Agenda

Ordinary Meeting of Council

Tuesday, 10 December 2019
6:30pm
Ordinary Meeting of Council  
Tuesday, 10 December 2019 at 6:30pm  
to be held at the Moonee Valley Civic Centre

Members:  
Cr Samantha Byrne  Mayor  
Cr John Sipek  Deputy Mayor  
Cr Jim Cusack  
Cr Rebecca Gauci Maurici  
Cr Richard Lawrence  
Cr Nicole Marshall  
Cr Cam Nation  
Cr Narelle Sharpe

Officers:  
Bryan Lancaster  Chief Executive Officer  
Kendrea Pope  General Manager Operations  
Vincent Cammell  General Manager City Development  
Maria Weiss  Group Manager Community Services  
Kate McCaughey  Group Manager Leisure and Community Development  
Jessie Keating  Group Manager Planning  
Carey Patterson  Group Manager Regulatory and City Compliance  
Allison Watt  Executive Manager Corporate Governance  
Petrus Barry  Manager Statutory Planning
Business:

1. Opening

2. Reconciliation Statement

3. Apologies and Leave of Absence
   Cr Andrea Surace has sought leave of absence for this meeting.

4. Confirmation of Minutes
   Ordinary Meeting of Council held on Tuesday, 26 November 2019.

5. Declarations of Conflict of Interest

6. Presentations
   Nil.

7. Petitions and Joint Letters
   7.1 Removal of all parking restrictions on Albion Street Essendon between Tennyson and Lawsons Streets; review of pedestrian crossing location on Albion Street; and removal of bus stops 10741 and 10542.
   7.2 Speeding traffic along Phillip Road Keilor East

8. Public Question Time

9. Reports from Special Committees
   Nil.

10. Reports
   10.1 29 Woodland Street, Essendon (Lot 15 on Plan of Subdivision 008229) - Construction of a dwelling to the rear of an existing shop and associated reduction in car parking requirements
   10.2 24-42 Dunlop Avenue, Ascot Vale (Lot 1 on PS053601) - Construction of six multi storey apartment buildings and reduction in car parking in an Environmental Significance Overlay Schedule
   10.3 165-169 Keilor Road, Essendon (Lot 1 LP7912, Land in CP155101 and Lot 1 TP869564Q) - Construction of a six storey building in a Commercial 1 Zone and Design and Development Overlay (DDO7 and DDO9), use of the land for dwellings, a reduction in car parking requirements, alteration of access to a road in a Road Zone, Category 1, and a staged subdivision creating two lots
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12. Urgent Business

13. Confidential Reports

Nil.

14. Delegates Reports

15. Close of Meeting

BRYAN LANCASTER
Chief Executive Officer
Petitions and Joint Letters

7.1 Proposed parking restrictions on Albion Street Essendon

Author: Emily Chiles - Governance Officer
Business Unit: Corporate Governance
Summary
Council has received a petition with 154 signatures, requesting the removal of all parking restrictions on Albion Street, Essendon, between Tennyson and Lawson Streets; the replacement of the pedestrian crossing with traffic lights at the corner of Lawson and Albion Streets and the removal of bus stops 10741 and 10542 as there are existing bus stops located approximately 100m away (10740 & 10541).

Recommendation
That Council resolves to:
1. Receive and note the petition.
2. Refer this matter to the relevant officer for investigation and reporting back to Council.
3. Advise the petition organiser accordingly.

Attachments
Nil
7.2 Speeding traffic along Phillip Road Keilor East

Author: Emily Chiles - Governance Officer
Business Unit: Corporate Governance

Summary
Council has received a petition with 14 signatures requesting to address the speeding traffic along Phillip Road, Keilor East, between Roberts Street and Ellen Avenue, by consideration of either:
- A full across-road speed hump near the intersection;
- Construction of a roundabout; or
- A review of all speed hump placements along Phillip Road, with a further full hump to be placed at the Dinah Parade end and the first set of existing humps prior to Fawkner Crescent.

Recommendation
That Council resolves to:
1. Receive and note the petition.
2. Refer this matter to the relevant officer for investigation and reporting back to Council.
3. Advise the petition organiser accordingly.

Attachments
Nil
10.1 29 Woodland Street, Essendon (Lot 15 on Plan of Subdivision 008229) - Construction of a dwelling to the rear of an existing shop and associated reduction in car parking requirements

Author: Jennifer Kemp - Senior Statutory Planner
Business Unit: Planning

<table>
<thead>
<tr>
<th>Planning File No.</th>
<th>MV/242/2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposal</td>
<td>Construction of a double storey dwelling to the rear of an existing shop and; associated reduction in car parking associated with the dwelling.</td>
</tr>
<tr>
<td>Applicant</td>
<td>DD Planning</td>
</tr>
<tr>
<td>Owner</td>
<td>Margaret Mary Robins</td>
</tr>
<tr>
<td>Planning Scheme Controls</td>
<td>Commercial 1 Zone Adjoining a Category 1, Road Zone</td>
</tr>
<tr>
<td>Planning Permit Requirement</td>
<td>Clause 34.01-4 – construct or carry out works Clause 52.06 – reduction in car parking requirements</td>
</tr>
<tr>
<td>Car Parking Requirements (Clause 52.06)</td>
<td>Shop N/A Dwelling: Required: 2 spaces Proposed: 1 space</td>
</tr>
<tr>
<td>Bicycle Requirements</td>
<td>N/A</td>
</tr>
<tr>
<td>Restrictive Covenants</td>
<td>Yes – Covenant 1270442 Refer to Section 3.6</td>
</tr>
<tr>
<td>Easements</td>
<td>N/A</td>
</tr>
<tr>
<td>Site Area</td>
<td>244 square metres</td>
</tr>
<tr>
<td>Number of Objections</td>
<td>13 objections from 12 properties</td>
</tr>
<tr>
<td>Consultation Meeting</td>
<td>16 October 2019</td>
</tr>
</tbody>
</table>
Executive Summary

- The application seeks approval for the construction of a double storey, three bedroom dwelling to the rear of an existing shop and a reduction to the car parking requirements.

- The site is located on the southern side of Woodland Street with Right Of Way (ROW) access to the rear via Alfred Road and Amelia Avenue. The subject site has a total site area of 244 square metres.

- The existing conditions of the site comprise of a shop to the front (northern) portion of the site with direct presentation and access to Woodland Street. A single bedroom dwelling is located to the rear of the site with open space and car parking to the rear (southern) aspect. A gate is provided along the rear property boundary for vehicle access. Letter box and bin access are solely via the rear laneway associated with the existing dwelling. The existing dwelling is only accessed via the ROW and is attached to the existing shop by a common party wall.

- The application was advertised with 13 objections, from 12 properties were received. The concerns raised were primarily in relation to the wording of Covenant 1270442 to be upheld, overdevelopment, off-site amenity impacts, car parking, traffic congestion, potential future subdivision and proximity to residential land.

- A Consultation Meeting was held on 16 October 2019 which was attended by Councillor Gauci Maurici and Councillor Lawrence, objectors, the permit applicant and Council’s Planning Officer. There was no resolution achieved as a result of undertaking this process.

- The application was internally referred to Council’s Development Engineering (Drainage) Unit, Traffic and Transport Unit and Waste Officer. Conditional support to the application was provided.

- The proposal provides for a greater diversity of housing supply within a commercial zone with excellent access to public transport, open space, retail and community facilities. The design of the proposed development is consistent with the established and emerging character of the area.

- The proposal achieved an appropriate level of compliance with the Standards of Clause 54 of the Moonee Valley Planning Scheme for a property within a commercial zone. The areas of variation to standards relate to site coverage, site permeability, side and rear setbacks, walls on boundaries and solar access to open space. The non-compliances meet the Objectives of these Standards and can be supported.

- The subject land is subject to Covenant 1270442 on the Certificate of Title. The wording of the covenant states ‘...not at any time hereafter erect or allow to be erected on the land hereby transferred or any part thereof any building other than a shop or shops with or without dwelling houses attached...’. It is Council officers position that the development meets the requirements of the covenant, as the proposal provides for a shop and attached dwelling. Refer to Section 3.6 of this report for further discussion.
Overall, this assessment report finds the proposal demonstrates an acceptable level of compliance with the relevant policies and provisions of the Moonee Valley Planning Scheme. It is recommended a Notice of Decision to Grant a Permit be issued, subject to conditions.

Figure 1 – Aerial photo of the subject site and surrounds

Recommendation

That Council issue a Notice of Decision to Grant a Permit in relation to Planning Permit Application No. MV/242/2019 for the construction of a dwelling to the rear of an existing shop and associated reduction in car parking at 29 Woodland Street, Essendon (Lot 15 on Plan of Subdivision 008229), subject to the following conditions:

Endorsement Conditions

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended plans must be drawn to scale with dimensions and in electronic copy must be provided. The amended plans must be generally in accordance with the plans submitted and assessed with the application but modified to show:

   a) The internal layout of the existing shop shown on the Ground Floor Plan;
   b) The location of the bin enclosure associated with the existing shop with direct access to Woodland Street;
   c) Remove reference to a tandem car space associated with the dwelling;
   d) The provision of an alternative measure (such as a convex mirror) to assist with sight distance for exiting vehicles;
   e) The headroom clearance to the garage door in an open position to be a minimum 2.1 metres in height;
f) The provision of swept path diagrams prepared by an industry recognised software, using the Australian Standard B99 design vehicle unless otherwise agreed by the Responsible Authority, demonstrating safe and efficient access into the parking area on site;

g) Any design changes to ensure Condition 1f) can be achieved;

h) All stormwater treatment measures and associated annotation in accordance with the successful WSUD report and Condition 3; and

i) All WSUD detail in accordance with Condition 4;

When approved, these plans will be endorsed and will form part of this permit.

2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

3. Stormwater from the development must be treated to meet the water quality performance objectives set out in the *Urban Stormwater Best Practice Environmental Management Guidelines, Victoria Stormwater Committee 1999 (Guidelines)*, as amended. The performance objectives of the Guidelines must be met entirely on site as demonstrated by a Water Sensitive Urban Design (WSUD) assessment report(s) submitted to and approved by the Responsible Authority; except that with the written consent of the Responsible Authority, up to 20% of treatment may be delivered offsite as demonstrated by a Water Sensitive Urban Design (WSUD) assessment report(s) submitted to and approved by the Responsible Authority.

4. A minimum 30 days prior to any building or works commencing, all WSUD details (relating to the WSUD treatment measures nominated in the approved and complying WSUD report), such as cross sections and/or specifications, to assess the technical effectiveness of the proposed stormwater treatment measures (with the exception of rainwater tanks), must be submitted for approval by the Responsible Authority.

5. A minimum 30 days prior to any building or works commencing, a Construction and Site Management Plan (CSMP) must be submitted to and approved by the Responsible Authority detailing the construction activity proposed and the site and environmental management methods to be used.

The CSMP must be in accordance with Moonee Valley City Council’s CSMP’s guideline and templates.

When approved, the CSMP will be endorsed and will form part of this permit. The development must be carried out in accordance with the endorsed CSMP and the provisions, requirements and recommendations of the endorsed CSMP must be implemented and complied with to the satisfaction of the Responsible Authority.

A maximum 30 days following completion of the development, a WSUD Maintenance Program must be submitted to and approved by the Responsible Authority which sets out future operational and maintenance
arrangements for all WSUD measures. The program must include, but is not limited to:

a) Inspection frequency;
b) Cleanout procedures;
c) As installed design details/diagrams including a sketch of how the system operates; and
d) A report confirming completion and commissioning of all WSUD Response treatment measures written by the author of the WSUD Response and STORM or MUSIC model approved pursuant to this permit, or licensed installing/commissioning plumber, or similarly qualified person or company. This report must be to the satisfaction of the Responsible Authority and must confirm that all WSUD treatment measures specified in the WSUD Response and STORM or MUSIC model have been completed and implemented in accordance with the approved report.

The WSUD Maintenance Program may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Builder’s Guide or a Building Maintenance Guide.

End Endorsement Conditions

Development Conditions

6. The water sensitive urban design treatments as specified within the Water Sensitive Urban Design (WSUD) assessment report(s) submitted to and approved by the Responsible Authority must be implemented on site prior to the occupation of the development unless an alternative agreement is reached with the Responsible Authority.

7. Provision must be made for the drainage of the land including landscaped and pavement areas. The discharge of water from the land must be controlled around its limits to prevent any discharge onto any adjoining or adjacent property or streets other than by means of an underground pipe drain which is discharged to an approved legal point of discharge to the satisfaction of the Responsible Authority.

8. Before the buildings approved by this permit are occupied, the areas set aside for the parking of vehicles, together with the associated driveways and access lanes as shown on the endorsed plans must be:

a) Constructed;
b) Available for use in accordance with the endorsed plans;
c) Properly formed to such levels and drained so that they can be used in accordance with the endorsed plans; and
d) Finished with a permanent trafficable surface (such as concrete, asphalt or paving),
in accordance with the endorsed plans to the satisfaction of the Responsible Authority.
The area set aside for the parking of vehicles, together with the associated driveways and access lanes as shown on the endorsed plans must:

a) Be maintained and made available for such use; and

b) Not be used for any other purpose,
to the satisfaction of the Responsible Authority.

9. Before the buildings approved by this permit are occupied, all boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority if the owner of the adjoining land allows access for the purpose.

10. Floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.

11. All pipes, fixtures, fittings, ducts and vents servicing any building on the land, other than storm water down pipes and gutters above the ground floor storey of the building, must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

End Development Conditions

12. This permit will expire if:

a) The development does not start within two (2) years of the date of issue of this permit, or

b) The development is not completed within four (4) years of the date of issue of this permit.

Before the permit expires, or within six (6) months afterwards, the owner or occupier of the land may make a written request to the responsible authority to extend the expiry date.

If the development commences before the permit expires, within twelve (12) months after the permit expires, the owner or occupier of the land may make a written request to the Responsible Authority to extend the expiry date.

Permit Notes

- This is not a building permit under the Building Act 1993. A separate building permit is required to be obtained for any demolition or building works.

- Before the development starts, the permit holder must contact Moonee Valley City Council on 9243 8888 regarding legal point of discharge, vehicular crossings, building over easements, asset protection, road consent/occupancy etc.

- No on street parking permits will be provided to the occupiers of the dwelling.

