for toilet flushing and landscape irrigation; and
 - iii. The catchment plans for the rainwater harvesting tanks and any other treatments.
9. Prior to the issue of a Statement of Compliance or Certificate(s) of Occupancy, whichever occurs first, all works must be undertaken in accordance with the endorsed Sustainability Management Plan report to the satisfaction of the Responsible Authority. No alterations to these plans may occur without the written consent of the Responsible Authority.
10. Prior to the issue of a Statement of Compliance or Certificate(s) of Occupancy, whichever occurs first, of any dwelling approved under this permit, 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 (and include evidence) that all measures specified in the SMP have been implemented in accordance with the approved plan.

Landscape Plan

11. Prior to the commencement of any development works, an amended landscape plan must be submitted to and approved by the Responsible Authority. When to the satisfaction of the Responsible Authority, the report will be endorsed and will form part of this permit. The landscape plan must be generally in accordance with the landscape plan prepared by Rupert Baynes Landscape Design and dated December 2020 (Revision C) but amended to show:
 - a) Any updates resulting from the changes required by Condition 1 of this permit;
 - b) Landscaping in the form of planting within planter boxes on or adjacent to all west-facing balconies;
 - c) Details of all planter boxes, above basement planting areas, green walls, rooftop gardens and similar, including:
 - i. Soil volume sufficient for the proposed vegetation
 - ii. Soil mix
 - iii. Drainage design
 - iv. Details of an automatic irrigation system, including maintenance program and responsibility for maintenance.
12. All vegetation in planter boxes, green walls and rooftop gardens or similar must be maintained and any dead, diseased or damaged plants replaced with a suitable species to the satisfaction of the Responsible Authority.
13. Prior to the issuing of a Statement of Compliance or occupancy permit for any part of the development, whichever occurs first, all landscaping works must be completed and maintained in accordance with the approved and endorsed landscape drawing to the satisfaction of the Responsible Authority.
14. Prior to the commencement of works a tree protection zone must be established around the existing street trees with barriers/fencing placed at a distance of at least 12 times the trunk diameter (measured 1.4m above the ground) or 2 metres (whichever is greater) in accordance with the Australian Standard for Protection of trees on development sites (AS4970-2009) or in accordance with the direction of Council's Arborist to the satisfaction of the Responsible Authority. Alternatively, if construction scaffolding and movement of construction materials are determined to

have an impact on the health of the street trees, they may be removed and replaced prior to the issuing of a Statement of Compliance or occupancy permit for any part of the development, whichever occurs first, with replacement species selection and planting method to the satisfaction of the Responsible Authority.

Waste Management Plan

15. Prior to the endorsement of plans an amended waste management plan must be submitted to and approved by the Responsible Authority. The plan must be generally in accordance with the Waste Management Plan prepared by One Mile Grid and dated 2 February 2021 but must be amended to include the following:
- a) Any updates resulting from the changes required by Condition 1 of this permit;
 - b) Provision for separate food waste collection and in accordance with Clause 58.06-3 of the Moreland Planning Scheme and details of how residents will be encouraged to separate food waste from general waste; and
 - c) Provision for separate glass collection when that becomes available.

When the waste management plan is to the satisfaction of the Responsible Authority it will be endorsed and will form part of this permit.

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

Accessibility Report

17. Prior to the endorsement of plans an accessibility report prepared by a suitability qualified professional must be submitted to and approved by the Responsible Authority. The report must:
- a) Detail how the residential portion of the development will incorporate design features in accordance with Standard D17 (Accessibility) of Clause 58 of the Moreland Planning Scheme, including the detailed design of the bathrooms; and
 - b) Detail how the retail, function centre and café uses will be accessible by people with limited mobility.

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

18. Prior to the issue of a Statement of Compliance or an occupancy permit for any part of the building approved under this permit, whichever occurs first, a report from the author of the accessibility report approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the accessibility report have been implemented in accordance with the approved report.

Acoustic Report

19. **Prior to the endorsement of plans an amended acoustic report must be submitted to and approved by the Responsible Authority. The plan must be generally in accordance with the Acoustic Assessment prepared by Watson Moss Growcott and dated 17 February 2021 but must be amended to:**
- a) **include the any updates resulting from the changes required by Condition 1 of this permit;**
 - b) **include an assessment of the noise impact of the function centre use on**

the proposed apartments within the development and the surrounding area, taking into account the approved patron numbers and hours of operation (as detailed by Conditions 5 and 6 of this permit); and

- c) Demonstrate that the development will bear full responsibility for attenuating the building to prevent noise intrusion from the existing acoustic environment, including from the entertainment venue at 524 Lygon Street, by amending the design of the development. Compliance with the intention of this condition must be assessed via a peer-reviewed acoustic report, to be funded at the cost of the developer, to the satisfaction of the Responsible Authority. For the purpose of assessing whether the above noise standards are met, the noise measurement point must be located inside a habitable room of the apartments with windows and doors closed (Schedule B1 of SEPP N2 does not apply), and must consider the cumulative effect of external noise and the proposed function centre. The attenuation measures must not substantially alter the external appearance of the building and must not substantially reduce the amenity for future occupants of the apartments to the satisfaction of the Responsible Authority.**
 - d) Prior to the issue of a Certificate of Occupancy/Statement of Compliance, a peer-reviewed Acoustic Report must be submitted, to the satisfaction of the Responsible Authority, at the developer's cost, certifying that the acoustic attenuation measures have been constructed in accordance with the noise attenuation intentions of this condition.**
- 20. Within 3 months of occupation of the dwellings permitted by this permit, a peer-reviewed Acoustic Report must be submitted to the satisfaction of the Responsible Authority, at the developer's cost, demonstrating that the noise attenuation design changes incorporated in to the development are successfully preventing noise intrusion into the development from the external, acoustic environment, including from the entertainment venue at 524 Lygon Street, as well as from the internal function centre.**
- 21. 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.**

Loading management plan

- 22. Prior to the endorsement of plans a loading management plan prepared by a suitability qualified professional must be submitted to and approved by the Responsible Authority. The report must include all recommendations for loading bay operation outlined on page 33 (Loading Dock Use) of the Acoustic Assessment prepared by Watson Moss Growcott dated 17 February 2021. When submitted and approved to the satisfaction of the Responsible Authority, the Loading Management 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. The recommendations of the plan must be implemented to the satisfaction of the Responsible Authority.**

Development Contributions

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

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

following:

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

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

Environmental Audit

- 24. Prior to the commencement of the use or buildings and works associated with the use, either:**
 - a) A preliminary risk screen assessment statement in accordance with the Environment Protection Act 2017 must be issued stating that an environmental audit is not required for the use and development allowed by this permit; or**
 - b) An environmental audit statement under Part 8.3 of the *Environment Protection Act 2017* must be issued stating that the land is suitable for the use and development allowed by this permit.**
- 25. Where an environmental audit statement is issued for the land, and any condition of that statement requires any maintenance or monitoring of an ongoing nature, the Owner(s) must enter into an Agreement with Council pursuant to Section 173 of the *Planning and Environment Act 1987*. Where a Section 173 Agreement is required, the Agreement must be executed prior to the commencement of the permitted use, and prior to the certification of the plan of subdivision under the *Subdivision Act 1988*. 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).**
- 26. 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 24 and 25 of this permit are satisfied.**
- 27. Where an environmental audit statement is issued for the land, the buildings and works and the use(s) of the land that are the subject of this permit must comply with all directions and conditions contained within the statement.**
- 28. Where an environmental audit statement is issued for the land, prior to the commencement of the use, and prior to the issue of a Statement of Compliance under the *Subdivision Act 1988*, and prior to the issue of an Occupancy Permit under the Building Act 1993, a letter prepared by an Environmental Auditor appointed under the *Environment Protection Act 2017* must be submitted to the Responsible Authority to verify that the directions and conditions contained within the statement have been satisfied.**

Public Works Plan

- 29. Prior to the commencement of development, a Public Works Plan and associated construction drawing specifications detailing the works to the public realm adjacent to the site must be submitted and approved to the satisfaction of the Responsible Authority. The Plan must be in accordance the Moreland City Council Technical Notes July 2019 or any updated version and detail works in front of the approved building along Lygon Street and including:**
 - a) The upgrade of the public realm adjacent to the site including new or reconstructed footpaths, water sensitive urban design treatments, seating,**

bicycle hoops, nature strips and other associated street furniture/infrastructure.

- b) The footpaths are to be reinstated with the standard crossfall slope of 1 in 40 from the top of roadside kerb to the property boundary, with any level difference made up within the site.
- c) A detailed level and feature survey of the footpaths and roads.
- d) Any crossovers not required removed and the kerb and channel, footpath and nature strip reinstated to Council's standards using construction plans approved by Moreland City Council, City Infrastructure Department.
- e) The location, method and number of bicycle parking to be accommodated within the road reserve.
- f) Tree(s) and other landscaping in the street frontages adjacent to or near the development.

The approved Public Works Plan will form part of the endorsed plans under the permit and must be implemented to the satisfaction of the Responsible Authority at the expense of the owner of the land, prior to the issue of a Statement of Compliance or occupancy permit for any part of the development, whichever occurs first, unless otherwise agreed with prior written consent of the Responsible Authority.

Wind Impact

- 30. Prior to the endorsement of plans a Wind Impact Assessment Report must be prepared by a suitability qualified person. The report must assess the possible wind impacts of the building to Lygon Street and the adjacent laneways and make recommendations for design changes, if required, to mitigate these impacts. When submitted and approved to the satisfaction of the Responsible Authority, the Wind Impact Assessment Report will be endorsed to form part of this permit.
- 31. The building must be constructed and maintained in accordance with the recommendations contained within the approved Wind Impact Assessment Report to the satisfaction of the Responsible Authority. The report endorsed under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority.