- All works undertaken within any existing road reserves must accord with the requirements of the Moonee Valley City Council’s Technical Services Department and be to the satisfaction of the Responsible Authority.
• Existing levels along the property line and easements must be maintained. All proposed levels must match to existing surface levels along the property boundary and or easement. Council will not accept any modifications to existing levels within any road reserve or easement.

• The development authorised by this permit will require the submission of a Construction and Site Management Plan (CSMP) prior to the commencement of any works. All CSMP’s are required to be made via Council’s online system at [http://www.mvcc.vic.gov.au/planning-and-building/planning/construction-site-management-plans.aspx](http://www.mvcc.vic.gov.au/planning-and-building/planning/construction-site-management-plans.aspx) or in person at 9 Kellaway Avenue, Moonee Ponds.

1. Introduction

1.1 Subject Site and Surrounds

The subject site is located on the southern side of Woodland Street, Essendon, approximately 35 metres east of Alfred Road.

The site is rectangular in shape with a frontage of 6.09 metres and depth of 40.03 metres. The site has a total site area of 244 square metres.

There are no easements identified on the subject land.

The site has a fall of 3 metres from north to south.

The subject site is currently occupied by a shop to the front (northern) portion of the site with direct presentation and vehicle access to Woodland Street. A single bedroom dwelling is located to the rear of the shop with open space and car parking afforded to the rear (southern) aspect. A gate is provided at the rear property boundary for vehicle access. Letter box and bin access associated with the existing dwelling are solely accessible from the rear laneway.

Properties along the southern side of Woodland Street between 1 and 33 Woodland Street are commercially zoned and used and developed for a range of commercial and residential purposes. Further to the west, south and north is land zoned residential, used and developed for residential purposes. Finally, properties to the north at the North Avenue intersection are within a mixed use zone and provide for a range of uses and development.

The built form within the vicinity is predominantly single and double storey with numerous examples of a mixture of uses for commercial purposes. The properties from 1 to 33 Woodland Street are comprised of commercials building fronting Woodland Street with or without a dwelling/s attached at the rear. Of note, 13, 15, 17, 19, 23, 29 and 33 Woodland Street contain a shop fronting Woodland Street with a dwelling to the rear and no internal connections. Each of these properties are restricted by a covenant for a “shop or shops with or without dwellings attached”.

Strathmore Railway Station is located 100 metres east of the subject site providing a rail link along the Craigieburn Line connecting Essendon to Melbourne CBD and other locations north and south.

The site is well connected to other public transport modes including the 512 Bus connecting Strathmore to East Coburg (east and west).

The site has good access to local parkland including Napier Park (600 metres west), Cross Keys Reserve (500 metres east), Woodland Park (1.2 kilometres west) and Moonee Ponds Creek Linear Reserve (500 metres north-east).

The site also has good access to local amenities such as shops, entertainment and education facilities within 800 meters of the site.

Figure 2 – Subject Site (29 Woodland Street, Essendon) view from Woodland Street frontage
1.2 Proposal

It is proposed to construct a double storey, three bedroom dwelling to the rear of an existing shop. A summary of the proposal is outlined in Table 1.
Table 1

<table>
<thead>
<tr>
<th>Works</th>
<th>Double storey, three bedroom dwelling to the rear of an existing single storey shop</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of car spaces</td>
<td>0 car spaces associated with existing shop</td>
</tr>
<tr>
<td></td>
<td>1 standard car space associated with the proposed dwelling</td>
</tr>
<tr>
<td></td>
<td>1 non-standard car space associated with the proposed dwelling</td>
</tr>
<tr>
<td>Max Building Height</td>
<td>7.6 metres above Natural Ground Level</td>
</tr>
<tr>
<td>Site Coverage</td>
<td>83%</td>
</tr>
<tr>
<td>Permeability</td>
<td>4.5%</td>
</tr>
</tbody>
</table>

Refer Attachment A Advertised Plans (separately circulated). Furthermore, refer to Attachment B (separately circulated) to review the without prejudice discussion plans demonstrating the existing conditions of the subject site.

2. Background

2.1 Relevant Planning History

Subject site history

The relevant planning history for 29 Woodland Street is summarised as follows:

Table 2

<table>
<thead>
<tr>
<th>Application</th>
<th>Proposal</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>MV/6860/1993</td>
<td>Naturopathic Centre</td>
<td>Current</td>
</tr>
<tr>
<td>MV/46/1969</td>
<td>Laundrette</td>
<td>Complete</td>
</tr>
<tr>
<td>MV/2529/1978</td>
<td>Take away food</td>
<td>Complete</td>
</tr>
</tbody>
</table>

Woodland Street history

The relevant use and development history of commercial properties between 1 and 33 Woodland Street are summarised as follows:

Table 3

<table>
<thead>
<tr>
<th>Address / Application</th>
<th>Proposal</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 Woodland Street MV/3638/1983</td>
<td>Dog Clipping</td>
<td>Approved</td>
</tr>
<tr>
<td>7 Woodland Street MV/9953/1998</td>
<td>Development of a bakery operating from 3am to 6pm Monday to Friday &amp; 3am to 1pm Saturday and Sunday</td>
<td>Approved</td>
</tr>
</tbody>
</table>
Further to the development history of the locality, for the 15 commercial properties on the southern side of Woodland Street, the following is observed:

- All properties are restricted by a covenant that limits the use of the land to a shop, with or without dwelling or dwelling houses attached
- 1, 3, 5, 7, 9 and 11 Woodland Street only consist of a shop with no dwelling
- 13, 15, 17, 19, 23, 29 and 33 Woodland Street contain a shop fronting to Woodland Street with a dwelling with separate access to the rear laneway
- 27 Woodland Street contains a shop and three dwellings with centralised access
- The relevant properties are applied with commercial and residential rates for their use of the land.
2.2 Planning Policies and Decision Guidelines

Planning Policy Framework

Clause 11 Settlement
Clause 13 Environmental Risks and Amenity
Clause 14 Natural Resource Management
Clause 15 Built Environment and Heritage
Clause 16 Housing
Clause 17 Economic Development
Clause 18 Transport
Clause 19 Infrastructure

Local Planning Policy Framework

Clause 21.01 Municipal Framework
Clause 21.02 Key Issues and Influences
Clause 21.03 Vision
Clause 21.04 Sustainable Environment
Clause 21.05 Housing
Clause 21.06 Built Environment
Clause 21.07 Activity Centres
Clause 22.03 Stormwater Management (Water Sensitive Urban Design)

Zoning

Clause 34.01 Commercial 1 Zone

Overlays

N/A

Particular and General Provisions

Clause 52.06 Car Parking
Clause 53.18 Stormwater Management in Urban Development
Clause 54 One dwelling on a lot
Clause 65 Decision Guidelines
Clause 71.02-3 Integrated Decision Making

2.3 Referrals

There are no relevant notifications under Section 52 or referrals under Section 55 under the Planning and Environment Act 1987. Table 4 summarises all internal referrals sort by this application:
Table 4

<table>
<thead>
<tr>
<th>Department</th>
<th>Comments/Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic and Transport Unit</td>
<td>No objection, subject to standard and non-standard conditions. Refer to Section 3.4 of this report</td>
</tr>
<tr>
<td>Development Engineering (Drainage) Unit</td>
<td>No objection, subject to standard conditions</td>
</tr>
<tr>
<td>Waste Officer</td>
<td>No objection to Council kerbside collection. The existing shop to continue collection to Woodland Street and the proposed dwelling to collect from Alfred Street</td>
</tr>
</tbody>
</table>

2.4 Public Notification of the Application

It was determined the proposal may result in material detriment and consequently notice of the application was given by mail to owners and occupiers of surrounding properties and two signs displayed on site for 14 days, in accordance with Section 52 of the Planning and Environment Act 1987.

As a result, thirteen (13) submissions have been received from twelve (12) properties as outlined within Attachment C (separately circulated) of this report.

A response to the objections is provided at Section 3.7 of this report.

2.5 Consultation Meeting

A Consultation Meeting was held on 16 October 2019 which was attended by Councillor Gauci Maurici and Councillor Lawrence, objectors, the permit applicant and Council's Planning Officer. There was no resolution achieved as a result of undertaking this process.

3. Discussion

3.1 Does the proposal address the relevant Planning Policy and Local Planning Policy Framework?

The site is a suitable candidate for redevelopment considering its size and location in a commercial area and within the Principal Public Transport Network area. Council officers consider the proposal represents an appropriate degree of housing intensification and contributes to the present and emerging development form of the commercial properties on the southern side of Woodland Street.

The proposal generally complies with the requirements of Clause 21.10-2 (Integrated Water Management in Urban Development) through the use of ecological sustainable design principles. The STORM report is compliant, subject to standard conditions imposed on any issued planning permit. This demonstrates a commitment to design measures which will reduce the environmental impact of the development.
Council officers must consider the appropriateness of waste collection on site in accordance with Clause 21.04-7 (Waste) of the Moonee Valley Planning Scheme. It is noted there is no change to the existing conditions of the subject site when considering waste collection. The existing conditions of the site include a shop with two bins accessible through to Woodland Street and a dwelling with two bins with access via the laneway to kerbside collected on Alfred Street. Whilst the built form is proposed to intensify somewhat on the subject site, the waste demand and collection for the site remains unchanged as a result of the proposed development. The singular shop and singular dwelling will create the same waste generation and remain with the same waste collections as per the existing use of the land. The storage of waste bins on site has been adequately provided for both the shop and dwelling to Council’s satisfaction. However, the plans must be updated as a condition on any issued planning permit to demonstrate these arrangements. Council officers are satisfied kerbside Council bin collections can service the subject site. These conclusions are supported by Council’s Waste Officer as outlined within Section 2.3 of this report. The proposal accords with Clause 21.04-7 (Waste) and can be adequately catered for by Council’s waste collection service.

The proposal is considered to comply with the Local Planning Policy Framework of the Moonee Valley Planning Scheme. The subject site is located in an established commercial area and will continue to provide a commercial presence on Woodland Street. The site will continue to allow for employment opportunities that can strengthen and enhance the economic viability of this area in accordance with Clause 21.08 (Economic Development). The proposal does not seek any change to the existing commercial component of the subject site.

The proposal contributes to the objectives of Clause 21.05 (Housing) as it relates to providing a variety of housing choices in appropriate locations to meet the needs of an increasingly diverse range of households. This proposal allows for a compact dwelling within a commercial area which is not dissimilar to development within the commercial zone of Woodland Street. This housing type is diverse to that of typical residential properties and development within the surrounding context, supporting the diversity of housing stock provided in Essendon and Strathmore.

The proposal is considered to comply with the provisions of Clause 71.02-3 (Integrated Decision Making). As discussed throughout this report, the proposal incorporates aspects of economic, environmental and social well-being by balancing conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.
3.2 Does the proposal address the purpose and requirements of the Commercial 1 Zone?

The subject site is located within a Commercial 1 Zone with a purpose of the zone to create vibrant mixed uses of commercial and residential purposes that complement the role and scale of the commercial centre. As such, the development is considered to adequately address the zone and its decision guidelines at Clause 34.01-8 of the Moonee Valley Planning Scheme. Of note:

- The movements of pedestrians, vehicles, waste removal and emergency services have been considered in the assessment of this proposed development as discussed throughout this report. It is considered the design is a reasonably low scale development that does not further impact the external elements of the site such as waste collection and site access from the existing conditions operation in association with the site use.

- Car parking is assessed in Section 3.4 of this report. Council officers considers the car parking provisions and arrangements are adequate, subject to conditions recommended on any issued planning permit.

- There is no change to the existing streetscape appearance and conditions of the site as the existing shop is not proposed to be altered by this planning permit application.

- The storage of rubbish associated with the existing shop and proposed dwelling are adequately located for access to kerbside collection as discussed within Section 3.1 of this report.

- The limited landscaping provided across the site is not considered to warrant the requirement of a landscape plan to be submitted for endorsement in association with any issued planning permit, given the commercial nature of the locality.

- The development has been assessed against potentially relevant amenity impacts associated with the built form as outlined within Section 3.5 of this report. The overall scale and design of the development is not considered to unreasonably impact on adjoining residential properties.

- The design and layout of the building is considered to afford the dwelling and its inhabitants’ adequate solar access as outlined within Section 3.5 of this report. Most importantly, the amenity of the adjoining habitable windows is not adversely compromised.

- The application is considered to adequately meet the standards and objectives of Clause 54 of the Moonee Valley Planning Scheme as outlined within Section 3.5 of this report. Overall the height, scale, setbacks and appearance of the proposed built form is considered to be highly respectful of the site constraints with limited impact on adjoining sensitive spaces. The overall built form scheme is representative of the built form scale within...
the Woodland Street commercial precinct and Council officers consider it should be supported.

Overall, the design of the proposed dwelling and its interaction with the existing shop is considered to adequately align with the Clause 34.01 requirements and therefore Council officers consider it should be supported.

3.3 Does the proposal address the purpose and requirements of stormwater management?

The proposal is considered to generally comply with the provisions of Clause 21.10-2 (Integrated Water Management) and Clause 22.03 of the Moonee Valley Planning Scheme, subject to the following condition:

Table 5

| STORM Report | Yes |
| STORM measures / annotations | Complies, subject to condition | A general condition should be imposed on any issued planning permit for all annotations to be provided in accordance with an amended STORM report |

3.4 Does the proposal address the relevant car parking provisions?

The proposal is deemed to generally comply with the provisions of Clause 52.06 (Car Parking) of the Moonee Valley Planning Scheme. The car parking rates required for the site are summarised in Table 6 below:

Table 6

<table>
<thead>
<tr>
<th>Rates</th>
<th>Provides</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Existing Conditions:</strong></td>
<td></td>
</tr>
<tr>
<td>Shop</td>
<td>90 square metre Net Floor Area</td>
</tr>
<tr>
<td>Dwelling</td>
<td>1 bedroom</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Proposal:</strong></td>
<td></td>
</tr>
<tr>
<td>Shop (Existing)</td>
<td>0 car spaces</td>
</tr>
<tr>
<td>90 square metre NFA</td>
<td></td>
</tr>
<tr>
<td>Dwelling (3 bedroom)</td>
<td>2 car spaces</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Shortfall</strong></td>
<td></td>
</tr>
</tbody>
</table>
As described in Table 6, the existing conditions of the subject site provides two car spaces for a single bedroom dwelling. The existing shop on the subject site is not afforded any on-site car parking. Pursuant to Clause 52.06-1 of the Moonee Valley Planning Scheme, the scope only applies to an increase in an existing use of a site. As such, given the shop is unchanged by the development, there is no car parking assessment required in association with the existing shop. However, as the proposed dwelling increases to three bedrooms from the existing one-bedroom dwelling, there is an assessment of car parking required in association with the dwelling proposed on the subject land.