Car parking

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

General

- 33. Prior to the issue of a Statement of Compliance or an occupancy permit for any part of the development, whichever occurs first, all telecommunications and power connections (whereby means of a cable) and associated infrastructure to the land must be underground to the satisfaction of the Responsible Authority.
- 34. Prior to the commencement of the development, a legal point of discharge is to be

obtained, and where required, a stormwater drainage plan showing how the site will be drained from the property boundary to the stated point of discharge, must be submitted to and approved by the Responsible Authority.

35. All stormwater from the land, where it is not collected in rainwater tanks for re-use, must be collected by an underground pipe drain approved by and to the satisfaction of the Responsible Authority (Note: Please contact Moreland City Council, City Infrastructure Department).
36. Stormwater from the land must not be directed to the surface of the laneway to the satisfaction of the Responsible Authority.
37. The ramp to the basement must be designed to avoid stormwater run-off flowing along the laneway from entering the basements to the satisfaction of the Responsible Authority.
38. The pump we-well for the basement must be designed so that it can cater for a 1 per cent AEP instead of 10 per cent in accordance with Section (8) of A/NZS3500.3:2018 to the satisfaction of the Responsible Authority.
39. Prior to the issue of a Statement of Compliance or an occupancy permit for any part of the development, whichever occurs first, any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority (Moreland City Council, City Infrastructure Department).
40. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance of each stage of the development, whichever comes first, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.
41. Prior to the commencement of the development, a 3D digital model of the approved development which is compatible for use on Council's Virtual Moreland tools and software for Council and community must be submitted to the satisfaction of the Responsible Authority. The model must be prepared in accordance with Moreland City Council's 3D model submission guidelines. A copy of the 3D model submission guidelines and further information on the Virtual Moreland Project can be found at <https://www.moreland.vic.gov.au/planning-building/3D-Guidelines/>. In the event that substantial modifications to the building envelope are approved under an amendment to this planning permit, a revised 3D digital model must be submitted to, and be to the satisfaction of the Responsible Authority.
42. Prior to the issuing of Statement of Compliance or occupation of each stage of the development, whichever occurs first, all visual screening measures shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. All visual screening and measures to prevent overlooking must be maintained to the satisfaction of the Responsible Authority. Any screening measure that is removed or unsatisfactorily maintained must be replaced to the satisfaction of the Responsible Authority.
43. All lighting of external areas must be designed not to emit direct light onto adjoining and nearby dwellings to the satisfaction of the Responsible Authority.

Time

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

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

- Within 6 months after the permit expires to extend the commencement date.
- Within 12 months after the permit expires to extend the completion date of the development if the development has lawfully commenced.

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

Note 1:

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

Note 2:

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

7.13 pm Cr Yildiz left the meeting during debate.

7.14 pm Cr Yildiz returned to the meeting during debate.

Lost

Cr Bolton called for a division.

For

Cr Bolton
Cr Pavlidis

Total For (2)

Against

Cr Yildiz
Cr Pulford
Cr Conlan
Cr Riley

Total Against (4)

Resolution

Cr Conlan moved, Cr Pulford seconded –

PART A

That Council advises VCAT and the parties that Council consent to the issue of Planning Permit No. MPS/2020/57 for the partial demolition of existing buildings, and the construction of a multi-storey building above basement levels, use of the land for a place of assembly (function centre) and dwellings, and reduction of car parking subject to the permit conditions below (changes to existing conditions and new conditions bolded) provided that either the plans are formally substituted in accordance with VCAT Planning Practice Note PNPE9 or notice of the without prejudice plans is otherwise provided as directed by VCAT and following this further notice;

3. **there are no further persons joined as parties to the VCAT review, or**
4. **if further persons are joined as parties to the VCAT review the Group Manager City Development is provided with delegated authority to consent any mediated outcome at any future VCAT Compulsory Conference.**

PART B

That Council advise VCAT and the parties that the extent of notice of the without prejudice plans be to owners and occupiers of 24, 26, 28 and 30 Stanley Street, Brunswick.

PERMIT CONDITIONS

Amended plans required

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 three copies must be provided. The plans must generally accord with VCAT substituted plans that are dated November 2021 prepared by Cera Stribley Architects but be modified to show:
 - a) Deleted
 - b) Deleted
 - c) Deleted
 - d) Retention of the original roof of the former Liberty Theatre building for a minimum of 11 metres from the Lygon Street frontage.
 - e) Deleted
 - f) A maximum wall height on the western site boundary (rear laneway) of 8 metres to adhere to the rear setback requirements of the Design and Development Overlay (Schedule 19).
 - g) Deleted
 - h) Deleted
 - i) Deletion of the statement 'Extent of heritage façade to be retained (refer to heritage report)' from the East Elevation plan.
 - j) Details of the retention, conservation and restoration of the former Liberty Theatre heritage building in accordance with the Heritage Report required by Condition 4.
 - k) The proposed verandahs (to Lygon Street) setback a minimum of 750mm from the kerb and with a height of less than 3 metres above the level of the footpath in accordance with Clause 507 of the *Building Regulations 2006*.
 - l) The entry to the basement from the rear laneway designed with an apex height along the basement access ramp equivalent to 47.21AHD +150mm to prevent stormwater inundation of the basement from the road reserve.
 - m) The provision of stairs with an adjacent ramp for cyclists to roll their bicycle wheels on when accessing lifts to and from the residential bike storage area on Basement Level 3(A). The stairs must be constructed with 355mm treads and have a non-slip surface.
 - n) Dimensions, line-markings and bollard in accordance with Australian Standard 2890.6 shown to the accessible parking bay on Basement Level 1(A) and adjacent shared space.
 - o) An offset of at least 1 metre for all car parking spaces adjacent to walls on Basement Level 3(B).
 - p) The location of any substation required by the power company for this development. Any substation must be incorporated within the building (i.e. not free standing or pole mounted in the street) to ensure minimal impact on the visual amenity of the public realm.
 - q) All residential and employee bicycle spaces secured with walls, with self-

closing and self-locking doors that are only accessible using keys, codes or swipe cards in accordance with the Australian Standard for Bicycle Parking (AS2890.3).

- r) The Environmentally Sustainable Design initiatives that are required to be shown on plans, as detailed in Condition 8 of this permit.
- s) Any changes required by the amended Sustainability Management Plan in accordance with Condition 8 of this permit.
- t) Any changes required by the amended Landscape Plan in accordance with Condition 11 of this permit.
- u) Any changes required by the amended Waste Management Plan in accordance with Condition 15 of this permit.
- v) Any changes required by the Accessibility Report in accordance with Condition 17 of this permit.
- w) Any changes required by the amended Acoustic Report in accordance with Condition 19 of this permit.
- x) Any changes required by the Loading Management Plan in accordance with Condition 22 of this permit.
- y) Any changes required by the Wind Assessment Report in accordance with Condition 33 of this permit.
- z) Introduction of visual aids/signs, as appropriate for vehicles and pedestrians in the laneway.
- aa) The west facing balconies on levels 1 and 2 to have fixed, permanent screens that meets the requirements of Standard B22 (Overlooking) at Clause 55.04-6 of the Planning Scheme to prevent unreasonable overlooking into the existing secluded open spaces and habitable room windows of the dwellings located at 26, 28 and 30 Stanley Street, Brunswick. The screens must be designed to provide views outward and/or upward through the screens without views downwards into the affected secluded private open spaces and habitable room windows.
- bb) A screen diagram drawn at a scale of 1:50 which details the screens associated with the west facing balconies on levels 1 and 2. This 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 Moreland Planning Scheme.
- cc) The horizontal bicycle spaces dimensioned to be 1800mm long and 500mm wide and the vertical bicycle spaces dimensioned to be 1200mm long and 500mm wide, and each space accessed from a 1500mm wide access aisle as required by the Australian Standard for Parking Facilities- Bicycle parking (AS2890.3).
- dd) The shared area of the Accessible parking space identified with bollards and chevron line marking as required by the Australian Standard AS2890.6.
- ee) The splay on the south-west corner of the building to be dimensioned 5.035 metres by 3.805 metres to allow vehicles to turn from one laneway to the other.

Development not to be altered

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 Moreland Planning Scheme unless specifically noted as a permit condition.

Easement to be removed

3. This permit shall have no force or effect until such time as the issue of a separate planning permit in accordance with Clause 52.02 of the Moreland Planning Scheme for removal of the passageway easement reserved by Transfer A773707 shown on Lot 1 on Title Plan 959398C and the easement is removed in accordance with section 23 of the Subdivision Act 1988.

Heritage

4. Prior to the endorsement of plans, a Heritage Report must be submitted to and then endorsed to the satisfaction of the Responsible Authority. Once endorsed, the Heritage Report will form part of this permit. The Heritage Report must:
 - a) outline the precise retention of the former Liberty Theatre building generally in accordance with the plans advertised on 19 February 2021 prepared by Cera Stribley Architects, other than any updates resulting from the changes required by Condition 1 of this permit including the retention of at least 11 metres of the original roof of the former Liberty Theatre as required by Condition 1d.
 - b) outline the restoration and conservation of the former Liberty Theatre building based on available historic material and inspections of the building fabric.
5. The original roof must not be altered without the further written permission of the Responsible Authority

Function Centre use

6. The function centre use allowed by this permit (except cleaning) must operate only between 8:00am and 11:00pm. Cleaning may take place until 11:30pm.
7. The maximum number of patrons permitted in the function centre premises must not exceed 100 at any one time.

Sustainability Management Plan

8. Prior to the endorsement of plans, a Sustainability Management Plan (SMP) and associated plans must be submitted to and approved to the satisfaction by the Responsible Authority. The SMP must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the SMP prepared by Sustainable Development Consultants dated 22 December 2020 version v5D but modified to include the following changes:
 - a) An amended Green Star 'Design & As Built' assessment which:
 - i. Confirms with evidence how all of the claimed credits will be achieved and maintained;
 - ii. Includes accompanying supporting documentation as per the claimed credits;
 - iii. Deletes claimed Innovation credit 30D Financial Transparency and other Innovation credits that are not suitably claimed or explained how they will be ensured as being met; and
 - iv. Includes a minimum of 10 per cent buffer points to achieve the minimum points required in a 4 star Green Star building.