Whilst the advertised plans identify two car spaces on site in association with the dwelling, the tandem car space is not designed in accordance with the Australian Standards therefore is not counted when Council considers the provision of car parking associated with the dwelling on the site. As such, the application seeks a reduction of one car space associated with the development.

When considering a reduction of car parking provisions, Council considers the site a good candidate for green travel due to its location in an Activity Centre, proximity to Strathmore Railway Station and other accessible public transport options. Council’s Traffic and Transport Unit have reviewed the proposal and does not object to the reduction of one car space on the subject site in association with the proposed dwelling.

It is noted the residents of the proposed dwelling are not eligible for residential parking permits under Council’s Parking Permit Policy. As the surrounding road network presents a variety of car parking restrictions, the users of the site will be encouraged to be green travellers. Furthermore, Council’s overarching strategy, MV2040, promotes reducing reliance on private vehicle travel and the provision of appropriate land uses at locations with no on site car parking. The proposed development is considered to align with these overarching strategies and should be supported.

Council’s Traffic and Transport Unit have reviewed the proposed car parking layout against Clause 52.06-9 of the Moonee Valley Planning Scheme. The following relevant comments are made:

- The provision of a minimum 2.1 metre head height clearance achieved at the garage roller door in an open position is required. This will be required as a condition on any issued planning permit.
- The design does not meet the minimum sight distance requirements required by the Scheme. As such, it is considered appropriate to include on any issued planning permit a condition for an alternative measure (such as a convex mirror) to assist with sight distance for exiting vehicles.
• The tandem car space demonstrated on the advertised plans is shown to be 4.9 metres long. The required minimum length of a tandem car space is 5.4 metres which has not been achieved by the development. As such, Council officers consider this to be a substandard car space that cannot be included on the plans. As such, a condition should be imposed on any issued planning permit to remove reference to the tandem car space.

• The tandem parking area does not demonstrate acceptable grades and grade changes and as such the space should be removed from the plans. This will be required as a condition on any issued planning permit as discussed above.

• The development must ensure access from the Right of Way (ROW) to the site car parking area to be achieved for an Australian Standard B99 vehicle. As such, a condition should be imposed on any issued planning permit to this effect. There may be changes to the built form setbacks required as a result, which will also be imposed as a condition on any issued planning permit.

Sole pedestrian and vehicle access to the proposed residential dwelling is via the existing ROW. There is no change to the existing site conditions. There is a concern raised in relation to the safety of pedestrians accessing the ROW. It is however, noted that the laneway and design of rear boundary fences allows for refuge for pedestrians in the event that negotiation with a vehicle is required within the laneway.

3.5 Clause 54 (ResCode Assessment)

Table 7

<table>
<thead>
<tr>
<th>Clause 54</th>
<th>Response</th>
</tr>
</thead>
</table>
| Clause 54.03-3 (Standard A5 – Site Coverage) | The subject site is located within a Commercial 1 Zone which does not typically require site coverage prescriptive to a residential zone. The proposed development presents an existing shop and proposed dwelling with a total site coverage of 83% of the total site area. The proposed encroachment is considered reasonable for the following reasons:

  ▪ The commercial zone lends itself to intensification of built form
  ▪ The existing conditions of the site present a high level of site coverage and 100% hard surfaces
  ▪ The existing and emerging character of commercial properties on the southern side of Woodland Street demonstrate high |
<table>
<thead>
<tr>
<th>Clause 54</th>
<th>Response</th>
</tr>
</thead>
</table>
|           | site coverage to cater for a shop and dwelling as per the covenant applied to these commercial properties  
|           | ▪ The site restraints allow for a higher site coverage to allow built form to create usable spaces on a narrow allotment. |

| Clause 54.03-4 (Standard A6 – Permeability) | The subject site is located within a Commercial 1 Zone which does not typically require site permeability prescriptive to a residential zone.  
|                                           | The proposed development presents an existing shop and proposed dwelling with a total site permeability of 4.5%.  
|                                           | The proposed encroachment is considered reasonable for the following reasons:  
|                                           | ▪ The commercial zone lends itself to intensification of built form  
|                                           | ▪ The existing conditions of the site presents 100% hard surfaces  
|                                           | ▪ The development provides an improvement from the existing conditions on site by achieving water sensitive urban design. The development will ensure rainfall is caught and treated and reused on site through the use of a rainwater tank  
|                                           | ▪ The development is considered to meet the decision guidelines of this clause by ensuring adequate stormwater and treatment measures are applied to the site. |

<p>| Clause 54.04-1 (Standard A10 – Side and Rear Setbacks) | The proposal presents the eastern study wall associated with the corridor and stair landing with a maximum height of 6.7 metres. This wall height required a 1.93 metre setback from the eastern property boundary. The proposal seeks a setback of 1.9 metres, therefore seeking a variation of 0.3 metres. The minor encroachment is considered negligible in this instance as the built form presents to a solid wall with no windows or sensitive areas associated with 27 Woodland Street. As such, Council officers have determined there is no adverse amenity impact present as a result of the built form encroachment. Furthermore, it is considered the character of commercial properties and built forms from 1-33 Woodland... |</p>
<table>
<thead>
<tr>
<th>Clause 54</th>
<th>Response</th>
</tr>
</thead>
</table>
| Clause 54.04-2 (Standard A11 – Walls on Boundaries) | The application seeks eastern and western boundary walls in excess of the standard of this clause. The variation sought is 19.7 metres and 21 metres respectfully. Council must still consider the proposed boundary walls against the objective of this clause. The standard of this clause seeks a maximum wall height of 3.6 metres. The proposal presents a maximum eastern boundary wall height of 7.6 metres and western boundary wall height of 7.05 metres. Therefore, the application seeks a variation to the standard of this clause. Council must still consider appropriateness of the proposal against the objective of this clause. The objective of this clause seeks to ensure the location, length and height of a boundary wall respects the existing or preferred character of the area and limits the amenity impacts on adjoining properties. The proposal is considered by Council officers to meet the objective of this clause for the following reasons:  
  ▪ The existing conditions of the subject site present a length of 15.6 metres on the eastern boundary and 26.9 metres on the western boundary. Therefore, it is identified that the existing conditions of the subject site already exceed the standard requirements of this clause  
  ▪ The subject site is located within a commercial zone whereby boundary walls are an inherent character of built form, particularly on narrow allotments  
  ▪ The proposed boundary walls abut existing boundary walls associated with 27 and 33 Woodland Street which therefore, are an acceptable design response.  
  ▪ There are no identified amenity impacts identified as a result of the location of new |
<table>
<thead>
<tr>
<th>Clause 54</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>boundary walls. The walls are appropriately located and do not inhibit habitable room windows or balcony spaces of adjoining properties.</td>
<td></td>
</tr>
</tbody>
</table>

Clause 54.05.2 (Standard A18 – Solar Access to Open Space)

The proposal seeks a south facing balcony associated with the proposed dwelling. The balcony presents a solid roof form with skylight incorporated. The private open space area does not meet the standard requirements of solar access and therefore, must be considered against the objective of this clause.

The objective seeks to ensure that solar access to secluded private open space is afforded to new dwellings. Council considers the development an appropriate design response for the following reasons:

- The subject site is located within a commercial zone whereby lenience to standard requirements is largely considered appropriate
- The balcony is of a reasonable size and functionality. The balcony has good outlook to Melbourne CBD to the south, therefore makes use of views and vistas to the south
- The dwelling design has been carefully considered to incorporate a highlight window within the skillion roof form at the northern edge of the lounge room. The location of this window and sunlight access afforded to the lounge room in turn provides borrowed northern light to the balcony space. The design is well resolved to adequately address the needs for solar access to open space.

### 3.6 Is the application in breach of Covenant 1270422?

The subject land is identified as Lot 15 on Plan of Subdivision 008229. This title is bound by Covenant 1270442 dated 14/06/1926 (Attachment D – separately circulated) which states:

‘… shall not at any time hereafter erect or allow to be erected on the land hereby transferred or any part thereof any building other than a shop or shops with or without dwelling houses attached…’

Council must ensure the interpretation of the covenant is not breached by the proposed development.
In considering the elements of the covenant, it is identified the proposal contains one existing shop and one dwelling attached with a common wall. As such, the elements of ‘shop or shops with or without dwelling houses’ is comfortably satisfied. The question therefore arises as to whether the shop and dwelling are ‘attached’.

In considering the meaning of the word ‘attached’ Council officers note there is no definition within the Planning and Environment Act 1987 or Moonee Valley Planning Scheme for guidance on this matter. As such, the ordinary and everyday meaning of the word must be applied.

Further to the definition of the word, the meaning of words within a covenant must be contextual, not be a technical engineering, building or surveying term and must always be construed in their context, on reading of the whole instrument, having regard to the purpose or object of the restriction.

Given the above, based on the plain reading of Covenant 1270442, Council officers consider the ordinary and everyday meaning of the wording to allow for the shop and dwelling to be attached with a party wall to satisfy the covenant restriction. If the expression ‘attached’ required an ‘operation’ or ‘functional’ link between the shop and dwelling, this would place limitations on the owner of the land to find suitable occupiers that would require the use of the shop and the dwelling in unison.

The intent of the covenant is for a shop or shops on the land. If the land owner constructed only a shop then the covenant is not in breach. Then in time sought to take up the option of constructing a dwelling, the latter wouldn’t allow for a physical link. In the assessment of the subject site, it is identified that this arrangement is sought. The shop is an existing condition of the site. The shop is not being modified or constructed. As such, the intent of the condition to construct a shop and dwelling is not considered to be breached either.

In the present circumstances, Council officers consider the proposed development satisfies the above intention of the covenant as the proposal will share a common party wall between the existing shop and proposed new dwelling. Council officers therefore conclude the proposed development is not in breach of Covenant 1270442.

There is no requirement for the proposed development to seek the removal or alteration of Covenant 1270442 for Council to consider the application as advertised with plans prepared by Callen Bray Building Design and Drafting Revision 3 dated 10 June 2019.

### 3.7 Objections

The following table provides a discussion of the concerns raised by the objections to this application.
### Table 8

<table>
<thead>
<tr>
<th>Issue</th>
<th>Officer Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Breach of Covenant</td>
<td>Council officers have considered the wording of the covenant imposed on the Certificate of Title of the land and do not consider the proposed development to be in breach of the restriction. Refer to Section 3.6 of this report</td>
</tr>
<tr>
<td>Excessive site coverage</td>
<td>Refer to Section 3.5 of this report</td>
</tr>
<tr>
<td>Excessive site permeability</td>
<td>Refer to Section 3.5 of this report</td>
</tr>
<tr>
<td>Limited landscaping</td>
<td>Concern is raised with the site coverage, lack of landscaping and excessive hard surfacing across the site as a result of the proposed development. In relation to site landscaping, it is noted the permeability and landscaping provided on the site as a result of the proposal is an improvement from the existing site conditions. Whilst landscaping areas are minimal, this is considered an acceptable response within a commercial zone</td>
</tr>
<tr>
<td>Excessive side and rear setbacks</td>
<td>Refer to Section 3.5 of this report</td>
</tr>
<tr>
<td>Overlooking</td>
<td>The proposed development does not create any overlooking concerns as a result of the proposed design layout, location of habitable room windows and balcony. It is noted the northern, eastern and western boundary aspects are completely isolated from any adjoining sensitive spaces. Furthermore, the south facing kitchen window and balcony are greater than 9 metres from any sensitive spaces of adjoining properties. As such, the development fully complies with Standard A15 of Clause 54.04-6 (Overlooking) of the Moonee Valley Planning Scheme. No screening measures are required as conditions on any issued planning permit</td>
</tr>
<tr>
<td>Visual bulk impacts</td>
<td>The subject site is located within a commercial zone on a narrow allotment. The proposed built form is a modest response for the site by employing a double storey form which is appropriately sited and responsive to the surrounding context, particularly commercial properties. Furthermore, the built form is considered to be adequately designed to present sheer walls on the eastern and western</td>
</tr>
<tr>
<td>Issue</td>
<td>Officer Response</td>
</tr>
<tr>
<td>-------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>boundaries to allow for equitable development of adjoining properties. The overall design therefore, is not considered intrusive or excessive in size and Council officers consider it should be supported</td>
</tr>
<tr>
<td>Excessive boundary wall heights</td>
<td>Refer to Section 3.5 of this report</td>
</tr>
<tr>
<td>Obstruction of views and vistas</td>
<td>It is acknowledged properties along the southern side of Woodland Street sit high on the land and are afforded filtered views of Melbourne CBD to the south. However, there is no restriction within the Moonee Valley Planning Scheme (such as an Overlay which protects views) to limit views of Woodland Street properties from their views of the city centre. As such, Council cannot reject the planning permit application in this basis</td>
</tr>
<tr>
<td>Light spill</td>
<td>An objection is raised in relation to the light spill created by the use of the residential property including the use of electricity and appliances. The subject site is located within a commercial zone which seeks to be developed for commercial and residential purposes. The proposed singular dwelling on the rear of the property is not considered to create excessive light spill as a result. It should be furthermore noted the design layout and use of boundary walls does not allow for excessive use of windows where facing sensitive spaces of adjoining properties, therefore the light spill is considered negligible</td>
</tr>
<tr>
<td>Reduction in car parking requirements</td>
<td>Council officers consider the subject site an appropriate location to reduce the required car parking rates for a three bedroom dwelling. As discussed within Section 3.4 of this report, there is minimal change from the existing to proposed conditions in terms of the operation and use of the site for car parking and vehicle access. Furthermore, it is noted the new dwelling will not be eligible for any on-street car parking permit. As such, the proposed development is not considered to create any additional car parking demands within the surrounding road network</td>
</tr>
<tr>
<td>Potential subdivision of the shop and dwelling</td>
<td>This is not a consideration for the proposed development. The application does not seek</td>
</tr>
<tr>
<td>Issue</td>
<td>Officer Response</td>
</tr>
<tr>
<td>-------</td>
<td>------------------</td>
</tr>
<tr>
<td>subdivision at this time. There is no limitation for the subject land to be subdivided in the future</td>
<td></td>
</tr>
<tr>
<td>Proximity to General Residential Zone</td>
<td>It is acknowledged the subject land is within a Commercial 1 Zone and is proximate to properties within a General Residential Zone. The proposed development has been assessed against the relevant considerations of the Moonee Valley Planning Scheme throughout this report and is deemed an appropriate use and development of the land. There is not considered to be any identified detriment to adjoining properties from the proposed development</td>
</tr>
</tbody>
</table>

4. **Council Plan/Policy**

On 26 June 2018, Council adopted the MV2040 Strategy as its long-term plan for the city. It is considered the proposal is consistent with the relevant strategic directions set out in the MV2040 Strategy, including:

- Strategic Direction 3: A city where people are healthy and safe
- Strategic Direction 5: A city with housing for all
- Strategic Direction 11: A city with streets and spaces for people
- Strategic Direction 14: A city that is green and water-sensitive
- Strategic Direction 16: A city that is cool and climate-adapted
- Strategic Direction 17: A city that fosters local identity
- Strategic Direction 18: A city of high-quality design.