- b) **The NCC 2019 JV3 modelling for the commercial area's improvement increased from 4 per cent to a minimum of 10 per cent.**
 - c) **Confirmation of the overall NatHERS ratings as an average of 7.2 stars and deletion of other contradictory wording.**
 - d) **Show the following ESD initiatives on the development plans:**
 - i. **External operable shading devices to exposed north, east and west facing glazing of all bedrooms and living rooms, to block peak summer afternoon sun. An indicative product diagram of the proposed device must be provided;**
 - ii. **The capacity of the total 23kW solar PV system on the rooftop and size of the panels as 385 watts;**
 - iii. **Solar panels on top of the solar canopy and the communal lobby/lift cores (as per the SMP);**
 - iv. **The electric vehicle car charging spaces available for use by all residents and tenants as per the SMP and a power capacity of 32A (unless otherwise justified by supporting electrical infrastructure information);**
 - v. **Apartment waste chutes within the corridors nominated as one for garbage (landfill waste) and one for recycling ; and**
 - vi. **The colour and material schedule to contain reference to materials in the SMP and the Green Star credits (including steel, timber, PVC, extra low VOC, low formaldehyde, etc).**
 - e) **A MUSIC model and stormwater management response that achieves the best practice stormwater targets but is modified so that:**
 - i. **Proprietary devices are not used;**
 - ii. **Rainwater tank harvesting and reuse is justified, including reuse rates and irrigation rates that accord with the plans and planning report; and**
 - iii. **An electronic copy of the MUSIC model is included.**
 - f) **An amended stormwater catchment plan that is consistent with the MUSIC model, clearly showing:**
 - i. **The entire site area;**
 - ii. **The rainwater harvesting tanks noted on the basement plan as being used for toilet flushing and landscape irrigation; and**
 - iii. **The catchment plans for the rainwater harvesting tanks and any other treatments.**
9. **Prior to the issue of a Statement of Compliance or Certificate(s) of Occupancy, whichever occurs first, all works must be undertaken in accordance with the endorsed Sustainability Management Plan report to the satisfaction of the Responsible Authority. No alterations to these plans may occur without the written consent of the Responsible Authority.**
10. **Prior to the issue of a Statement of Compliance or Certificate(s) of Occupancy, whichever occurs first, of any dwelling approved under this permit, 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 (and include evidence) that all measures specified in the SMP have been implemented in accordance with the approved plan.**

Landscape Plan

- 11. Prior to the commencement of any development works, an amended landscape plan must be submitted to and approved by the Responsible Authority. When to the satisfaction of the Responsible Authority, the report will be endorsed and will form part of this permit. The landscape plan must be generally in accordance with the landscape plan prepared by Rupert Baynes Landscape Design and dated December 2020 (Revision C) but amended to show:
 - a) Any updates resulting from the changes required by Condition 1 of this permit;**
 - b) Landscaping in the form of planting within planter boxes on or adjacent to all west-facing balconies;**
 - c) Details of all planter boxes, above basement planting areas, green walls, rooftop gardens and similar, including:
 - i. Soil volume sufficient for the proposed vegetation**
 - ii. Soil mix**
 - iii. Drainage design**
 - iv. Details of an automatic irrigation system, including maintenance program and responsibility for maintenance.******
- 12. All vegetation in planter boxes, green walls and rooftop gardens or similar must be maintained and any dead, diseased or damaged plants replaced with a suitable species to the satisfaction of the Responsible Authority.**
- 13. Prior to the issuing of a Statement of Compliance or occupancy permit for any part of the development, whichever occurs first, all landscaping works must be completed and maintained in accordance with the approved and endorsed landscape drawing to the satisfaction of the Responsible Authority.**
- 14. Prior to the commencement of works a tree protection zone must be established around the existing street trees with barriers/fencing placed at a distance of at least 12 times the trunk diameter (measured 1.4m above the ground) or 2 metres (whichever is greater) in accordance with the Australian Standard for Protection of trees on development sites (AS4970-2009) or in accordance with the direction of Council's Arborist to the satisfaction of the Responsible Authority. Alternatively, if construction scaffolding and movement of construction materials are determined to have an impact on the health of the street trees, they may be removed and replaced prior to the issuing of a Statement of Compliance or occupancy permit for any part of the development, whichever occurs first, with replacement species selection and planting method to the satisfaction of the Responsible Authority.**

Waste Management Plan

- 15. Prior to the endorsement of plans an amended waste management plan must be submitted to and approved by the Responsible Authority. The plan must be generally in accordance with the Waste Management Plan prepared by One Mile Grid and dated 2 February 2021 but must be amended to include the following:
 - a) Any updates resulting from the changes required by Condition 1 of this permit;**
 - b) Provision for separate food waste collection and in accordance with Clause 58.06-3 of the Moreland Planning Scheme and details of how residents will be encouraged to separate food waste from general waste; and****

- c) **Provision for separate glass collection when that becomes available.**

When the waste management plan is to the satisfaction of the Responsible Authority it will be endorsed and will form part of this permit.

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

Accessibility Report

17. **Prior to the endorsement of plans an accessibility report prepared by a suitability qualified professional must be submitted to and approved by the Responsible Authority. The report must:**

- a) **Detail how the residential portion of the development will incorporate design features in accordance with Standard D17 (Accessibility) of Clause 58 of the Moreland Planning Scheme, including the detailed design of the bathrooms; and**
- b) **Detail how the retail, function centre and café uses will be accessible by people with limited mobility.**

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

18. **Prior to the issue of a Statement of Compliance or an occupancy permit for any part of the building approved under this permit, whichever occurs first, a report from the author of the accessibility report approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the accessibility report have been implemented in accordance with the approved report.**

Acoustic Report

19. **Prior to the endorsement of plans an amended acoustic report must be submitted to and approved by the Responsible Authority. The plan must be generally in accordance with the Acoustic Assessment prepared by Watson Moss Growcott and dated 17 February 2021 but must be amended to:**
- a) **include the any updates resulting from the changes required by Condition 1 of this permit;**
- b) **include an assessment of the noise impact of the function centre use on the proposed apartments within the development and the surrounding area, taking into account the approved patron numbers and hours of operation (as detailed by Conditions 5 and 6 of this permit); and**
- c) **Demonstrate that the development will bear full responsibility for attenuating the building to prevent noise intrusion from the existing acoustic environment, including from the entertainment venue at 524 Lygon Street, by amending the design of the development. Compliance with the intention of this condition must be assessed via a peer-reviewed acoustic report, to be funded at the cost of the developer, to the satisfaction of the Responsible Authority. For the purpose of assessing whether the above noise standards are met, the noise measurement point must be located inside a habitable room of the apartments with**

windows and doors closed (Schedule B1 of SEPP N2 does not apply), and must consider the cumulative effect of external noise and the proposed function centre. The attenuation measures must not substantially alter the external appearance of the building and must not substantially reduce the amenity for future occupants of the apartments to the satisfaction of the Responsible Authority.

- d) Prior to the issue of a Certificate of Occupancy/Statement of Compliance, a peer-reviewed Acoustic Report must be submitted, to the satisfaction of the Responsible Authority, at the developer's cost, certifying that the acoustic attenuation measures have been constructed in accordance with the noise attenuation intentions of this condition.
20. Within 3 months of occupation of the dwellings permitted by this permit, a peer-reviewed Acoustic Report must be submitted to the satisfaction of the Responsible Authority, at the developer's cost, demonstrating that the noise attenuation design changes incorporated in to the development are successfully preventing noise intrusion into the development from the external, acoustic environment, including from the entertainment venue at 524 Lygon Street, as well as from the internal function centre.
21. 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.

Loading management plan

22. Prior to the endorsement of plans a loading management plan prepared by a suitability qualified professional must be submitted to and approved by the Responsible Authority. The report must include all recommendations for loading bay operation outlined on page 33 (Loading Dock Use) of the Acoustic Assessment prepared by Watson Moss Growcott dated 17 February 2021. When submitted and approved to the satisfaction of the Responsible Authority, the Loading Management 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. The recommendations of the plan must be implemented to the satisfaction of the Responsible Authority.

Development Contributions

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

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

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

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

Environmental Audit

24. Prior to the commencement of the use or buildings and works associated with the use, either:
 - a) A preliminary risk screen assessment statement in accordance with the Environment Protection Act 2017 must be issued stating that an environmental audit is not required for the use and development allowed by this permit; or
 - b) An environmental audit statement under Part 8.3 of the *Environment Protection Act 2017* must be issued stating that the land is suitable for the use and development allowed by this permit.
25. Where an environmental audit statement is issued for the land, and any condition of that statement requires any maintenance or monitoring of an ongoing nature, the Owner(s) must enter into an Agreement with Council pursuant to Section 173 of the *Planning and Environment Act 1987*. Where a Section 173 Agreement is required, the Agreement must be executed prior to the commencement of the permitted use, and prior to the certification of the plan of subdivision under the *Subdivision Act 1988*. 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).
26. 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 24 and 25 of this permit are satisfied.
27. Where an environmental audit statement is issued for the land, the buildings and works and the use(s) of the land that are the subject of this permit must comply with all directions and conditions contained within the statement.
28. Where an environmental audit statement is issued for the land, prior to the commencement of the use, and prior to the issue of a Statement of Compliance under the *Subdivision Act 1988*, and prior to the issue of an Occupancy Permit under the Building Act 1993, a letter prepared by an Environmental Auditor appointed under the *Environment Protection Act 2017* must be submitted to the Responsible Authority to verify that the directions and conditions contained within the statement have been satisfied.

Public Works Plan

29. Prior to the commencement of development, a Public Works Plan and associated construction drawing specifications detailing the works to the public realm adjacent to the site must be submitted and approved to the satisfaction of the Responsible Authority. The Plan must be in accordance the Moreland City Council Technical Notes July 2019 or any updated version and detail works in front of the approved building along Lygon Street and including:
 - a) The upgrade of the public realm adjacent to the site including new or reconstructed footpaths, water sensitive urban design treatments, seating, bicycle hoops, nature strips and other associated street furniture/infrastructure.
 - b) The footpaths are to be reinstated with the standard crossfall slope of 1 in 40 from the top of roadside kerb to the property boundary, with any level difference made up within the site.
 - c) A detailed level and feature survey of the footpaths and roads.
 - d) Any crossovers not required removed and the kerb and channel, footpath and nature strip reinstated to Council's standards using

construction plans approved by Moreland City Council, City Infrastructure Department.

- e) The location, method and number of bicycle parking to be accommodated within the road reserve.
- f) Tree(s) and other landscaping in the street frontages adjacent to or near the development.

The approved Public Works Plan will form part of the endorsed plans under the permit and must be implemented to the satisfaction of the Responsible Authority at the expense of the owner of the land, prior to the issue of a Statement of Compliance or occupancy permit for any part of the development, whichever occurs first, unless otherwise agreed with prior written consent of the Responsible Authority.

Wind Impact

- 30. Prior to the endorsement of plans a Wind Impact Assessment Report must be prepared by a suitability qualified person. The report must assess the possible wind impacts of the building to Lygon Street and the adjacent laneways and make recommendations for design changes, if required, to mitigate these impacts. When submitted and approved to the satisfaction of the Responsible Authority, the Wind Impact Assessment Report will be endorsed to form part of this permit.
- 31. The building must be constructed and maintained in accordance with the recommendations contained within the approved Wind Impact Assessment Report to the satisfaction of the Responsible Authority. The report endorsed under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority.

Car parking

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

General

- 33. Prior to the issue of a Statement of Compliance or an occupancy permit for any part of the development, whichever occurs first, all telecommunications and power connections (whereby means of a cable) and associated infrastructure to the land must be underground to the satisfaction of the Responsible Authority.
- 34. Prior to the commencement of the development, a legal point of discharge is to be obtained, and where required, a stormwater drainage plan showing how the site will be drained from the property boundary to the stated point of discharge, must be submitted to and approved by the Responsible Authority.
- 35. All stormwater from the land, where it is not collected in rainwater tanks for re-

use, must be collected by an underground pipe drain approved by and to the satisfaction of the Responsible Authority (Note: Please contact Moreland City Council, City Infrastructure Department).

36. Stormwater from the land must not be directed to the surface of the laneway to the satisfaction of the Responsible Authority.
37. The ramp to the basement must be designed to avoid stormwater run-off flowing along the laneway from entering the basements to the satisfaction of the Responsible Authority.
38. The pump we-well for the basement must be designed so that it can cater for a 1 per cent AEP instead of 10 per cent in accordance with Section (8) of A/NZS3500.3:2018 to the satisfaction of the Responsible Authority.
39. Prior to the issue of a Statement of Compliance or an occupancy permit for any part of the development, whichever occurs first, any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority (Moreland City Council, City Infrastructure Department).
40. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance of each stage of the development, whichever comes first, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.
41. Prior to the commencement of the development, a 3D digital model of the approved development which is compatible for use on Council's Virtual Moreland tools and software for Council and community must be submitted to the satisfaction of the Responsible Authority. The model must be prepared in accordance with Moreland City Council's 3D model submission guidelines. A copy of the 3D model submission guidelines and further information on the Virtual Moreland Project can be found at <https://www.moreland.vic.gov.au/planning-building/3D-Guidelines/>. In the event that substantial modifications to the building envelope are approved under an amendment to this planning permit, a revised 3D digital model must be submitted to, and be to the satisfaction of the Responsible Authority.
42. Prior to the issuing of Statement of Compliance or occupation of each stage of the development, whichever occurs first, all visual screening measures shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. All visual screening and measures to prevent overlooking must be maintained to the satisfaction of the Responsible Authority. Any screening measure that is removed or unsatisfactorily maintained must be replaced to the satisfaction of the Responsible Authority.
43. All lighting of external areas must be designed not to emit direct light onto adjoining and nearby dwellings to the satisfaction of the Responsible Authority.

Time

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

The Responsible Authority may extend the period referred to if a request is

made in writing before the permit expires; or

- Within 6 months after the permit expires to extend the commencement date.
- Within 12 months after the permit expires to extend the completion date of the development if the development has lawfully commenced.

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

Note 1:

Should Council impose car parking restrictions in this street, the owners and/or occupiers of the dwellings would not be eligible for resident parking permits to park on the street. See Council's website for more information:

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

Note 2:

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

7.21 pm Cr Yildiz left the meeting during the debate.

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

Carried

Cr Riley called for a division.

For

Cr Yildiz
Cr Pulford
Cr Conlan
Cr Riley

Total For (4)

Against

Cr Pavlidis

Total Against (1)

Abstain

Cr Bolton

Total abstained (1)

7.21pm Cr Yildiz left the meeting after the vote.

7.22 pm Cr Yildiz returned to the meeting.

7.22 pm Cr Yildiz left the meeting.

7.22 pm Cr Yildiz returned to the meeting.

5.2 20-22 DELTA AVENUE, COBURG NORTH VIC 3058 - PLANNING APPLICATION MPS/2008/294/A



Property:	20-22 Delta Avenue, Coburg North VIC 3058				
Proposal:	Amendment to the permit to allow a change of use from student accommodation to rooming house and reduction to car parking requirement.				
Zoning and Overlay/s:	<ul style="list-style-type: none"> • General Residential Zone Schedule 1 • Development Contributions Plan Overlay Schedule 1 				
Strategic setting:	<table border="1"> <tr> <td>Minimal housing growth</td> <td style="background-color: #00AEEF; color: white;">Incremental housing growth</td> <td>Increased house densities encouraged</td> <td>Significant housing growth</td> </tr> </table>	Minimal housing growth	Incremental housing growth	Increased house densities encouraged	Significant housing growth
Minimal housing growth	Incremental housing growth	Increased house densities encouraged	Significant housing growth		
Objections:	<ul style="list-style-type: none"> • 21 objections from 18 different properties • Key issues: <ul style="list-style-type: none"> • Adverse amenity impacts • Car parking and traffic • Neighbourhood character 				
Planning Information and Discussion (PID) Meeting:	<ul style="list-style-type: none"> • Date: 9 November 2021 • Attendees: 10 objectors, the applicant, 2 Council officers, Cr Pulford and Cr Pavlidis-Mihalakos • No changes were agreed, however the meeting provided an opportunity for objectors concerns to be discussed and helped inform the preparation of this report. 				
Key reasons for support:	<ul style="list-style-type: none"> • No change to the number of residents accommodated on site. • Provision of housing type to meet the needs for the community • Site well located with good access to public transport and other facilities. • Car parking impacts negligible compared to existing use 				
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/2008/294/A be issued for the use of the land for a **rooming house** and a reduction of the car parking requirement, in accordance with the endorsed plans at 20-22 Delta Avenue, Coburg North, subject to the following conditions:

(Amendments in bold)

1. Before the use commences, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the **plans previously endorsed on 19 January 2010** but modified to show:
 - a) **Deleted**
 - b) **Deleted**
 - c) **Deleted**
 - d) Rooms 8 to 17 (inclusive) adjacent to the north and east boundaries of the site clearly identified as single resident rooms **via notation**.
 - e) The location of any plant equipment and air-conditioning units and appropriate acoustic screening to the satisfaction of the responsible authority.
 - f) **17 resident bicycle parking spaces in bicycle locker(s) or at a bicycle rail in a lockable compound meeting each dimension and design criteria specified in Clause 52.34-6 of the planning scheme.**
 - g) **An amended** Site Management Plan in accordance with Condition 3 of this permit.
 - h) **An amended** Waste Management Plan in accordance with Condition 4 of this permit.
 - i) **An amended** Green Travel Plan in accordance with Condition 5 of this permit
 - j) **A dedicated room for the caretaker/supervisor to sleep, eat and shower.**
2. The use and development as shown on the endorsed plan(s) must not be altered or modified unless with the further written approval of the responsible authority. **This does not apply to any exemption specified in Clauses 62.02-1 and 62.02-2 of the Moreland Planning Scheme unless specifically noted as a permit condition.**
3. Prior to the commencement of the use, an **amended** Site Management Plan must be prepared for the site to the satisfaction of the Responsible Authority having regard to the amenity of adjoining properties. The plan must not be modified without the written consent of the Responsible Authority. The plan must address (but is not limited to):
 - a) **Deleted**
 - b) **The name and contact details of the owner, manager or agent for leasing purposes.**
 - c) **Rules regarding** resident and/or guest behaviour, activities and noise, visitors and the extent to which external areas may be used at night;
 - d) Supervision of residents 24 hours a day by an on-site caretaker or supervisor. The person must be an adult over 21 years of age;
 - e) **The name and contact details of the on-site caretaker or supervisor.**
 - f) A requirement that should behavioural problems occur at the site causing disruption to surrounding residents, the operator under the permit must take

immediate ameliorative action to the satisfaction of the Responsible Authority;

- g) Maintenance of the grounds and upkeep of the buildings;
- h) **Deleted**
- i) **Deleted**
- j) **A process for management to respond to complaints or queries from residents and/or neighbours.**
- k) **The contact details of a responsible contact person (e.g. manager or on-site caretaker) displayed in a manner and location so that it is visible to any person entering the site. This information is to be updated as required immediately following any change to the nominated responsible contact person.**

This Site Management Plan to be prepared to the satisfaction of the Responsible Authority and shall only be amended with the written consent of the Responsible Authority.