5. **Human Rights**

The application process and decision making is in line with the *Victorian Charter of Human Rights and Responsibilities 2006* (Section 18 – Taking part in public life).

6. **Conclusion**

This application has been assessed against the relevant provisions of the Planning Policy Framework, Local Planning Policy Framework, zoning controls and the relevant provisions demonstrates compliance with the requirements of these provisions and policies.

Consideration has also been given to the requirements of Section 60(B) of the *Planning and Environment Act 1987* with respect to the number of objections received. It is determined the proposal would not have a significant social effect.

Officers therefore recommend Council issue a Notice of Decision to Grant a Planning Permit in accordance with the recommendation section above.
Attachments

A: Advertised Plans (separately circulated)
B: Without Prejudice Discussion Plans (separately circulated)
C: Objectors List (separately circulated)
D: Title (separately circulated)
10.2 24-42 Dunlop Avenue, Ascot Vale (Lot 1 on PS053601) - Construction of six multi storey apartment buildings and reduction in car parking in an Environmental Significance Overlay Schedule 2

Author: Grant Michell - Principal Statutory Planner  
Business Unit: Planning

<table>
<thead>
<tr>
<th>Planning File No.</th>
<th>MV/352/2019</th>
</tr>
</thead>
</table>
| Proposal         | • Demolition of ten existing residential buildings  
|                  | • Construction of six triple-storey apartment buildings containing 200 apartments (88 public housing and 112 private dwellings)  
|                  | • Three separate basement levels  
|                  | • Reduction of 59 car spaces  
|                  | • Provision of 150 bicycle spaces  
|                  | • Removal of vegetation |

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Department of Health and Human Services C/O- David Lock Associates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner</td>
<td>Director of Housing</td>
</tr>
</tbody>
</table>
| Planning Scheme Controls | General Residential Zone  
|                   | Environmental Significance Overlay Schedule 2 |
| Planning Permit Requirement | Clause 32.08-6 – Construction of a residential building.  
|                           | Clause 42.01-2 – construct a building or construct or carry out works |

| Car Parking Requirements | Required: 218  
| (Clause 52.06)            | Provided: 159 |

| Bicycle Requirements    | Required: 60  
|                         | Provided: 150 |

| Restrictive Covenants   | None |
| Easements               | None |
| Site Area               | 14,347m² |
| Number of Objections    | 10 |
| Consultation Meeting    | 11 November 2019 |
Executive Summary

- The application seeks approval for the construction of six triple-storey apartment buildings. Three of the buildings (Buildings A, C and E) contain 88 public housing dwellings, while the remaining three buildings (Buildings B, D and F) contain 112 private dwellings.

- The site area is approximately 14,347m² and contains 11 residential buildings ranging between 2-3 storeys. Ten of the existing buildings are proposed to be demolished, which contain 80 public housing dwellings. The existing building fronting Union Road is to be retained under this application.

- The application was advertised and 10 objections were received. Concerns were raised in relation to over-development, loss of public housing, scale, loss of vegetation, landscaping, impacts on traffic and parking, along with amenity impacts.

- A Consultation Meeting was held on 11 November 2019 and attended by Councillor Cusack, objectors, the permit applicant and Council’s Planning Officer. No resolution was reached at this meeting.

- The application was referred externally to the Director of Transport who did not object to the proposal and referred to various internal departments who have not objected to the application, subject to conditions on any issued planning permit.

- The proposal demonstrates an appropriate level of compliance with the relevant policies and provisions of the Moonee Valley Planning Scheme. It proposes intensification in a well-established residential area, including an uplift of 10% public housing dwellings, proximate to public transport, commercial, community and public facilities. The architectural response is considered appropriate within the site context and presents a high level of articulation and architectural design.

- The proposal achieves a high level of compliance with the Standards of Clause 55 of the Moonee Valley Planning Scheme, with one area of technical non-compliance relating to front fence heights. The overall heights of the fencing is acceptable and is not considered to impact upon the streetscape.

- This report recommends Council issue a Notice of Decision to Grant a Permit, subject to conditions.
Recommendation

That Council issues a Notice of Decision to Grant a Permit in relation to Planning Permit Application No. MV/352/2019 for the construction of six multi-storey apartment buildings and reduction in car parking in an Environmental Significance Overlay Schedule 2 at 24-42 Dunlop Avenue, Ascot Vale (Lot 1 on PS053601), subject to the following conditions:

Endorsement Conditions

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended plans must be drawn to scale with dimensions and be in an electronic format. The amended plans must be generally in accordance with the plans submitted and assessed with the application but modified to show:

   a) All habitable room windows on the northern elevations to be screened in accordance with Standard B22 of Clause 55.04-6 (Overlooking) of the Moonee Valley Planning Scheme in such a way as to maintain adequate outlook and solar access to these dwellings affected;

   b) Dimensions of all front fencing and internal fencing to private open space areas;

   c) All solar panels to be designed to not be visible from the streetscapes;

   d) The details and location of bollard lighting within the pedestrian walkways and communal open space areas;

   e) A notation that all vehicle crossovers are to be constructed in accordance with Council’s Vehicle Crossing Design Standards and Vehicle Crossing Policy;
f) Trench grates with a width of 300mm at the bottom of each basement ramp;

g) The headroom clearance at the basement access with the security door in an open position of at least 2.1 metres in height;

h) A headroom clearance of at least 2.3 metres above the DDA car spaces, 2.3 metres where waste collection is to occur and at least 2.1 metres anywhere else within the basement;

i) All dimensions within the basement levels in accordance with Diagram 1 of Clause 52.06-9 of the Moonee Valley Planning Scheme, including for all car spaces adjacent to the pump rooms;

j) All above bonnet storage cages to be a minimum 1.5 metres above Finished Floor Level and to project no more than 1.0 metre into the car space;

k) The installation of convex mirrors to the basement ramp of the eastern most basement to Rothwell Street to improve sightline of vehicles using the ramp;

l) The crossover to Rothwell Street to be at least 1 metre from the existing electricity pole;

m) No lift or stair access door is to open out into the aisles or circulation areas unless safety bollards are installed that do not impact upon the adjacent car parks;

n) All dimensions to the bicycle space in accordance with AS2890.3-2105;

o) The deletion of all the indented car spaces within Dunlop Avenue;

p) Amended B85 swept path diagrams demonstrating waste vehicle access within the eastern most basement showing vehicles parking in the adjacent car spaces and any alterations as necessary;

q) All details and measures in relation to the Green Travel Plan in accordance with Condition 11;

r) All ESD annotations and measures in accordance with Condition 4;

s) All permeable and impermeable surfaces clearly noted and all WSUD treatment measures and associated annotations in accordance with the amended WSUD report required by Condition 3; and

t) An amended Landscape Plan in accordance with Condition 7.

When approved, these plans will be endorsed and will form part of this permit.

2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

3. An amended Water Sensitive Urban Design (WSUD) assessment report(s) must be submitted simultaneously with the submission of amended plans in accordance with Condition 1. The WSUD assessment must obtain a minimum 100% to comply with Clause 22.03-4 (Stormwater Management) of the Moonee Valley Planning Scheme.
4. Before the development starts, an amended Sustainable Management Plan (SMP) prepared by a suitably qualified professional, must be submitted to, and approved in writing by, the Responsible Authority. The amended SMP must set out all sustainable design initiatives within the development and must be generally in accordance with the SMP report prepared by Meinhardt dated April 2019 but modified to include:

a) Details and particulars of the Green Star points claimed in the “Green Star Design and As Built” scorecard/report being proposed to obtain the nominated certified rating.

When approved, this SMP will be endorsed and form part of this permit.

The development must be constructed in accordance with the requirements/recommendations of the endorsed SMP to the satisfaction of the responsible authority.

Prior to the commencement of construction, evidence is to be provided to the satisfaction of the responsible authority confirming that the development and its Green Star commitments have been registered with the Green Building Council of Australia (GBCA).

Within 12 months of completion of the development a copy of the “Green Star Design and As Built” certification by the Green Building Council of Australia must be supplied to the Responsible Authority.

5. A minimum 30 days prior to any building or works commencing, all Water Sensitive Urban Design (WSUD) Design Details (relating to the WSUD treatment measures nominated in the approved and complying MUSIC report), such as cross sections and/or specifications, to assess the technical effectiveness of the proposed stormwater treatment measures, must be submitted for approval by the Responsible Authority.

6. A maximum 30 days following completion of the development, a WSUD Maintenance Program must be submitted to and approved by the Responsible Authority which sets out future operational and maintenance arrangements for all WSUD measures. The program must include, but is not limited to:

a) Inspection frequency;

b) Cleanout procedures;

c) As installed design details/diagrams including a sketch of how the system operates; and

d) A report confirming completion and commissioning of all WSUD Response treatment measures written by the author of the WSUD Response and STORM or MUSIC model approved pursuant to this permit, or licensed installing/commissioning plumber, or similarly qualified person or company. This report must be to the satisfaction of the Responsible Authority and must confirm that all WSUD treatment measures specified in the WSUD Response and STORM or MUSIC model have been completed and implemented in accordance with the approved report.

The WSUD Maintenance Program may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Builder’s User’s Guide or a Building Maintenance Guide.
7. Before the development starts and before any trees or vegetation are removed, an amended landscape plan and schedule to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended landscape plan and schedule must be prepared by a person or firm with suitable qualifications to the satisfaction of the Responsible Authority, drawn to scale and in an electronic format. The amended landscape plan and schedule must be generally in accordance with the landscape plan submitted with the application but modified to show:

a) Any changes as required by Condition 1 of this permit;
b) All street tree protection measures in accordance with Condition 20 of this permit;
c) All tree protection measures in accordance with the relevant Australian Standard;
d) A notation in accordance with Conditions 18 and 19 of this permit;
e) The planting of an additional six (6) large canopy trees with a minimum height of 2 metres at planting above the number proposed within the submitted Landscape Plan prepared by Tract dated 7 December 2018 to offset the removal of Trees 83, 84 and 66;
f) A planting schedule of all proposed vegetation (trees, shrubs and ground covers) which includes, botanical names, common names, pot size, mature size and total quantities of each plant;
g) The use of drought tolerant species;
h) Features such as paths, paving and accessways;
i) All Environmentally Sensitive Design (ESD) design solutions in accordance with the successful MUSIC and Green Star reports;
j) All planting abutting the accessway and land frontage to have a maximum mature height of no more than 900mm in accordance with Clause 52.06-8 (Design Standards for car parking) of the Moonee Valley Planning Scheme; and
k) An appropriate irrigation system.

When approved, the amended landscape plan and schedule will be endorsed and will form part of this permit.

Landscaping in accordance with the endorsed landscape plan and schedule must be completed before the building is occupied.

8. A minimum 30 days prior to any building or works commencing, a Construction and Site Management Plan (CSMP) must be submitted to and be approved by the Responsible Authority detailing the construction activity proposed and the site and environmental management methods to be used. The CSMP must be in accordance with Moonee Valley City Council’s CSMP’s guideline and templates.

When approved, the CSMP will be endorsed and will form part of this permit.
The development must be carried out in accordance with the endorsed CSMP and the provisions, requirements and recommendations of the endorsed CSMP must be implemented and complied with to the satisfaction of the Responsible Authority.

9. Before the development starts, an Amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority.

The Amended Waste Management Plan must be in accordance with the City of Moonee Valley’s ‘Waste Management Plans – Guidelines for Applicants’ in relation to expected recycling rates and bin capacities.

When approved the Waste Management Plan will be endorsed and will form part of this permit.

The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

10. Before the development starts, a Car Parking Management Plan (CPMP) prepared by a suitably qualified person or firm must be submitted in an electronic format and approved by the Responsible Authority. The CPMP must include, to the satisfaction of the Responsible Authority:

a) All car spaces, loading areas, passing areas, etc to be signed and line marked;

b) All access controls, such as boom gates, roller doors etc;

c) Details of the allocation of all car parking spaces within the basement levels;

d) Lighting of parking areas, entries and exits;

e) All directional signage (occupants, visitors, pedestrians, cyclists etc) within the carpark;

f) On-site loading arrangements, including times, access, vehicle types, etc;

g) Any waste collection arrangements in accordance with the endorsed waste management plan; and

h) Traffic calming measures for inclusion within the accessways and car parking areas on site, including rubber speed humps as appropriate.

When approved, the CPMP will be endorsed and will form part of this permit.

End Endorsement Conditions

Department of Transport Conditions

11. Before the occupation of the development or any part of the development, a Green Travel Plan must be submitted to an approved by the Head, Transport for Victoria and the Responsible Authority. When approved, the Green Travel Plan will be endorsed and will form part of this permit. The Green Travel 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. Resident welcome packs (e.g. provision of Myki card);
   ii. The promotion of various public transport smartphone applications, such as the Public Transport Victoria app and/or train or tram tracker;
   iii. Tram, train and bus timetables be installed in prominent location in lifts and public areas (on noticeboards, etc);
   iv. The installation of signs in prominent locations advising of the location of existing and proposed car-sharing scheme, bicycle parking facilities for residents and visitor, tram stops, taxi ranks, railway stations, bus stops and bicycle paths;
   v. Signage and wayfinding information for bicycle facilities and pedestrians pursuant to Australian Standard AS2890.3; and

c) A monitoring and review plan requiring annual review for at least 5 years.