4. Prior to the commencement of the use, **an amended** Waste Management Plan must be submitted and approved to the satisfaction of the responsible authority. The Plan must include, but not limited to the following:
 - a) Calculations showing that all occupiers will be sufficiently catered for with the proposed number of garbage and recycling bins.
 - b) The size and location for the storage of general waste and recyclables and details of screening from view without proposing any external building and works or structures.
 - c) A plan showing that the storage area is sufficient to cater for the number of bins, which must include the option for Council collection.
 - d) The size and location for the storage of recyclables.
 - e) Details of ventilation if garbage bins are enclosed.
 - f) The provision of dual bins provided in cupboards in each room to encourage separation of recyclables from garbage.
 - g) **Deleted.**
 - h) **State where and when the bins will be placed for waste collection.**
 - i) **Include a plan showing where the waste trucks will stop to service the waste bins and state whether No Parking restrictions will be required for the waste trucks to access that space.**
 - j) **Confirmation that bins will not remain in or on a public place, or outside the premises for more than 24 hours after collection time.**
 - k) **Specify the separation of garbage waste & FOGO (Food & Garden Organics) waste.**
 - l) **Provision for separate glass collection when that becomes available.**

When submitted and approved to the satisfaction of the responsible authority, the Waste Management Plan and associated notated plans will form part of this permit.

5. Before the use of the land commences, **an amended** Green Travel Plan must be prepared to the satisfaction of the responsible authority following consultation with the **Department of Transport**. The Plan must be prepared by a suitably qualified person and must encourage the use of non-private vehicle transport modes by the occupiers of the land. The Plan must include, but not be limited to the following:
 - a) A description of the location in the context of alternative modes of transport and objectives for the Green Travel Plan.

- b) Outline Green Travel Plan measures for the development including, but not limited to:
- i. household welcome packs - tram, train and bus timetables relevant to the local area must be included in the pack of information provided to **residents** upon occupation of a room;
 - ii. bicycle parking and facilities available on the land;
 - iii. monitoring and review; and
 - iv. a plan showing:
 - the bicycle parking to be provided for use by residents and commercial occupiers of the building without proposing any additional external building and works within the site;
 - **deleted.**

The Green Travel Plan must not be amended without the written consent of the responsible authority.

6. Once approved the Green Travel Plan must form part of the planning permit and any requirements must be implemented to the satisfaction of the responsible authority.
7. The maximum number of **residents** residing on the premises at any one time must not exceed twenty-six (26).
8. A caretaker / supervisor must provide on-site supervision of the residents and facility 24 hours a day, 7 days a week.
9. The area set aside for the parking of vehicles and access lanes shown on the endorsed plan must not be used for any other purpose other than the parking of vehicles to the satisfaction of the responsible authority.
10. This permit will expire if the use is not commenced within two (2) years from the date of issue of this **amended** permit.

The responsible authority may extend the period referred to if a request is made in writing before the permit expires or within three months afterwards.

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

Note 1: This permit has been issued in accordance with the Victorian Civil and Administrative Tribunal's Order P763/2009 dated 5 August 2009.

Note 2: It may be necessary to obtain a building permit prior to the commencement of the building works and/or occupation of the building **as a rooming house**. It is strongly recommended that you consult with a registered building surveyor to advise on any requirements under the Building Act, the Building Regulations and any other subordinate legislation. Further information can be sought from the **Victorian Building Authority, Phone 1300 815 127 or www.vba.vic.gov.au**. Council's building services branch can also assist you in the provision of this service and can be contacted on **9240 1111** or **<http://www.moreland.vic.gov.au/planning-building/building-renovations-and-extensions/>**.

Note 3: This permit is for the use of the land and/or buildings and does not constitute any authority to conduct a business requiring Health Act/Food Act registration without prior approval in writing from the responsible authority.

7.22 pm Cr Yildiz left the meeting at item 5.2 was introduced.

7.30 pm Cr Yildiz returned to the meeting.

7.30 pm Cr Yildiz left the meeting.

7.31 pm Cr Yildiz returned to the meeting.

7.32 pm Cr Yildiz left the meeting.
7.32 pm Cr Yildiz returned to the meeting.

7.33 pm Cr Yildiz left the meeting.
7.36 pm Cr Yildiz returned to the meeting.

7.37 pm Cr Yildiz left the meeting.
7.37 pm Cr Yildiz returned to the meeting.

7.37 pm Cr Yildiz left the meeting.
7.38 pm Cr Yildiz returned to the meeting.

7.38 pm Cr Yildiz left the meeting.
7.39 pm Cr Yildiz returned to the meeting.

7.39 pm Cr Yildiz left the meeting.
7.40 pm Cr Yildiz returned to the meeting.

7.42 pm Cr Yildiz left the meeting.
7.43 pm Cr Yildiz returned to the meeting.

7.43 pm Cr Yildiz left the meeting.
7.44 pm Cr Yildiz returned to the meeting.

7.45 pm Cr Yildiz left the meeting.
7.45 pm Cr Yildiz returned to the meeting.

7.47 pm Cr Yildiz left the meeting.
7.47 pm Cr Yildiz returned to the meeting.

7.50 pm Cr Yildiz left the meeting.
7.51 pm Cr Yildiz returned to the meeting.

7.52 pm Cr Yildiz left the meeting.

7.54 pm Mayor, Cr Riley, paused the meeting as a quorum was not maintained.

Meeting Adjournment

Motion

Cr Pavlidis moved –

That the meeting be adjourned for 5 minutes at 7.56 pm until 8.01 pm to obtain a quorum.

Carried

The meeting adjourned at 7.56 pm.

Motion

Cr Pavlidis moved –

That the meeting resume at 8.01 pm.

Carried

Cr Panopoulos joined the meeting at 8.01 pm.

The meeting resumed at 8.01 pm.

Resolution

Cr Bolton moved, Cr Pavlidis seconded -

That a Notice of Decision to Grant Amended Planning Permit No. MPS/2008/294/A be issued for the use of the land for a rooming house and a reduction of the car parking requirement at 20-22 Delta Avenue, Coburg North, subject to the following conditions:

- 1. Before the use commences, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans previously endorsed on 19 January 2010 but modified to show:**
 - a) Deleted**
 - b) Deleted**
 - c) Deleted**
 - d) Rooms 8 to 17 (inclusive) adjacent to the north and east boundaries of the site clearly identified as single resident rooms via notation.**
 - e) The location of any plant equipment and air-conditioning units and appropriate acoustic screening to the satisfaction of the responsible authority.**
 - f) 17 resident bicycle parking spaces in bicycle locker(s) or at a bicycle rail in a lockable compound meeting each dimension and design criteria specified in Clause 52.34-6 of the planning scheme.**
 - g) An amended Site Management Plan in accordance with Condition 3 of this permit.**
 - h) An amended Waste Management Plan in accordance with Condition 4 of this permit.**
 - i) An amended Green Travel Plan in accordance with Condition 5 of this permit**
 - j) A dedicated room for the caretaker/supervisor to sleep, eat and shower.**
 - k) The outdoor area within the northern setback (adjacent to Rooms 7-12) nominated on the plans as a 'Communal open space for residents' and to nominate seating in the space.**
 - l) Provision of a designated smoking area for residents within the southern setback (adjacent to Rooms 6 and 7).**
- 2. The use and development as shown on the endorsed plan(s) must not be altered or modified unless with the further written approval of the responsible authority. This does not apply to any exemption specified in Clauses 62.02-1 and 62.02-2 of the Moreland Planning Scheme unless specifically noted as a permit condition.**
- 3. Prior to the commencement of the use, an amended Site Management Plan must be prepared for the site to the satisfaction of the Responsible Authority having regard to the amenity of adjoining properties. The plan must not be modified without the written consent of the Responsible Authority. The plan must address (but is not limited to):**
 - a) Deleted**
 - b) The name and contact details of the owner, manager or agent for leasing purposes.**

- c) Rules regarding resident and/or guest behaviour, activities and noise, visitors and the extent to which external areas may be used at night;
- d) Supervision of residents 24 hours a day by an on-site caretaker or supervisor. The person must be an adult over 21 years of age;
- e) The name and contact details of the on-site caretaker or supervisor.
- f) A requirement that should behavioural problems occur at the site causing disruption to surrounding residents, the operator under the permit must take immediate ameliorative action to the satisfaction of the Responsible Authority;
- g) Maintenance of the grounds and upkeep of the buildings;
- h) Deleted
- i) Deleted
- j) A process for management to respond to complaints or queries from residents and/or neighbours.
- k) The contact details of a responsible contact person (e.g. manager or on-site caretaker) displayed in a manner and location so that it is visible to any person entering the site. This information is to be updated as required immediately following any change to the nominated responsible contact person.
- l) Confirmation that the on-site caretaker/supervisor will be responsible for ensuring compliance with the Waste Management Plan.

This Site Management Plan to be prepared to the satisfaction of the Responsible Authority and shall only be amended with the written consent of the Responsible Authority.

4. Prior to the commencement of the use, an amended Waste Management Plan must be submitted and approved to the satisfaction of the responsible authority. The Plan must include, but not limited to the following:
 - a) Calculations showing that all occupiers will be sufficiently catered for with the proposed number of garbage and recycling bins.
 - b) The size and location for the storage of general waste and recyclables and details of screening from view without proposing any external building and works or structures.
 - c) A plan showing that the storage area is sufficient to cater for the number of bins, which must include the option for Council collection.
 - d) The size and location for the storage of recyclables.
 - e) Details of ventilation if garbage bins are enclosed.
 - f) The provision of dual bins provided in cupboards in each room to encourage separation of recyclables from garbage.
 - g) Deleted.
 - h) State where and when the bins will be placed for waste collection.
 - i) Include a plan showing where the waste trucks will stop to service the waste bins and state whether No Parking restrictions will be required for the waste trucks to access that space.
 - j) Confirmation that bins will not remain in or on a public place, or outside the premises for more than 24 hours after collection time.
 - k) Specify the separation of garbage waste & FOGO (Food & Garden Organics) waste.

l) Provision for separate glass collection when that becomes available.

When submitted and approved to the satisfaction of the responsible authority, the Waste Management Plan and associated notated plans will form part of this permit.

- 5. Before the use of the land commences, an amended Green Travel Plan must be prepared to the satisfaction of the responsible authority following consultation with the Department of Transport. The Plan must be prepared by a suitably qualified person and must encourage the use of non-private vehicle transport modes by the occupiers of the land. The Plan must include, but not be limited to the following:**
 - a) A description of the location in the context of alternative modes of transport and objectives for the Green Travel Plan.**
 - b) Outline Green Travel Plan measures for the development including, but not limited to:**
 - i. household welcome packs - tram, train and bus timetables relevant to the local area must be included in the pack of information provided to residents upon occupation of a room;**
 - ii. bicycle parking and facilities available on the land;**
 - iii. monitoring and review; and**
 - iv. a plan showing:**
 - the bicycle parking to be provided for use by residents and commercial occupiers of the building without proposing any additional external building and works within the site;**
 - deleted.**

The Green Travel Plan must not be amended without the written consent of the responsible authority.

- 6. Once approved the Green Travel Plan must form part of the planning permit and any requirements must be implemented to the satisfaction of the responsible authority.**
- 7. The maximum number of residents residing on the premises at any one time must not exceed twenty-six (26).**
- 8. A caretaker / supervisor must provide on-site supervision of the residents and facility 24 hours a day, 7 days a week.**
- 9. The area set aside for the parking of vehicles and access lanes shown on the endorsed plan must not be used for any other purpose other than the parking of vehicles to the satisfaction of the responsible authority.**
- 10. The communal open space and designated smoking area shown on the endorsed plans must be made available to rooming house residents and maintained to the satisfaction of the Responsible Authority.**
- 11. Prior to the commencement of the use, a report must be submitted to the Responsible Authority confirming compliance with the minimum standards set out in the Residential Tenancies (Rooming House Standards) Regulations 2012 or evidence of any exemption from the Director of Consumer Affairs Victoria.**
- 12. This permit will expire if the use is not commenced within two (2) years from the date of issue of this amended permit.**

The responsible authority may extend the period referred to if a request is made in writing before the permit expires or within three months afterwards.

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

Note 1: This permit has been issued in accordance with the Victorian Civil and Administrative Tribunal's Order P763/2009 dated 5 August 2009.

Note 2: It may be necessary to obtain a building permit prior to the commencement of the building works and/or occupation of the building as a rooming house. It is strongly recommended that you consult with a registered building surveyor to advise on any requirements under the Building Act, the Building Regulations and any other subordinate legislation. Further information can be sought from the Victorian Building Authority, Phone 1300 815 127 or www.vba.vic.gov.au. Council's building services branch can also assist you in the provision of this service and can be contacted on 9240 1111 or <http://www.moreland.vic.gov.au/planning-building/building-renovations-and-extensions/>.

Note 3: This permit is for the use of the land and/or buildings and does not constitute any authority to conduct a business requiring Health Act/Food Act registration without prior approval in writing from the responsible authority.

8.04 pm Cr Yildiz left the meeting during the debate.

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

8.05 pm Cr Yildiz left the meeting before the vote and did not return.

Carried unanimously

8.14 pm Cr Panopoulos left the meeting after the vote.

8.14 pm Cr Panopoulos returned to the meeting.

5.3 72 - 90 HOLMES STREET, BRUNSWICK VIC 3056 - PLANNING APPLICATION - MPS/2021/396



Property:	72 – 90 Holmes Street, Brunswick East
Proposal:	Use and development of the land for a store, reduction in car parking, use of the land for the sale and consumption of liquor, alteration to access to a Road Zone - Category 1 and display of illuminated signage.
Zoning and Overlays:	<ul style="list-style-type: none"> • Commercial 1 Zone (C1Z) • Design and Development Overlay (DDO24) • Parking Overlay (PO1) • Environmental Audit Overlay (EAO) • Development Contribution Plan Overlay (DCPO)
Objections:	<ul style="list-style-type: none"> • 4 objections. • Key issues: <ul style="list-style-type: none"> ○ Light pollution from illuminated signage. ○ Height, bulk and design of the proposal. ○ Car parking.
Consultation:	<ul style="list-style-type: none"> • The objectors were contacted one-on-one to discuss their objection and the application.
ESD:	<ul style="list-style-type: none"> • 15 kW solar roof system. • Two EV charging stations. • 50% BESS.
Key reasons for support:	<ul style="list-style-type: none"> • The design and setbacks are compliant with DDO24. The reduction in crossovers, introduction of a street wall and weather protection improves the footpath on Holmes Street. • The height is compliant in terms of storeys (4) and while it exceeds the preferred height by 1.05 metres, this is acceptable given that the ground floor has a raised ceiling height to accommodate larger vehicles and the height of the building was dropped by 1.92 metres following public notice. • The use of the land as a store is complementary to the residential and commercial uses within the surrounding area. It provides small scale storage units for domestic usage and temperature controlled wine storage. Ground floor tenancies provide activation of the street.
Recommendation:	A Notice of Decision to Grant a Planning Permit be issued for the proposal.

Officer Recommendation

That a Notice of Decision to Grant a Planning Permit No. MPS/2021/396 be issued for the use and development of the land for a store, reduction in car parking, use of the land for the sale and consumption of liquor, alteration to access to a Road Zone - Category 1 and display of illuminated signage at 72 – 90 Holmes Street, Brunswick East, subject to the following conditions:

Amended Plans 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 amended plans submitted 19 October 2021 but modified to show:
 - a) The corrugated metal section of the façade (labelled 'CM') to be changed to a more textured and high quality material such as:
 - i. Perforated mesh; or
 - ii. Another textured and high-quality material to the satisfaction of the Responsible Authority.
 - b) Increase variation in colours of the façade, so that it presents as six distinct panels, by:
 - i. Replacing the material labelled 'PM' at levels 1-3 located above the box store and vehicle entry with the new material selected to replace material 'CM' as required by Condition 1a; and
 - ii. Replacing the material labelled 'CM' at levels 1-3 (north of the glazed section) with material 'PM'; or
 - iii. An alternative response to the satisfaction of the Responsible Authority.
 - c) A detailed materials and colours schedule, showing all proposed finishes and selected colours.
 - d) Details of the material and colour of the substation and booster doors, ensuring that the selection is high quality and integrates these services with the building façade.
 - e) The north and south elevations to be correctly labelled.
 - f) The following changes to signs:
 - i. Sign 4a to be deleted.
 - ii. Sign 1, Sign 4b and 4c to be non-illuminated and to not project beyond the title boundaries of the site.
 - g) The ground floor awning to be:
 - i. Increased in width to cover the footpath, setback 750 mm from the edge of the kerb;
 - ii. Continuous along the frontage of the building; and
 - iii. All the same height.
 - h) The underside of the awning to be charcoal along the frontage of the wine bar and bottleshop.
 - i) The introduction of an open lobby at levels 1, 2 and 3 that connects the single lift with the façade of the building, with clear glazing to be provided in place of the 'Colourback Glazing' on the façade.

- j) The 'feature glazing' to the ground floor commercial tenancies to be clear glazing.
- k) A note to state that the generator at the rear of the site is a back-up generator only.
- l) The bicycle storage areas to be secure and dimensioned in accordance with the Australian Standard for Bicycle Parking (AS2890.3).
- m) Any changes as required by the Sustainable Management Plan in accordance with Condition 4 of this permit, including:
 - i. Location and details of the 15kW roof mounted solar PV system
 - ii. The stormwater management measures as required pursuant to condition 4f of this permit
- n) Any changes as required by the Public Works Plan in accordance with Condition 7 of this permit.
- o) Any changes as required to align with the amended Waste Management Plan as required by Condition 39 of this permit.

Compliance with Endorsed Plans Condition

- 2. The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority. This does not apply to any exemption specified in Clauses 62.02-1 and 62.02-2 of the Moreland Planning Scheme unless specifically noted as a permit condition.
- 3. The location, dimensions, shape and associated structures of every sign must accord with the endorsed plans and must not be altered, unless with the consent of the Responsible Authority.

ESD Conditions

- 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 SMP by LUCID dated 30 April 2021, but modified to include the following changes:
 - a) Any changes as necessary to reflect the plans for endorsement.
 - b) Amend the BESS report (and any other corresponding documentation) to:
 - i. No longer claim Management credit 1.1 'Pre-application meeting' or provide evidence that a pre-application meeting was attended by a qualified ESD professional.
 - ii. No longer claim credit Transport 1.5 'Bicycle parking – Non Residential Visitor'
 - iii. Do not claim credit 'Innovation 1.1' for Construction and Demolition waste recycling.
 - c) Provide a Section J façade assessment showing compliance when using windows that are commercially viable.
 - d) Provide details on the strategy used to reduce the water usage when testing the sprinkler system pump.
 - e) Provide a list of the major area services that will be sub-metered.
 - f) A stormwater management plan showing compliance with Clause 53.18 of the Moreland Planning Scheme that is generally in accordance with the plan prepared by ADG Engineers, incorporated into appendix B of the SMP, but modified to include the following changes:

- i. Include a catchment plan showing the different catchment areas sizes and the proposed stormwater treatment measures consistent with the architectural plans and MUSIC report;
 - ii. Achieve Best Practice requirements without the use of proprietary devices to show reduction in Nitrogen or Phosphorus, preferably through bioretention;
 - iii. Include a rainwater tank sized (along with the catchment area) to cover at least 80% of the water demand for toilet flushing; and
 - g) The MUSIC model to include all the development, align with the stormwater management plan, be completed in accordance with Melbourne Water Guidelines, and the file (.sqz) submitted to Council.
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 an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, a report from the author of the Sustainability Management Plan (SMP) approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm (with documented evidence) that all measures specified in the SMP have been implemented in accordance with the approved plan.

Public Works Plan

7. Prior to the commencement of the development, a Public Works Plan and associated construction drawing specifications detailing the works to the land along Holmes Street directly in front of the site must be submitted to the satisfaction of the Responsible Authority. The Plan must include:
- 1) All construction details in accordance with the *Moreland City Council Technical Notes July 2019* (or any updated version).
 - 2) A detailed level and feature survey of the footpaths and roads.
 - 3) 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%).
 - 4) Any Council or service authority pole or pit within 1 metre of the proposed vehicle crossing, including the splays on the crossings, relocated or modified.
 - 5) For any vehicle crossing not being used, the kerb, channel and footpath reinstated in accordance with condition 24 of this permit
 - 6) Any necessary parking signs, in consultation with the Responsible Authority.
 - 7) Any necessary drainage works.
 - 8) The installation of bike hoops in consultation with the Responsible Authority.
 - 9) The provision of new street tree planting along Holmes Street in appropriate locations in consultation with the Responsible Authority (Open Space Department).
 - 10) 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.