**End Department of Transport Conditions**

**Development Conditions**

12. Floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.

13. Before the buildings approved by this permit are occupied, the privacy screens and other measures to prevent overlooking as shown on the endorsed plans must be installed in accordance with Clause 55.04-6 (Standard B22 Overlooking) of the Moonee Valley Planning Scheme to the satisfaction of the Responsible Authority.

   All privacy screens and other measures to prevent overlooking as shown on the endorsed plans must at all times be maintained to the satisfaction of the Responsible Authority.

14. Service units, including air conditioning units, must not be located on any of the balconies or terrace areas unless appropriately visually and acoustically screened to the satisfaction of the Responsible Authority.

15. All pipes, fixtures, fittings, ducts and vents servicing any building on the land, other than storm water down pipes and gutters above the ground floor storey of the building, must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

16. Before the buildings approved by this permit are occupied, concrete vehicular crossing(s) must be constructed to suit the proposed driveway(s) in accordance with the Responsible Authority’s specification and any obsolete, disused or redundant vehicle crossing(s) must be removed and the area reinstated to footpath, nature strip and kerb and channel to the satisfaction of the Responsible Authority.

   All vehicle access points must be located a minimum of 1.0 metre from any infrastructure including service pits. Alternatively, such assets may be incorporated into the crossover with the prior written consent of the Responsible Authority and the relevant servicing authority/agency. Subsequent works and
costs in association with relocation and/or amendment must be incurred at the owner's cost, to the satisfaction of the relevant servicing authority/agency and the Responsible Authority.

17. Before the buildings approved by this permit are occupied, the areas set aside for the parking of vehicles, together with the associated driveways and access lanes as shown on the endorsed plans must be:
   a) Constructed;
   b) Available for use in accordance with the endorsed plans;
   c) Properly formed to such levels and drained so that they can be used in accordance with the endorsed plans; and
   d) Finished with a permanent trafficable surface (such as concrete, asphalt or paving),

in accordance with the endorsed plans to the satisfaction of the Responsible Authority.

The area set aside for the parking of vehicles, together with the associated driveways and access lanes as shown on the endorsed plans must:

   a) Be maintained and made available for such use; and
   b) Not be used for any other purpose,

to the satisfaction of the Responsible Authority.

18. The existing street trees within Dunlop Avenue, with the exception of Trees 540 and 531 within Dunlop Avenue as noted within the submitted Landscape Plan prepared by Tract dated 7 December 2018 must not be removed or damaged as a result of the permitted development.

19. The street trees noted as Trees 540 and 531 within Dunlop Avenue within the submitted Landscape Plan prepared by Tract dated 7 December 2018, must not be removed or replaced without the prior written consent of the Responsible Authority. Any replacement tree planted must be to the satisfaction of the Responsible Authority. All costs associated with the removal and replacement/replanting of the street tree must be borne by the permit applicant and the street tree replacement must be completed to the satisfaction of the Responsible Authority before the buildings approved by this permit are occupied.

20. The following street tree/nature strip protection measures must be undertaken:
   a) The nature strip and street tree located within the Dunlop Avenue frontage of the land must be barricaded out using portable cyclone fencing for the duration of the development. Costs of such fencing must be borne by the developer and/or permit holder;
   b) No pruning of the nature strip and street tree located within the Dunlop Avenue frontage of the land is to be undertaken by any party other than Moonee Valley City Council; and
   c) No building materials are to be stacked and/or dumped on any nature strip during construction.
21. Provision must be made for the drainage of the land including landscaped and pavement areas. The discharge of water from the land must be controlled around its limits to prevent any discharge onto any adjoining or adjacent property or streets other than by means of an underground pipe drain which is discharged to an approved legal point of discharge to the satisfaction of the Responsible Authority.

22. An on-site stormwater detention drainage system must be installed on the land to the satisfaction of the Responsible Authority.

Before the development starts a Drainage Layout Plan, including computations and manufacturer’s specifications, to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Drainage Layout Plan must be prepared by a Civil Engineer with suitable qualifications to the satisfaction of the Responsible Authority and must depict an on-site stormwater detention drainage system to be installed on the land.

When approved, the Drainage Layout Plan will form part of this permit.

The on-site stormwater detention drainage system must be installed and the provisions, recommendations and requirements of the endorsed Drainage Layout Plan must otherwise be implemented and complied with to the satisfaction of the Responsible Authority.

23. A Council drain (minimum 300mm dia uPVC or FRC or RCP RRJ) must be constructed to reach the approved point of discharge. Before the development commences, Engineering Design Plans and a Drainage Layout Plan (with computations) to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. The Engineering Design Plans and Drainage Layout Plan must be prepared by a Civil Engineer with suitable qualifications to the satisfaction of the Responsible Authority and must accord with Council’s Drainage Design Guidelines.

When approved, the Engineering Design Plans and Drainage Layout Plan will be endorsed and will form part of this permit.

The drainage must be constructed in accordance with the endorsed Engineering Design Plans and Drainage Layout Plan and the provisions, recommendations and requirements of the endorsed Engineering Design Plans and Drainage Layout Plan must otherwise be implemented and complied with to the satisfaction of the Responsible Authority.

After the drainage works have been constructed and before the building/s approved by this permit is/are occupied, as constructed plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority.

All costs associated with the preparation of the plans and installation and construction of the required drainage works must be borne by the permit holder.

24. Prior to the issue of an Occupancy Permit, all new boundary fencing as shown on the endorsed plans must be erected. The cost of such fencing must be met by the owner and carried out to the satisfaction of the Responsible Authority.

25. The development must be provided with external lighting capable of illuminating access to each car parking space, communal open space area and pedestrian
walkways. Lighting must be located, directed and shielded and of limited intensity so that no nuisance or loss of amenity is caused to any person within or beyond the land.

26. The garden areas shown on the endorsed plan and schedule must only be used as gardens and must be constructed, completed and maintained in a proper, tidy and healthy condition to the satisfaction of the Responsible Authority. Any tree or shrub damaged, removed or destroyed must be replaced by a tree or shrub of similar size and variety to the satisfaction of the Responsible Authority.

End Development Conditions

27. This permit will expire if:
   a) The development does not start within two (2) years of the date of issue of this permit, or
   b) The development is not completed within four (4) years of the date of issue of this permit.
   c) The approved easement variation and removal is not registered with the Land Titles Office, within two (2) years of the date of this permit.

Before the permit expires, or within six (6) months afterwards, the owner or occupier of the land may make a written request to the Responsible Authority to extend the expiry date.

If the development commences before the permit expires, within twelve (12) months after the permit expires, the owner or occupier of the land may make a written request to the Responsible Authority to extend the expiry date.

Permit Notes:

• This is not a building permit under the Building Act. A separate building permit is required to be obtained for any demolition or building works.

• Before the development starts, the permit holder must contact Moonee Valley City Council on 9243 8888 regarding legal point of discharge, vehicular crossings, building over easements, asset protection, road consent/occupancy etc.

• No on street parking permits will be provided to the occupiers of the land.

• All works undertaken within any existing road reserves must accord with the requirements of Moonee Valley City Council and be to the satisfaction of the Responsible Authority.

• Existing levels along the property line and easements must be maintained. All proposed levels must match to existing surface levels along the property boundary and/or easement. Council will not accept any modifications to existing levels within any road reserve or easement.

• The required on-site detention system must be designed to limit the rate of stormwater discharge from the property to pre-development levels in accordance with the following: Cw=0.4, tc=10mins, tso=5mins, ARI 1 in 5. An ARI of 1 in 10 shall be used for storage and the greater of post development Cw or Cw=0.80.
• The development authorised by this permit will require the submission of a Construction and Site Management Plan (CSMP) prior to the commencement of any works. All CSMP’s are required to be made via Council’s online system at http://www.mvcc.vic.gov.au/planning-and-building/planning/construction-site-management-plans.aspx or in person at 9 Kellaway Avenue, Moonee Ponds.

1. Introduction

1.1 Subject Site and Surrounds

The site is located on the northern edge of the Ascot Vale Estate and contains eleven 2 to 3 storey flats scattered across the site in a diagonal alignment. There are a number of trees scattered throughout the site, including one significant tree protected under the Environmental Significance Overlay Schedule 2.

The Certificate of Title indicates there are no easements or restrictive covenants on the subject site.

The site is abutted by Dunlop Avenue to the south, Union Road to the west and Rothwell Street to the east. The subject site currently contains low permeable boundary fencing, large open spaces, mature trees and internal pedestrian links that weave through the site to existing buildings entrances. A 3.0 metre wide bluestone laneway abuts the site’s northern boundary.

The bluestone rear lane facilitates rear access to dwellings fronting Francis Street, in addition to perpendicular car parking for the existing public housing buildings along the site’s northern boundary. The laneway expresses a ‘back of house character’, which is attributed to high solid fences and roller doors which make up the northern edge.

To the north of the lane, Francis Street is designated within a Heritage Precinct (HO305), with 53 Francis Street containing individual heritage status (HO55). Francis Street dwellings are generally one storey with some double storey additions.

The site abuts the sideage to one dwelling at 30 Rothwell Street, which is a single storey weatherboard dwelling with windows facing the site and a tall solid fence.

The southern side of Dunlop Avenue has a different character to the north side. This is due to the small lot pattern that largely comprises semi-detached dwellings which share one common wall. From the street, these dwellings appear as wide single dwellings and are consistently constructed from brick and contain low fences.
The surrounding land is within a General Residential Zone and is designated as being located within Garden Court Precinct 1 pursuant to Clause 21.06-1 (Neighbourhood Character) of the Moonee Valley Planning Scheme. The surrounding area is generally consistent with the statement of existing character outlined within that document and its supplementary photographic evidence, and comprises of 2 to 3 storey walk up flats with single dwelling homes throughout.

The single dwellings are post-war in nature and are generally constructed of red-brick with the usual features associated with dwellings of the area.
The walk-up flats are similarly constructed of red-brick and display vertical elements and generous spacing between buildings.

Roof forms are varied, and comprise of pitched tiled roofs for single dwellings, and lower-pitched gable roofs for the walk-up flats.

Narrow and deep lot sizes attribute to the narrow and fine grain housing character. Due to the surrounding contours, the properties along Francis Street generally sit higher than the subject site. Dwellings contain rear backyards that contain large trees and landscaping, which are concealed by high rear screening.

In the broader area, newer development is beginning to emerge, instilling an innovative and contemporary character when further removed from the subject site.

1.2 Proposal

The proposal seeks to construct 200 dwellings over six triple-storey apartment buildings. Buildings A, C and E are proposed to incorporate public housing dwellings, while Buildings B, D and F are proposed to be private dwellings. The buildings generally comprise:

<table>
<thead>
<tr>
<th># Beds</th>
<th>Building</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A</td>
<td>B</td>
</tr>
<tr>
<td>1 bed</td>
<td>9</td>
<td>10</td>
</tr>
<tr>
<td>2 bed</td>
<td>18</td>
<td>23</td>
</tr>
<tr>
<td>3 bed</td>
<td>0</td>
<td>6</td>
</tr>
<tr>
<td>Total</td>
<td>27</td>
<td>39</td>
</tr>
</tbody>
</table>

Car parking for 159 vehicles is provided over three separate basement levels. A total of 150 bicycle spaces are provided throughout the site, of which 110 are located within the separate basement levels and 40 are provided at ground floor between the buildings for visitors.

A total area of 3,859 square metres of communal open space is provided throughout the site generally located between or to the rear of the buildings. These are shared spaces for users of the buildings, with three of them having access to the public realm consistent with the existing conditions.

In general, the proposal comprises:

| No of dwellings | 200 dwellings |
| No of car spaces | 159 car spaces |
| No of bicycle spaces | 150 bicycle spaces |
| Max Building Height (Maximum height 12m) | 11.04 metres |
Refer Appendix B Plans (separately circulated).

2. **Background**

2.1 **Relevant Planning History**

There is no relevant planning history for the subject site.

2.2 **Planning Policies and Decision Guidelines**

**Planning Policy Framework**

- Clause 11.01-1R1 Settlement – Metropolitan Melbourne
- Clause 11.02-1S Supply of Urban Land
- Clause 15 Built Environment and Heritage
- Clause 15.01-5S Neighbourhood Character
- Clause 15.02 Sustainable development
- Clause 16 Housing
- Clause 16.01-4S Housing Affordability
- Clause 19.03-3S Stormwater

**Local Planning Policy Framework**

- Clause 21.01 Municipal Profile
- Clause 21.02 Key Issues and Influences
- Clause 21.03 Vision
- Clause 21.04 Sustainable Environment
- Clause 21.04-7 Waste
- Clause 21.05 Housing
- Clause 21.06 Built Environment
- Clause 22.03 Stormwater Management (Water Sensitive Urban Design)

**Zoning**

- Clause 32.08 General Residential Zone

**Overlays**

- Clause 42.01 Environmental Significance Overlay (Schedule 2)
Particular and General Provisions

Clause 52.06  Car Parking
Clause 53.18  Stormwater Management in Urban Development
Clause 55   Two or More Dwellings on a Lot and Residential Buildings
Clause 65   Decision Guidelines
Clause 66.02 Use and Development Referrals
Clause 71.02-3  Integrated Decision Making

2.3  Referrals

The following external referrals were undertaken:

Table 3

<table>
<thead>
<tr>
<th>Department/Officer</th>
<th>Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Transport</td>
<td>No objection subject to a condition requiring a Green Travel Plan</td>
</tr>
</tbody>
</table>

The following internal referrals were undertaken:

Table 4

<table>
<thead>
<tr>
<th>Department/Officer</th>
<th>Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environmental Sustainable Design (ESD)</td>
<td>Amended Green Star and MUSIC Reports required and all annotations shown on plans</td>
</tr>
<tr>
<td>Traffic and Transport Unit</td>
<td>No objection subject to conditions</td>
</tr>
<tr>
<td>Development Engineering (Drainage)</td>
<td>No objection subject to standard drainage conditions</td>
</tr>
<tr>
<td>Strategic Planning</td>
<td>No objection subject to conditions</td>
</tr>
<tr>
<td>Waste Management Officer</td>
<td>No objection</td>
</tr>
<tr>
<td>Arborist</td>
<td>No objection subject to the retention of Trees 84, 83, 66 and all Council street trees</td>
</tr>
<tr>
<td>Landscape architects/streetscapes</td>
<td>No objection subject to conditions</td>
</tr>
<tr>
<td>Heritage</td>
<td>No objections</td>
</tr>
</tbody>
</table>
2.4  Public Notification of the Application

Pursuant to Section 52 of the *Planning and Environment Act 1987*, the application was advertised by mail to adjoining and surrounding properties, with three notices displayed on site for 14 consecutive days.

As a result, 10 objections were received and identified within Appendix A (separately circulated) of this report.

The objections are discussed at Section 3.6 of this report.

2.5  Consultation Meeting

A Consultation Meeting was held on 11 November 2019, which was attended by Councillor Cusack, objectors, the permit applicant and Council’s Planning Officer. There was no resolution achieved.

However, comments raised in the Consultation Meeting relating to overlooking have been addressed through a condition relating to perceived overlooking beyond 9 metres into the private open spaces of dwellings fronting Francis Street. The current application complies with Standard B22 (Overlooking) of the Moonee Valley Planning Scheme. Through including a condition to provide screening it is important to take into consideration solar access into the north facing dwellings proposed. As such, a condition will be included to provide appropriate screening in accordance with Standard B22 (Overlooking) of the Moonee Valley Planning Scheme, which is designed in a way to retain solar access into the north facing dwellings.

3.  Discussion

3.1  Does the proposal address the relevant State and Local Planning Policies?

The relevant State and Local Planning Policy Framework objectives are considered to have been satisfied by the proposal. The policy framework objectives broadly encourage consolidation of urban allotments in locations which can provide housing diversity and take advantage of existing public transport and community and commercial services. Relevant policy guidance is contained within ‘Plan Melbourne 2017-2050: Metropolitan Planning Strategy’ and Clauses 11, 15, 16, 18 and 21.05, which all seek to increase the residential dwelling supply in these areas.

Further, Clause 16.01-4S (Housing Affordability) seeks to deliver more affordable housing closer to jobs, transport and services. This is to be achieved though facilitating a mix of private, affordable and social housing in suburbs, activity centres and urban renewal precincts. The proposed development seeks to increase the provision of social housing within the site by 10% (8 dwellings) while providing additional private dwellings. The proposed development will provide an integrated development model which is consistent with this clause.

The layout of a number of the social housing dwellings has been designed to enable dwellings to be consolidated based on needs of future residents and the requirements of the Department of Housing and Health Services. These adaptable dwellings allow for 1 or 2 bedroom dwellings to be consolidated into 3-4 bedroom dwellings if required.
Clause 21.05 (Housing) of the scheme is applicable, which has the objective of providing a variety of housing choices in appropriate locations to meet the needs of an increasingly diverse range of households. Strategies to achieve this objective generally echo the Planning Policy Framework directives, encouraging residential development in or near major transport routes and activity centres.

Clause 21.05 also sets out policy guidelines for three identified categories of growth, being ‘High to Substantial’, and ‘Moderate to High’ and ‘Slight to Moderate’ housing intensification. The Moonee Valley Housing Strategy 2010, listed as a reference document under Clause 21.05-7, sets out a number of principles to define locations within these categories. In relation to the Moderate to High intensification area, these are sites which are generally:

- Within 400 metres safe walking distance to train or tram stations
- Within 400 metres safe walk of a range of community facilities and services
- Within 400 metres of a major activity centre
- Within 400 metres of a full line supermarket
- The area is not located within a Heritage Overlay
- The housing market produces a greater level of diversification that typically found in the area
- The surrounding character is evolving and includes a mix of new and old built forms.

Applying these principles, the land is considered to fall within the category of Moderate to High housing intensification. Clause 21.05-1 provides the following applicable discretionary policy guidelines:

- New development will generally be housing above or to the rear of retail / commercial premises, or as part of a more intensive mixed-use development on larger sites.
- The intensity and scale of new development must respect the existing streetscape character and commercial context of the centre, and any development controls that may apply.
- All new development in residential areas must be in accordance with the preferred character statement for the area.

The proposed development represents an acceptable, incremental increase in housing opportunities to meet growing population needs, as well as diversity of housing choice in proximity to an established major activity centre, location within the Principal Public Transport Network (PPTN) and an area where there is a great diversity in built form. The development will cater for different demographic groups and for varying household needs.

The site offers an opportunity for redevelopment considering its size, proximity to public transport and the Union Road Activity Centre, along with its location in a residential area, which already features a range of dwelling densities. The proposed development responds to the objectives and strategies of 21.06 (Built
Environment). The key concepts of this clause are assessed against the relevant Neighbourhood Character Precinct Profile Guidelines in Section 3.2.

The proposal complies with Clause 21.04 (Sustainable Environment) and Clause 22.02 (Storm Water Management) through the use of ecological sustainable design principles as highlighted within the submitted Green Star assessment and MUSIC reports, subject to appropriate conditions on any permit issued requiring additional details on the development plans and amended reports. An amended SDA report, including a full Green Star report will be required as a condition to ensure all changes to the built form are reflected within the reports.

The proposal accords with the objectives of Clause 21.04-4 (Waste) as it relates to encouraging the use of recycling and achieving best practice in waste minimisation. Waste collection will be undertaken by private collection within the subject site and a condition has been included to this effect.

3.2 Does the proposal accord with the preferred character of the area?

The subject land is identified as being within character area ‘Garden Court 1’ within the Moonee Valley Neighbourhood Precinct Profiles 2012. The development is considered a suitable response to the immediate context, the preferred character statement and design guidelines of the precinct and as follows:

- The proposed built form is contemporary in style and reflective of the emerging character in the surrounding area, while still referencing architectural styles such as the dwellings to the south and properties within the heritage overlay to the north.

- The siting and massing of the development is consistent with the pattern of development which has occurred in the immediate and wider area and is responsive to its site context. It particular, the buildings have been designed to incorporate large areas of communal open space between the buildings and to fully comply with the setback requirements of the Moonee Valley Planning Scheme. The generous setbacks to the boundaries and between the buildings allow for substantial landscaping opportunities and to maintain the general garden setting the site currently provides.

![Figure 4: Setback modelling from Urban Context Report](image-url)
• The height of the development is triple storey in height (11.04 metres), which is compliant with the requirements of the General Residential Zone. Further, the overall height is consistent with the existing heights of the existing buildings on-site which range from two to three storeys and the development has been designed to match the slope of the site.

• The setbacks of the dwellings from both street frontages maintain the setback rhythm in the streetscape and maintain sufficient areas for landscaping to contribute to the garden character of the area. Further, the overall built form presented to the streetscape in relation to building widths has been designed to be generally consistent with the existing pattern of development within Dunlop Avenue.

Figure 5: Streetscape rhythm from Urban Design Report

• The buildings include flat roof forms, which is appropriate to this form of development and consistent with the scale of the buildings. No roof terraces are proposed with the roof areas only used for site services as needed.

• The proposed materials and finishes are consistent with the surrounding built form and are appropriate for the proposed contemporary built form. The choice of materials considers the existing dwelling stock in the area, in particular the properties fronting the southern side of Dunlop Avenue. This is an appropriate response that provides a visually cohesive design within the surrounding context notwithstanding the change in building form. Council’s Strategic Planning Department recommended additional brick to be used, however, given the extent of brick currently proposed it is unnecessary to provide additional brick within the facades.

• Car parking is located within basement levels that are screened from view and will not dominate the frontage. Access points to the basements have been limited to two, with one on the Dunlop Avenue frontage, and the other being on the Rothwell Street frontage. This limits disruptions to the existing site boundary and surrounding traffic movements.
• Fencing to Dunlop Avenue ranges in height from 1.5 metres to 2.2 metres as a result of the slope of the land and the need for screening of secluded private open spaces of ground floor apartments and the integration of fire services. The fencing is generally setback from the front boundary to allow for additional landscaping opportunities along the site frontage. Further, the fencing includes a mix of rendered and metal batons to provide visual interest and an acceptable level of transparency as needed.

• Fencing to Rothwell Street ranges in height from 1.2 to 1.8 metres as a result of the slope of the land and the need for screening of secluded private open spaces of ground floor apartments. Similar to the fencing to Dunlop Avenue the fencing is generally setback from the front boundary to allow for additional landscaping opportunities along the site frontage and presents a mix of rendered and metal batons to provide visual interest and an acceptable level of transparency as needed.

3.3 Does the proposal address the purpose and requirements of the Zone or Overlays?

The proposed development is consistent with the Purpose and Design Guidelines of the General Residential Zone. The development seeks to construct 200 dwellings within a location where this level of intensification is encouraged through PPF and LPPF and is well located in relation to a good range of services and public transport. The development fully complies with the requirements of Clause 55 and is designed to a high standard that is consistent with the character of the surrounding area.

The proposed development fully complies with the mandatory requirements for the provision of garden area and requirements relating to overall height as noted in Section 1.2 above.

It is noted one tree on site is protected through the Environmental Significance Overlay Schedule 2. This tree is proposed to be retained and the development has been designed to allow its retention and presents it as a feature of the site. This is further discussed in Section 3.7 below.

3.4 Does the proposal comply with Clause 52.06 (Car Parking)?

The proposal requires car parking in accordance with Clause 52.06 as set out in the table below:

<table>
<thead>
<tr>
<th>Proposed</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>182 x one or two bedroom dwellings</td>
<td>182</td>
</tr>
<tr>
<td>18 x three or more bedroom dwellings</td>
<td>36</td>
</tr>
<tr>
<td>Visitor spaces</td>
<td>0</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>218</strong></td>
</tr>
</tbody>
</table>
The proposed development provides a total of 159 car spaces split over three separate basement levels. Basement 1 (western most basement) provides 71 car spaces, Basement 2 (centre basement) provides 57 car spaces and Basement 3 (eastern most basement) provides 31 car spaces. As a result of the mix of public and private dwellings and the differences in parking demand, it is appropriate to assess the parking requirements for each dwelling typology.

**Private Dwellings**

The site includes 98 x one or two-bedroom and 14 x three-bedroom private dwellings, which generate a requirement of 126 residential car spaces under Clause 52.06-5. Table 4.6 of the submitted Traffic Assessment Report states that 105 spaces will be allocated to these dwellings as follows:

- 18 spaces to the 28 x one-bedroom dwellings (rate of 0.64 spaces per dwelling);
- 66 spaces to the 70 x two-bedroom dwellings (rate of 0.94 spaces per dwelling); and
- 21 spaces to the 14 x three-bedroom dwellings (rate of 1.5 spaces per dwelling).

This results in a shortfall of 21 spaces associated with the private dwellings. In conjunction with the alternative transport options available to the site, Council’s Traffic and Transport Unit support the provision of parking as appropriate for the private dwellings.

**Public Dwellings**

The site includes 84 x one or two-bedroom and 4 x three-bedroom public dwellings, which generate a requirement of 92 residential car spaces under Clause 52.06-5. Table 4.6 of the submitted Traffic Assessment Report indicates that 54 spaces will be allocated to the public dwellings, resulting in a shortfall of 38 spaces. The allocation of parking to the public dwellings is proposed as follows:

- 23 spaces to the 38 x one-bedroom dwellings (rate of 0.60 spaces per dwelling)
- 29 spaces to the 46 x two-bedroom dwellings (rate of 0.63 spaces per dwelling)
- 2 spaces to the 4 x three-bedroom dwellings (rate of 0.50 spaces per dwelling).

A review of the 2016 ABS data of public housing indicates an average car ownership rate of 0.59 spaces per dwelling. This rate includes a higher portion of larger dwellings than the proposal (i.e. more three-bedroom dwellings), and is a higher rate than the previous arrangement on the site (approximately 0.44 spaces per dwelling). Accordingly, Council’s Traffic and Transport Unit support the provision of parking as appropriate for the public dwellings.
Visitor Parking

There is no requirement to provide on-site visitor parking for the development. However, it is acknowledged the site will generate some demand for visitor parking. According to the submitted Traffic Assessment Report the likely demand is 20 spaces during evenings/weekends and 12 spaces during business hours. These demands will seek on-street parking opportunities in the nearby area.

The traffic report and plans detail 26 indented spaces along the site’s frontage to Dunlop Avenue, providing a 6.5m carriageway for through traffic (i.e. single lane in each direction). This represents a loss of approximately 10 kerbside spaces in this area compared to existing conditions. Council’s Traffic and Transport Unit note parking in this area of Dunlop Avenue is in high demand and given the impact of the proposal, any loss of existing on-street parking opportunities, in particular in a high demand area such as this, is undesirable. Furthermore, the inclusion of indented car parking will result in the loss of a number of Council street trees, which is not supported and discussed below. Based on this condition it is considered the provision of visitor parking is acceptable and will not unreasonably impact upon the surrounding area. It is further noted the site is well serviced by public transport. It is considered appropriate to include a condition deleting the proposed indented car spaces, to maintain the existing provision of on-street parking within Dunlop Avenue.

The application was referred to the Department of Transport, who did not object to the proposed development subject to a condition being included requiring a Green Travel Plan. This condition is appropriate, particularly due to the reduction in parking proposed.

The proposed development is compliant with the Design Standards of Clause 52.06-9 of the Moonee Valley Planning Scheme. The application has been referred to Council’s Traffic and Transport Unit who has no objections to the proposed parking generation or parking layout, subject to conditions.

Clause 52.34 Bicycle Parking

The requirements of Clause 52.34 (Bicycle Facilities) do not apply to this development as it is less than four storeys in heights, however, it is appropriate to undertake an assessment of bicycle parking provided as a result of the reduction in car parking sought.

The proposal would require bicycle parking in accordance with Clause 52.34 if it applied as set out in the table below:

<table>
<thead>
<tr>
<th>Proposed</th>
<th>Requirement</th>
<th>Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Dwellings</td>
<td>40</td>
<td>110</td>
</tr>
<tr>
<td>Residential Visitors</td>
<td>20</td>
<td>40</td>
</tr>
<tr>
<td>Totals</td>
<td>60</td>
<td>150</td>
</tr>
</tbody>
</table>
The proposed development provides a surplus of 90 bicycle spaces over the site. It is acknowledged that the Department of Health and Human Services (DHHS) require bicycle parking rates above those stipulated in Clause 52.34, including a secure bicycle space to each dwelling without an on-site car space (i.e. 48 additional bicycle spaces).