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.

Use Conditions

8. The store allowed by this permit may be accessible 24 hours a day, 7 days per week.
9. No more than 2 staff associated with the store may work on the land at any given time.
10. The sale and consumption of liquor allowed by this permit may only operate between the following hours:
 - a) Sale and consumption of liquor associated with the wine bar:
 - Monday – Saturday: 12pm – 10pm.
 - b) Sale of packaged liquor associated with the bottle shop:
 - Monday – Saturday: 9am – 10pm
 - Sunday: 10am – 10pm
 - ANZAC Day: 12pm – 10pm
 - Good Friday and Christmas Day: Closed
11. The maximum number of patrons associated with the wine bar must not exceed 82.
12. The use must not detrimentally affect the amenity of the neighbourhood to the satisfaction of the Responsible Authority, including through the:
 - a) Transport of materials, goods or commodities to or from the land.
 - b) Appearance of any building, works or materials.
 - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
13. No music other than of a type and volume appropriate to background music may be emitted. Background music is defined as any music played at a level that enables patrons to conduct a conversation at a distance of 600 millimetres without having to raise their voice to a substantial degree. It is not background music if it is played at a level which requires patrons to shout, or use a stage voice such as that used by an actor in the theatre, in order to carry out a conversation at such a distance.
14. The recommendations of the Acoustic Report prepared by Gowdie Management Group April 2021 must be implemented to the satisfaction of the Responsible Authority. In particular:
 - a) Roller doors to the storage facility should be maintained such that noise from rolling hardware is minimised as practically possible; and
 - b) Tenants of the storage facility should be advised that car/truck horns are not to be used for attracting attention for entry or otherwise.No alterations to the Acoustic Report may occur without the written consent of the Responsible Authority.
15. Within 2 months of the completion of the buildings and works shown on the endorsed plans, acoustic testing is to be carried out to ascertain whether the use complies with the maximum noise levels prescribed 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).

The testing is to be carried out by an independent acoustician approved by the

Responsible Authority. If the testing reveals that the use does not meet the specified maximum noise levels the buildings and works must be modified to make the use compliant with those levels. After any modifications have been made further acoustic testing must be carried out to ascertain whether the use complies with the prescribed noise levels. All acoustic testing is to be carried out during a busy period. The results of testing are to be provided to the Responsible Authority and made available to the public.

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

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 to the satisfaction of the Responsible Authority. The endorsed plans must be amended to accord with the recommendations contained in the Acoustic Report to the satisfaction of the Responsible Authority.

DCP Condition

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

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

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

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

Contamination Conditions

18. Once demolition on site has commenced and prior to the construction or carrying out of buildings and works pursuant to this permit, a Preliminary Site Investigation (PSI) prepared by a suitably qualified environmental consultant, which must:

- a) Specify the name and qualifications of the person who has conducted the Report;
- b) Assess the likelihood of the presence of contaminated land;
- c) Determine if an environmental audit is required; and
- d) If an environmental audit is required, to recommend a scope for the environmental audit.

19. If recommended by the PSI in Condition 16, prior to the commencement of construction or carrying out works pursuant to this permit, either:

- a) An environmental audit statement under Part 8.3 of the Environment Protection Act 2017 must be issued stating that the land is suitable for the use

and development allowed by this permit; or

- b) An environmental audit statement under Part 8.3 of the *Environment Protection Act 2017* must be issued stating that the land is suitable for the use and development allowed by this permit 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 must enter into an Agreement with Council 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, and prior to the issue of a statement of compliance under the *Subdivision Act 1988*. 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 16-19 are satisfied.
 23. All the recommendations of the environmental audit statement must be complied with to the satisfaction of the Responsible Authority, prior to commencement of the use of the site. Written confirmation of compliance must be provided by a suitably qualified environmental consultant or other suitable person acceptable to the Responsible Authority. Compliance sign off must be in accordance with any requirements in the environmental audit statement recommendations regarding verification of works.

Landscaping Condition

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

Department of Transport Conditions

25. Prior to the commencement of the use hereby approved, the crossovers and driveways must be constructed to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.
26. Prior to the commencement of the use hereby approved, all redundant vehicle crossings must be removed, and the area reinstated to the satisfaction of and no cost to the Head, Transport for Victoria

Engineering Conditions

27. 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 the commencement of the development.

- b) Be maintained.
 - c) Be properly formed to such levels that it can be used according to the endorsed plan.
 - d) Be drained and surfaced.
 - e) Have the boundaries of all vehicle parking spaces clearly marked on the ground to accord with the endorsed plan.
 - f) Not be used for any other purpose other than the parking of vehicles.
28. All stormwater from the land, where it is not collected in rainwater tanks for re-use, must be collected by an underground pipe drain approved by and to the satisfaction of the Responsible Authority (Note: Please contact Moreland City Council, City Infrastructure Department). Stormwater from the land must not be directed towards the creek corridor (Merri Creek) to the satisfaction of the Responsible Authority.
29. Stormwater from the land must not be directed to the surface of the laneway to the satisfaction of the Responsible Authority
30. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, 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.

Signage Conditions

31. Every sign on the land must be maintained in good condition to the satisfaction of the Responsible Authority.
32. Any externally illuminated sign must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse amenity impact on any adjoining property.
33. The maximum luminance of all internally illuminated signs must not exceed the levels prescribed *AS 4282-1997 Control of the Obtrusive Effects of Outdoor Lighting* or any updated version that is to be released.

Upon request, the applicant must provide to the Responsible Authority records of the signs luminance levels to show compliance with the above.

Miscellaneous Conditions

34. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.
35. The ground level windows facing Holmes Street must not be painted or blocked out in any way to the satisfaction of the Responsible Authority.

Waste Management Plan

36. Prior to the endorsement of plans, an amended Waste Management Plan (WMP) must be submitted to the satisfaction of the Responsible Authority. The plan must be generally in accordance with the report prepared by Traffix Group and dated April 2021 but modified to:
- a) Explain how food and organics waste from the bar will be disposed of and collected.

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.

37. 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.

Expiry Conditions

38. This permit, with respect to signage only, expires 15 years from the date of issue, at which time the signs and all supporting structures must be removed and the site made good to the satisfaction of the Responsible Authority.
39. This permit will expire if one of the following circumstances applies:
 - a) the development is not commenced within two (2) years from the date of issue of this permit;
 - b) the development is not completed within four (4) years from the date of issue of this permit;
 - c) the use is not commenced within four (4) years from the date of issue of this permit.

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

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

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

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

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

Notes about environmental audits

A copy of the Certificate or Statement of Environmental Audit, including the complete Environmental Audit Report must be submitted to the Responsible Authority within 5 business days of issue, in accordance with Section 210 of the Environment Protection Act 2017 (Vic).

Resolution

Cr Conlan moved, Cr Pulford seconded -

That a Notice of Decision to Grant Planning Permit No. MPS/2021/396 be issued for the use and development of the land for a store, reduction in car parking, use of the land for the sale and consumption of liquor, alteration to access to a Road Zone - Category 1 and display of illuminated signage at 72 – 90 Holmes Street, Brunswick East subject to the following conditions:

Amended Plans 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 amended plans submitted 19 October 2021 but modified to show:**
 - a) **The corrugated metal section of the façade (labelled 'CM') to be changed**

to a more textured and high quality material such as:

- i. Perforated mesh; or
 - ii. Another textured and high-quality material to the satisfaction of the Responsible Authority.
- b) Increase variation in colours of the façade, so that it presents as six distinct panels, by:
- i. Replacing the material labelled 'PM' at levels 1-3 located above the box store and vehicle entry with the new material selected to replace material 'CM' as required by Condition 1a; and
 - ii. Replacing the material labelled 'CM' at levels 1-3 (north of the glazed section) with material 'PM'; or
 - iii. An alternative response to the satisfaction of the Responsible Authority.
- c) A detailed materials and colours schedule, showing all proposed finishes and selected colours.
- d) Details of the material and colour of the substation and booster doors, ensuring that the selection is high quality and integrates these services with the building façade.
- e) The north and south elevations to be correctly labelled.
- f) The following changes to signs:
- i. Sign 4a to be deleted.
 - ii. Sign 1, Sign 4b and 4c to be non-illuminated and to not project beyond the title boundaries of the site.
- g) The ground floor awning to be:
- i. Increased in width to cover the footpath, setback 750 mm from the edge of the kerb;
 - ii. Continuous along the frontage of the building; and
 - iii. All the same height.
- h) The underside of the awning to be charcoal along the frontage of the wine bar and bottleshop.
- i) The introduction of an open lobby at levels 1, 2 and 3 that connects the single lift with the façade of the building, with clear glazing to be provided in place of the 'Colourback Glazing' on the façade.
- j) The 'feature glazing' to the ground floor commercial tenancies to be clear glazing.
- k) A note to state that the generator at the rear of the site is a back-up generator only.
- l) The bicycle storage areas to be secure and dimensioned in accordance with the Australian Standard for Bicycle Parking (AS2890.3).
- m) Any changes as required by the Sustainable Management Plan in accordance with Condition 4 of this permit, including:
- i. Location and details of the roof mounted solar PV system.
 - ii. The stormwater management measures as required pursuant to condition 4f of this permit
- n) Any changes as required by the Public Works Plan in accordance with

Condition 7 of this permit.