The plans show 150 bicycle spaces across the site, including 110 spaces across the three basement carparks and 40 spaces across the development at ground level. The proposed bicycle spaces include 90 wall mounted spaces and 60 horizontal spaces. This provision exceeds the requirements of Clause 52.34 and those of DHHS. Council’s Traffic and Transport Unit supports the proposed bicycle parking provision.

3.5 Does the proposal comply with the requirements of Clause 55?

The proposal complies with the Objectives and Standards of Clause 55 as set out in the assessment table (refer to Appendix C – separately circulated), with the exception of Clause 55.06-2 (Standard B32 Front Fences). An assessment of the areas of non-compliance is included in the table below:

Table 7

<table>
<thead>
<tr>
<th>Issue</th>
<th>Officer Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clause 55.06-2 (Standard B32 Front Fences)</td>
<td>The proposal incorporates fencing along both street frontages between 1.5 and 2.2 metres in height. The proposed fencing is appropriate for the site due to the slope in the land, the need to provide privacy to the secluded private open space areas of ground floor dwellings and the incorporation of site services. Further, landscaping is provided along the street edge to provide screening that works with the mix of render and metal batons proposed</td>
</tr>
</tbody>
</table>

3.6 Objections (Discussion)

The following table provides a discussion of the concerns raised within the objections to the application:

Table 8

<table>
<thead>
<tr>
<th>Issue</th>
<th>Officer Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic and Parking</td>
<td>Refer to Section 3.4 of this report for discussion. In relation to issues surrounding difficulties of vehicles from properties fronting Francis Street exiting their garages it is considered that the use of private land on the opposite side of the laneway is inappropriate and there are no planning grounds to refuse the construction of a boundary fence along the laneway interface</td>
</tr>
<tr>
<td>Neighbourhood Character</td>
<td>Refer to Section 3.2 of this report for discussion</td>
</tr>
</tbody>
</table>
**Issue** | **Officer Response**
---|---
Loss of Trees | Refer to Section 3.7 of this report for discussion
Non-compliant street setbacks | The proposed street setbacks fully comply with the setback requirements of Standard B6 (Street Setbacks) of the Moonee Valley Planning Scheme
Overlooking | Refer to Section 2.5 of this report for discussion
Visual Bulk | Refer to Section 3.2 of this report for discussion
Loss of public housing and impacts on existing residents. | The proposed development seeks to demolish 80 existing public housing dwellings and replace them with 88 new public housing dwellings. This is an increase of 10% over the site and is considered appropriate. It is understood existing residents who have been relocated from the site will be offered to return to the site following the completion of the development
Impact on adverse possession claim | This is not a planning consideration. However, the development has been designed taking into consideration the adverse possession claim by 30 Rothwell Street

### 3.7 Is the proposed extent of tree removal and replacements appropriate?

The existing site contains approximately 61 trees throughout the overall area of development. It is proposed to retain 14 of these trees, including the tree protected under the Environmental Significance Overlay Schedule 2 (Tree 79) and one high retention value tree (Tree 53). This results in 47 trees being proposed to be removed. The proposed development seeks to provide an additional 200 trees on-site for a total of 214 overall on-site. The image below indicates the trees to be removed (red), retained (dark green) and proposed (light green).

![Figure 5: Landscape Plan](image-url)
The application was referred to Council’s Landscape Architects and Arborist for comment. Council’s Arborist seeks to retain Trees 84 (southwest corner of Building A), 83 (along northern boundary between Building A and B) and 66 (along northern boundary of Building D) and does not support the removal of Council’s street trees 530, 531, 532, 533, 535, 537, 538, 539, 540, 541, 542, 543, 544 to allow for the construction of indented car parking to Dunlop Avenue.

It is considered the removal of Trees 84, 83 and 66 is acceptable in this instance, as a result of the amount of replacement trees proposed. However, it is appropriate to include a condition requiring the provision of at least 2 large canopy trees for the removal of each of these trees (total 6) on-site.

A proposed change to the layout has been proposed by an objector seeking changes to retain Tree 83 by undertaking changes to the layouts of Buildings A and B and the basement level. However, the removal of this tree is considered acceptable, as noted above, based on the extent of new planting proposed and conditions requiring additional replacement planting for this tree.

It is inappropriate to remove Council street trees and as discussed in Section 3.4 above, a condition removing the proposed indented car parking is included. This will result in the retention of the existing Council street trees. However, it is appropriate to remove Trees 540 and 531 to allow for the construction of the basement access ramps. Conditions to this affect have been included to ensure Council street trees are retained.

Council’s Landscape Architects have reviewed the proposal and have no objection to the proposed development or choice of planting species proposed.

On this basis, the proposed removal and replacement of vegetation proposed is considered acceptable subject to appropriate conditions.

4. **Human Rights**

   The application process and decision making is in line with the *Victorian Charter of Human Rights and Responsibilities 2006* (Section 18 – Taking part in public life).

5. **Council Plan/Policy**

   On 26 June 2018, Council adopted the MV2040 Strategy as its long-term plan for the city. It is considered the proposal is consistent with the relevant strategic directions set out in the MV2040 Strategy, including:

   - Strategic Direction 3: A city where people are healthy and safe
   - Strategic Direction 5: A city with housing for all
   - Strategic Direction 11: A city with streets and spaces for people
   - Strategic Direction 14: A city that is green and water-sensitive
   - Strategic Direction 16: A city that is cool and climate-adapted
   - Strategic Direction 17: A city that fosters local identity
   - Strategic Direction 18: A city of high-quality design
   - Strategic Direction 20: A city in a beautiful landscape setting.
6. **Conclusion**

The application has been assessed against the relevant provisions of the Planning Policy Framework, Local Planning Policy Framework, zoning controls, the relevant Particular and General Provisions, and the decision guidelines at Clause 65 of the Moonee Valley Planning Scheme.

Additionally, consideration has been given to the requirements of Section 60(1B) of the *Planning and Environment Act 1987* with respect to the number of objections received, and it is considered the proposal would not have a significant social effect.

On balance the proposal demonstrates general compliance with the requirements of these provisions and policies. The application is supported by officers as detailed above within the recommendation section.

**Attachments**

A: Objector Location (separately circulated)  
B: Advertised Plans (separately circulated)  
C: Clause 55 Summary (separately circulated)
10.3  165-169 Keilor Road, Essendon (Lot 1 LP7912, Land in CP155101 and Lot 1 TP869564Q) - Construction of a six storey building in a Commercial 1 Zone and Design and Development Overlay (DDO7 and DDO9), use of the land for dwellings, a reduction in car parking requirements, alteration of access to a road in a Road Zone, Category 1, and a staged subdivision creating two lots

Author: William Wheeler - Principal Statutory Planner

Business Unit: Planning

<table>
<thead>
<tr>
<th>Planning File No.</th>
<th>MV/439/2019</th>
</tr>
</thead>
</table>
| Proposal         | • Construction of a six storey building comprising four retail premises and 44 dwellings (Stage 1)  
|                  | • Use of the land for dwellings  
|                  | • Reduction in car parking requirements  
|                  | • Alteration of access to a road in a Road Zone, Category 1  
|                  | • Staged subdivision creating two lots |
| Applicant        | RPG Capital Development Fund No.6 Pty Ltd C/- Terrain Consulting Group |
| Owner            | RPG Capital Development Fund No.6 Pty Ltd |
| Planning Scheme Controls | Commercial 1 Zone  
|                  | Design and Development Overlay (DDO7 and DDO9)  
|                  | Abuts a Road Zone, Category 1 |
| Planning Permit Requirement | Clause 34.01-1 – Use of the land for dwellings  
|                  | Clause 34.01-3 – Subdivide land  
|                  | Clause 34.01-4 – Construct a building or construct or carry out works  
|                  | Clause 43.02-2 – Construct a building or construct or carry out works  
|                  | Clause 43.02-3 – Subdivide land  
|                  | Clause 52.06-3 – Reduction in car parking requirements  
|                  | Clause 52.29 – Create or alter access to a road in a Road Zone, Category 1 |
Executive Summary

- The application seeks planning approval for the construction of a six storey building comprising four retail premises and 44 dwellings (Stage 1), use of the land for dwellings, a reduction in car parking requirements, alteration of access to a road in a Road Zone, Category 1, and a staged subdivision creating two lots. Stage 2 is proposed to remain vacant in the interim and to be used for equipment during the construction of Stage 1. The future development of Stage 2 will be the subject of a separate planning permit application.

- The site has an area of 2,025 square metres (Stage 1, including the shared vehicular entry ramp) and is located on a corner on the southern side of Keilor Road and the eastern side of Roberts Street, Essendon. The site comprises a vacant car sales yard.

- The application was advertised and one objection was received. The concerns raised related to building height, overshadowing, increased traffic impacts and the oversaturation of apartments along Keilor Road.

- A Consultation Meeting was not held as less than 10 objections were received by Council.

- The application was externally referred to VicRoads, Essendon Fields Airport, Transport for Victoria and City West Water. Conditional support to the application was provided.

- The application was internally referred to Council’s Development Engineering (Drainage) Unit, Traffic and Transport Unit, Waste Management Unit, Environmental Sustainable Design (ESD) Officer and Landscape Architect / City Design Unit. Conditional support to the application was provided by all.
• It is considered the proposed development provides a suitable level of intensification for a ‘key site’ located within Keilor Road Major Activity Centre and directly abutting the Principal Public Transport Network (PPTN). Ultimately the proposal, subject to conditions, is considered to successfully balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. In particular, the proposal provides significant streetscape improvement works and canopy tree plantings along Keilor Road, four retail premises for meaningful employment opportunities and activation to this section of Keilor Road, a substantial increase in housing opportunities and considerable diversity of dwelling stock to meet growing population needs.

• This assessment report finds the proposal demonstrates an adequate level of compliance with the relevant policies and provisions of the Moonee Valley Planning Scheme, and recommends a Notice of Decision to Grant a Permit be issued subject to conditions.

Recommendation

That Council issues a Notice of Decision to Grant a Permit in relation to Planning Permit Application No. MV/439/2019 for the construction of a six storey building in a Commercial 1 Zone and Design and Development Overlay (DDO7 and DDO9), use of the land for dwellings, a reduction in car parking requirements, alteration of access to a road in a Road Zone, Category 1, and a staged subdivision creating two lots at No.165-169 Keilor Road, Essendon (Lot 1 LP7912, Land in CP155101 and Lot 1 TP869564Q), subject to the following conditions:

Figure 1 – Aerial photo of the subject site and surrounds
Endorsement Conditions

1. Before the use and development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended plans must be drawn to scale with dimensions and an electronic copy must be provided. The amended plans must be generally in accordance with the plans submitted and assessed with the application but modified to show:

   a) Modified basement and ground floor levels, including provision of an on-site loading bay, modified bin storage areas, deletion of ‘Apartment G05’, modified retail and ‘back of house’ areas, increased bicycle parking, provision of additional street trees, relocation of gas meters and the front awning/canopy lowered in height in accordance with revised ‘without prejudice’ plans prepared by Rothe Lowman, Revision P1, dated 9 October 2019;

   b) The layout of the Disability Discrimination Act (DDA) car space and adjoining shared area within Basement Level 1 in accordance with the layout shown within the revised memorandum and swept paths prepared by Traffix Group dated 11 October 2019;

   c) Deletion of any reference to a loading zone along the site’s frontage to Keilor Road;

   d) A notation stating that the development will be constructed to comply with any noise attenuation measures required by Australian Standard 2021-2015;

   e) The first and second floor east-facing balconies of Apartments 108 and 208 treated/screened to ensure no direct views into existing secluded private open space in accordance with the requirements of Standard B22 of Clause 55.04-6 (Overlooking) of the Moonee Valley Planning Scheme;

   f) Further details and/or suitable treatment/screening between Apartments 202, 203 and 204;

   g) The bedrooms and living areas directly adjacent, or provided with an outlook, to the ground floor communal open space area designed or modified to avoid potential noise impacts from this communal area;

   h) The bedroom of ‘Apartment G01’, adjacent to the retail premises, designed or modified to avoid potential noise impacts from this non-residential use;

   i) The third, fourth and fifth floor bedrooms directly adjoining the communal waste chutes designed or modified to avoid potential noise impacts from this building service;

   j) Three of the one-bedroom dwellings (Apartment Type E) allocated one of the larger basement storage cages (minimum 3.8m³) and three of the three-bedroom dwellings (Apartment Type J) allocated one of the larger basement storage cages (minimum 4.5m³) in order to meet the ‘total minimum storage volume’ requirement specified in Table D6 of Standard D20 of Clause 58.05-4 (Storage) of the Moonee Valley Planning Scheme;

   k) Provision of 300mm trench grates at the bottom of the ramp;
l) All objects and landscaping within the pedestrian sight triangle, provided on the exit side of the vehicle accessway, kept below 900mm in height and clearly annotated on the plans;

m) The two adjoining car spaces located at the end of the aisle on Basement Level 2 (north-west corner) allocated to the same dwelling to better manage access, similar to a tandem car space arrangement;

n) Inclusion of a sign at the site’s vehicle access point reading “Right turn to Keilor Road”, facing internally, to discourage vehicles from using Roberts Street (local road);

o) The proposed vehicle crossing in accordance with Moonee Valley Standard Drawings and Council’s Vehicle Crossings Policy, with all redundant vehicle crossings removed and reinstated with kerb, channel and nature strip, to the satisfaction of the Responsible Authority;

p) The single sided bicycle rails within the nature strip along Keilor Road in accordance with the design requirements of Australian Standard 2890.3-2015 and to the satisfaction of the Responsible Authority;

q) All stormwater treatment measures and associated annotations as a result of Condition 5;

r) All Sustainability Management Plan and BESS annotations and measures in accordance with Condition 6;

s) A landscape plan in accordance with Condition 7; and

t) A detailed schedule of all external materials and finishes. The schedule must show the specific material, colour (including colour samples) and finishes of all external walls, roofing, fascias, window frames, screening measures, soffits, vehicle access doors and paving.