- o) Any changes as required to align with the amended Waste Management Plan as required by Condition 39 of this permit.**

Compliance with Endorsed Plans Condition

- 2. The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority. This does not apply to any exemption specified in Clauses 62.02-1 and 62.02-2 of the Moreland Planning Scheme unless specifically noted as a permit condition.**
- 3. The location, dimensions, shape and associated structures of every sign must accord with the endorsed plans and must not be altered, unless with the consent of the Responsible Authority.**

ESD Conditions

- 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 SMP by LUCID dated 30 April 2021, but modified to include the following changes:**
 - a) Any changes as necessary to reflect the plans for endorsement.**
 - b) Increase the provision of solar PV to at least 30kw or alternative that meets the energy needs of the building.**
 - c) Amend the BESS report (and any other corresponding documentation) to:**
 - i. No longer claim Management credit 1.1 'Pre-application meeting' or provide evidence that a pre-application meeting was attended by a qualified ESD professional.**
 - ii. No longer claim credit Transport 1.5 'Bicycle parking – Non Residential Visitor'**
 - iii. Do not claim credit 'Innovation 1.1' for Construction and Demolition waste recycling.**
 - d) Provide a Section J façade assessment showing compliance when using windows that are commercially viable.**
 - e) Provide details on the strategy used to reduce the water usage when testing the sprinkler system pump.**
 - f) Provide a list of the major area services that will be sub-metered.**
 - g) A stormwater management plan showing compliance with Clause 53.18 of the Moreland Planning Scheme that is generally in accordance with the plan prepared by ADG Engineers, incorporated into appendix B of the SMP, but modified to include the following changes:**
 - i. Include a catchment plan showing the different catchment areas sizes and the proposed stormwater treatment measures consistent with the architectural plans and MUSIC report;**
 - ii. Achieve Best Practice requirements without the use of proprietary devices to show reduction in Nitrogen or Phosphorus, preferably through bioretention;**
 - iii. Include a rainwater tank sized (along with the catchment area) to cover at least 80% of the water demand for toilet flushing; and**
 - h) The MUSIC model to include all the development, align with the stormwater management plan, be completed in accordance with**

Melbourne Water Guidelines, and the file (.sqz) submitted to Council.

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 an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, a report from the author of the Sustainability Management Plan (SMP) approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm (with documented evidence) that all measures specified in the SMP have been implemented in accordance with the approved plan.

Public Works Plan

7. Prior to the commencement of the development, a Public Works Plan and associated construction drawing specifications detailing the works to the land along Holmes Street directly in front of the site must be submitted to the satisfaction of the Responsible Authority. The Plan must include:
 - a) All construction details in accordance with the *Moreland City Council Technical Notes July 2019* (or any updated version).
 - b) A detailed level and feature survey of the footpaths and roads.
 - c) The upgrade of the 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%).
 - d) Any Council or service authority pole or pit within 1 metre of the proposed vehicle crossing, including the splays on the crossings, relocated or modified.
 - e) For any vehicle crossing not being used, the kerb, channel and footpath reinstated in accordance with condition 24 of this permit
 - f) Any necessary parking signs, in consultation with the Responsible Authority.
 - g) Any necessary drainage works.
 - h) The installation of bike hoops in consultation with the Responsible Authority, with at least 10 bicycle spaces in front of the site.
 - i) The provision of new street tree planting along Holmes Street in appropriate locations in front of the site, with the number of trees maximised based on the space available, in consultation with the Responsible Authority (Open Space Department).
 - j) 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.

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.

Use Conditions

8. The store allowed by this permit may be accessible 24 hours a day, 7 days per week.

9. **No more than 2 staff associated with the store may work on the land at any given time.**
10. **The sale and consumption of liquor allowed by this permit may only operate between the following hours:**
 - a) **Sale and consumption of liquor associated with the wine bar:**
 - **Monday – Saturday: 12pm – 10pm.**
 - b) **Sale of packaged liquor associated with the bottle shop:**
 - **Monday – Saturday: 9am – 10pm**
 - **Sunday: 10am – 10pm**
 - **ANZAC Day: 12pm – 10pm**
 - **Good Friday and Christmas Day: Closed**
11. **The maximum number of patrons associated with the wine bar must not exceed 82.**
12. **The use must not detrimentally affect the amenity of the neighbourhood to the satisfaction of the Responsible Authority, including through the:**
 - a) **Transport of materials, goods or commodities to or from the land.**
 - b) **Appearance of any building, works or materials.**
 - c) **Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.**
13. **No music other than of a type and volume appropriate to background music may be emitted. Background music is defined as any music played at a level that enables patrons to conduct a conversation at a distance of 600 millimetres without having to raise their voice to a substantial degree. It is not background music if it is played at a level which requires patrons to shout, or use a stage voice such as that used by an actor in the theatre, in order to carry out a conversation at such a distance.**
14. **The recommendations of the Acoustic Report prepared by Gowdie Management Group April 2021 must be implemented to the satisfaction of the Responsible Authority. In particular:**
 - a) **Roller doors to the storage facility should be maintained such that noise from rolling hardware is minimised as practically possible; and**
 - b) **Tenants of the storage facility should be advised that car/truck horns are not to be used for attracting attention for entry or otherwise.**

No alterations to the Acoustic Report may occur without the written consent of the Responsible Authority.

15. **Within 2 months of the completion of the buildings and works shown on the endorsed plans, acoustic testing is to be carried out to ascertain whether the use complies with the maximum noise levels prescribed 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.**

The testing is to be carried out by an independent acoustician approved by the Responsible Authority. If the testing reveals that the use does not meet the specified maximum noise levels the buildings and works must be modified to make the use compliant with those levels. After any modifications have been made further acoustic testing must be carried out to ascertain whether the use

complies with the prescribed noise levels. All acoustic testing is to be carried out during a busy period. The results of testing are to be provided to the Responsible Authority and made available to the public.

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

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 to the satisfaction of the Responsible Authority. The endorsed plans must be amended to accord with the recommendations contained in the Acoustic Report to the satisfaction of the Responsible Authority.

DCP Condition

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

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

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

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

Contamination Conditions

18. Once demolition on site has commenced and prior to the construction or carrying out of buildings and works pursuant to this permit, a Preliminary Site Investigation (PSI) prepared by a suitably qualified environmental consultant, which must:
- a) Specify the name and qualifications of the person who has conducted the Report;
 - b) Assess the likelihood of the presence of contaminated land;
 - c) Determine if an environmental audit is required; and
 - d) If an environmental audit is required, to recommend a scope for the environmental audit.
19. If recommended by the PSI in Condition 16, prior to the commencement of construction or carrying out works pursuant to this permit, either:
- a) An environmental audit statement under Part 8.3 of the Environment Protection Act 2017 must be issued stating that the land is suitable for

the use and development allowed by this permit; or

- b) An environmental audit statement under Part 8.3 of the *Environment Protection Act 2017* must be issued stating that the land is suitable for the use and development allowed by this permit 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 must enter into an Agreement with Council 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, and prior to the issue of a statement of compliance under the *Subdivision Act 1988*. 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 16-19 are satisfied.
23. All the recommendations of the environmental audit statement must be complied with to the satisfaction of the Responsible Authority, prior to commencement of the use of the site. Written confirmation of compliance must be provided by a suitably qualified environmental consultant or other suitable person acceptable to the Responsible Authority. Compliance sign off must be in accordance with any requirements in the environmental audit statement recommendations regarding verification of works.

Landscaping Condition

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

Department of Transport Conditions

25. Prior to the commencement of the use hereby approved, the crossovers and driveways must be constructed to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.
26. Prior to the commencement of the use hereby approved, all redundant vehicle crossings must be removed, and the area reinstated to the satisfaction of and no cost to the Head, Transport for Victoria

Engineering Conditions

27. 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 the commencement of the development.
 - b) Be maintained.
 - c) Be properly formed to such levels that it can be used according to the endorsed plan.
 - d) Be drained and surfaced.
 - e) Have the boundaries of all vehicle parking spaces clearly marked on the ground to accord with the endorsed plan.
 - f) Not be used for any other purpose other than the parking of vehicles.
28. All stormwater from the land, where it is not collected in rainwater tanks for re-use, must be collected by an underground pipe drain approved by and to the satisfaction of the Responsible Authority (Note: Please contact Moreland City Council, City Infrastructure Department). Stormwater from the land must not be directed towards the creek corridor (Merri Creek) to the satisfaction of the Responsible Authority.
29. Stormwater from the land must not be directed to the surface of the laneway to the satisfaction of the Responsible Authority
30. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, 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.

Signage Conditions

31. Every sign on the land must be maintained in good condition to the satisfaction of the Responsible Authority.
32. Any externally illuminated sign must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse amenity impact on any adjoining property.
33. The maximum luminance of all internally illuminated signs must not exceed the levels prescribed *AS 4282-1997 Control of the Obtrusive Effects of Outdoor Lighting* or any updated version that is to be released.

Upon request, the applicant must provide to the Responsible Authority records of the signs luminance levels to show compliance with the above.

Miscellaneous Conditions

34. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.
35. The ground level windows facing Holmes Street must not be painted or blocked out in any way to the satisfaction of the Responsible Authority.

Waste Management Plan

36. Prior to the endorsement of plans, an amended Waste Management Plan (WMP) must be submitted to the satisfaction of the Responsible Authority. The plan must be generally in accordance with the report prepared by Traffix Group and dated April 2021 but modified to:
 - a) Explain how food and organics waste from the bar will be disposed of and collected.

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.

37. 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.

Expiry Conditions

38. This permit, with respect to signage only, expires 15 years from the date of issue, at which time the signs and all supporting structures must be removed and the site made good to the satisfaction of the Responsible Authority.
39. This permit will expire if one of the following circumstances applies:
- a) the development is not commenced within two (2) years from the date of issue of this permit;
 - b) the development is not completed within four (4) years from the date of issue of this permit;
 - c) the use is not commenced within four (4) years from the date of issue of this permit.

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

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

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

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

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

Notes about environmental audits

A copy of the Certificate or Statement of Environmental Audit, including the complete Environmental Audit Report must be submitted to the Responsible Authority within 5 business days of issue, in accordance with Section 210 of the Environment Protection Act 2017 (Vic).

Carried unanimously

8.26 pm Cr Panopoulos left the meeting after the vote and did not return.

URGENT BUSINESS REPORTS

Nil

The meeting closed at 8.27 pm.

Confirmed

Cr Mark Riley
MAYOR