When approved, these plans will be endorsed and will form part of this permit.

2. Before the plan of subdivision is certified, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended plans must be generally in accordance with the plans submitted and assessed with the application, but modified to show:

a) The provision of an owners corporation and common property, as required to manage common services, to the satisfaction of the Responsible Authority.

When approved, these plans will be endorsed and will form part of this permit.

3. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

4. The subdivision as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

5. Stormwater from the development must be treated to meet the water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, Victoria Stormwater Committee 1999 (Guidelines), as amended. The performance objectives of the Guidelines must
be met entirely on site as demonstrated by a Water Sensitive Urban Design (WSUD) assessment report(s) submitted to and approved by the Responsible Authority; except that with the written consent of the Responsible Authority, up to 20% of treatment may be delivered offsite as demonstrated by a Water Sensitive Urban Design (WSUD) assessment report(s) submitted to and approved by the Responsible Authority.

6. An amended Sustainability Management Plan, inclusive of BESS Report, must be submitted simultaneously with the submission of amended plans in accordance with Condition 1 of this permit. The Sustainability Management Plan must be generally in accordance with the report prepared by NJM Design Pty Ltd (Revision 6 dated 11 October 2019) and be to the satisfaction of the Responsible Authority for approval. Once approved the Sustainability Management Plan, inclusive of BESS Report, is to be implemented and appropriately managed during construction of the proposed building.

7. Before the development starts, an amended landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended landscape plan must be prepared by a person or firm with suitable qualifications to the satisfaction of the Responsible Authority, drawn to scale with dimensions and an electronic copy must be provided. The amended landscape plan must be generally in accordance with the plans submitted with the application but modified to show:

a) Any changes as required by Condition 1 of this permit;

b) Features such as paths, paving and accessways with specific materials and colours clearly nominated, including deletion of the words ‘to later detail’;

c) The use of non-invasive plant species within any easements which will ensure that existing infrastructure assets are not damaged by root systems;

d) Planting details along the full extent of the ‘proposed basement driveway’;

e) All planting abutting the vehicle accessway and land frontage along Roberts Street to have a maximum mature height of no more than 900mm in accordance with Clause 52.06-9 (Design standards for car parking) of the Moonee Valley Planning Scheme;

f) The inclusion of advanced (100L) street tree planting along the Keilor Road frontage, with species to match existing street trees to the satisfaction of the Responsible Authority;

g) Façade greenery (climbing plant) details, including climbing support structures;

h) Planting in the ground floor ‘communal garden’ area to feature shade tolerant plants (i.e. reconsider substituting Cycads, Correa alba, etc.); and

i) Further details regarding which gardens are irrigated, if the irrigation water is roof runoff or potable, and whether adequate drainage is provided (especially above structure/basement, as no drainage point is apparent on the plans).
When approved, the amended landscape plan will be endorsed and will form part of this permit.

Landscaping in accordance with the endorsed landscaping plan and schedule must be completed before the building is occupied.

8. Before the development starts, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended Waste Management Plan must be in accordance with the City of Moonee Valley’s ‘Waste Management Plans – Guidelines for Applicants’ and must:

a) Be generally in accordance with the memorandum prepared by Leigh Design Pty Ltd dated 11 October 2019; and

b) Be modified in accordance with Condition 1 of this permit.

When approved, the amended Waste Management Plan will be endorsed and will form part of this permit.

The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

9. Before the development starts, a Car Parking Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Car Parking Management Plan must be prepared by a traffic consultant with suitable qualifications to the satisfaction of the Responsible Authority, and must include:

a) A car parking layout generally in accordance with the relevant requirements of the Australian Standards for Off-Street Car Parking AS/NZS 2890.1-2004 (including ramp grades and dimensions, column location, headroom clearance, etc.);

b) Arrangements for the provision and allocation of car spaces on site;

c) The management of car parking spaces and security arrangements for occupants of the development, including the provision of an intercom system at the security entrances;

d) Lighting of car parking areas, entries and exits;

e) Proposed line marking, convex mirrors and signage to direct occupants, residents and staff to their designated car spaces;

f) Arrangements for the loading and unloading of goods and materials for the commercial uses;

g) Entitlements to the use of the loading bay by all uses on the land, including the collection of waste by private waste collection vehicles;

h) No charge being made for car parking without the consent of the Responsible Authority;

i) Traffic calming measures for inclusion within the accessways and car parking areas on site, including rubber speed humps and speed restrictions as appropriate;
j) The closure of any car parking areas a minimum of 30 minutes after the closure of the last use(s) approved on the land and/or details regarding appropriate access to the site, including hours that the vehicle access gate/door will be open; and

k) The movements of trucks and other vehicles to the loading bay showing likely access routes and movements from adjacent roads.

When approved, the Car Parking Management Plan will be endorsed and will form part of this permit.

The provisions, recommendations and requirements of the endorsed Car Parking Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

10. A minimum 30 days prior to any building or works commencing, a Construction and Site Management Plan (CSMP) must be submitted to and be approved by the Responsible Authority detailing the construction activity proposed and the site and environmental management methods to be used. The CSMP must be in accordance with Moonee Valley City Council’s CSMP Guidelines and Template.

When approved, the CSMP will be endorsed and will form part of this permit.

The development must be carried out in accordance with the endorsed CSMP and the provisions, requirements and recommendations of the endorsed CSMP must be implemented and complied with to the satisfaction of the Responsible Authority.

11. A maximum 30 days following completion of the development, a WSUD Maintenance Program must be submitted to and approved by the Responsible Authority which sets out future operational and maintenance arrangements for all WSUD measures. The program must include, but is not limited to:

   a) Inspection frequency;
   b) Cleanout procedures;
   c) As installed design details/diagrams including a sketch of how the system operates; and
   d) A report confirming completion and commissioning of all WSUD Response treatment measures written by the author of the WSUD Response and STORM or MUSIC model approved pursuant to this permit, or licensed installing/commissioning plumber, or similarly qualified person or company. This report must be to the satisfaction of the Responsible Authority and must confirm that all WSUD treatment measures specified in the WSUD Response and STORM or MUSIC model have been completed and implemented in accordance with the approved report.

The WSUD Maintenance Program may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Builder’s Guide or a Building Maintenance Guide.

12. Thirty (30) days prior to the commencement of works, a civil plan showing new footpath levels within the road reserve fronting the development must be provided and approved to the satisfaction of the Responsible Authority.
13. An on-site stormwater detention drainage system must be installed on the land to the satisfaction of the Responsible Authority.

Before the development starts a Drainage Layout Plan, including computations and manufacturer’s specifications, to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Drainage Layout Plan must be prepared by a Civil Engineer with suitable qualifications to the satisfaction of the Responsible Authority and must depict an on-site stormwater detention drainage system to be installed on the land.

When approved, the Drainage Layout Plan will form part of this permit.

The on-site stormwater detention drainage system must be installed and the provisions, recommendations and requirements of the endorsed Drainage Layout Plan must otherwise be implemented and complied with to the satisfaction of the Responsible Authority.

14. Prior to the commencement of the use or buildings and works associated with the use (or the certification or issue of a statement of compliance under the Subdivision Act 1988) the applicant must provide:

a) A Certificate of Environmental Audit in accordance with Section 53Y of the Environment Protection Act 1970; or

b) A Statement of Environmental Audit under Section 53Z of the Environment Protection Act 1970. A Statement must state that the site is suitable for the use and development allowed by this permit.

All the conditions of the Statement of Environmental Audit must be complied with to the satisfaction of the Responsible Authority, prior to commencement of use of the site. Written confirmation of compliance must be provided by a suitably qualified environmental professional or other suitable person acceptable to the Responsible Authority. In addition, sign off must be in accordance with any requirements in the Statement conditions regarding verification of works.

The applicant must enter into a Section 173 Agreement under the Planning and Environment Act 1987 in relation to ongoing maintenance and/or monitoring in accordance with the Statement of Environmental Audit. The Agreement must be executed on title prior to the commencement of the use and prior to the issue of a Statement of Compliance under the Subdivision Act 1988. The applicant must meet all costs associated with drafting and execution of the Agreement, including those incurred by the Responsible Authority.

VicRoads Condition

15. Prior to the commence of use hereby approved, all redundant vehicle crossings at Keilor Road must be removed and the area re-instated to kerb and channel to the satisfaction of and no cost to the Roads Corporation.

Essendon Fields Airport Conditions

16. Prior to the commencement of works (except for demolition and bulk excavation), the landowner must:

a) determine whether it requires approval from the Secretary of the Department of Infrastructure, Transport, Cities and Regional Development
in relation to the construction of the development, including approval for controlled activities in prescribed airspace pursuant to the Airports (Protection of Airspace) Regulations 1996 (Cth); and

b) if approval is required from the Secretary of the Department of Infrastructure, Transport, Cities and Regional Development pursuant to Condition 16(a) of this permit, obtain the approval and provide a copy to the Responsible Authority and Essendon Fields Airport.

No other works (except for demolition and bulk excavation) can be commenced pursuant to this permit until the matters in this Condition 16 are resolved.

17. Prior to the commencement of works (except for demolition and bulk excavation), the landowner must provide, to the satisfaction of the Responsible Authority, an assessment that the building will not create an unacceptable risk to aircraft operations from building induced windshear and air turbulence.

18. Prior to the commencement of works, a Construction Environmental Management Plan (CEMP) must be prepared and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The CEMP must include, but not be limited to the following:
   a) Proposed working hours;
   b) Haulage routes to the site;
   c) Methods of dust suppression;
   d) Sediment control and gross pollutant management;
   e) Procedures to ensure that no significant adverse environmental impacts occur as a result of the development;
   f) Earthworks (Consistent with Construction Techniques for Sediment Pollution Control (EPA, 1991);
   g) Showing where stockpiling, machinery wash down, lay down, storage and personnel rest areas occur;
   h) Vehicle exclusion areas;
   i) Weed management measures to be undertaken during and post construction; and
   j) Procedures to ensure that no controlled activities as defined by Section 182(1) of the Airports Act 1996 (Cth) occur without approval. Alternatively, if an approval has been issued by the Secretary of the Department of Infrastructure, Regional Development and Cities pursuant to the Airports (Protection of Airspace) Regulations 1996, the procedures to ensure compliance with the approval.

19. The development allowed by this permit must be constructed to comply with any noise attenuation measures required by Australian Standard 2021-2015. Any noise attenuation measures must also be maintained to the satisfaction of the Responsible Authority.

20. Lighting of all areas within the site shall be located and designed with suitable shields and baffles so that no glare is emitted outside the site to the satisfaction of the Responsible Authority.
Head, Transport for Victoria Conditions

21. The permit holder must avoid disruption to tram operation along Keilor Road during the construction of the development. Any planned disruptions to tram operation during construction and mitigation measures must be communicated to and approved by the Head, Transport for Victoria and Yarra Trams a minimum of thirty five days (35) prior.

22. The permit holder must ensure that all track, tram and overhead infrastructure is not damaged. Any damage to public transport infrastructure must be rectified to the satisfaction of the Head, Transport for Victoria at the full cost of the permit holder.

City West Water Conditions

23. It is essential the owner of the land enters into an agreement with City West Water for the provision of water supply.

24. It is essential the owner of the land enters into an agreement with City West Water for the provision of sewerage.

25. Prior to certification, the Plan of Subdivision must be referred to City West Water in accordance with Section 8 of the Subdivision Act 1988.

Use and Development Conditions

26. The water sensitive urban design treatments as specified within the Water Sensitive Urban Design (WSUD) assessment report(s) submitted to and approved by the Responsible Authority must be implemented on site prior to the occupation of the development unless an alternative agreement is reached with the Responsible Authority.

27. Before the building approved by this permit is occupied, all retaining walls and boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority if the occupier of the adjoining land allows access for the purpose.

28. Buildings or works must not be constructed over or adjacent to any easement or within one metre of an existing Council drainage asset without the prior written consent of Council (or of the authorities or agencies with an interest in the easement) to the satisfaction of the Responsible Authority.

29. Service units, including air conditioning units, must not be located on any of the balconies or terrace areas unless appropriately visually and acoustically screened to the satisfaction of the Responsible Authority.

30. Floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.

31. Before the building approved by this permit is occupied, the privacy screens and other measures to prevent overlooking as shown on the endorsed plans must be installed in accordance with Clause 55.04-6 (Overlooking) of the Moonee Valley Planning Scheme to the satisfaction of the Responsible Authority.

All privacy screens and other measures to prevent overlooking as shown on the endorsed plans must at all times be maintained to the satisfaction of the Responsible Authority.
32. All pipes, fixtures, fittings, ducts and vents servicing any building on the land, other than stormwater downpipes and gutters above the ground floor storey of the building, must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

33. Before the building approved by this permit is occupied, the areas set aside for the parking of vehicles, together with the associated driveways and access lanes as shown on the endorsed plans must be:
   a) Constructed;
   b) Available for use in accordance with the endorsed plans;
   c) Properly formed to such levels and drained so that they can be used in accordance with the endorsed plans;
   d) Finished with a permanent trafficable surface (such as concrete, asphalt or paving); and
   e) Line-marked or provided with another adequate means of ensuring that the boundaries of all vehicle spaces are clearly indicated on the ground, in accordance with the endorsed plans to the satisfaction of the Responsible Authority.

   The area set aside for the parking of vehicles, together with the associated driveways and access lanes as shown on the endorsed plans must:
   f) Be maintained and made available for such use; and
   g) Not be used for any other purpose,

to the satisfaction of the Responsible Authority.

34. Before the building approved by this permit is occupied, concrete vehicular crossing(s) must be constructed to suit the proposed driveway(s) in accordance with the Responsible Authority’s specification and any obsolete, disused or redundant vehicle crossing(s) must be removed and the area reinstated to footpath, nature strip and kerb and channel to the satisfaction of the Responsible Authority.

   All vehicle access points must be located a minimum of 1.0 metre from any infrastructure including service pits. Alternatively, such assets may be incorporated into the crossover with the prior written consent of the Responsible Authority and relevant servicing authority/agency. Subsequent works and costs in association with the relocation and/or amendment must be incurred at the owner’s cost, to the satisfaction of the relevant servicing authority/agency and Responsible Authority.

35. Bicycle parking spaces, access, lockers and compounds must be provided, maintained and kept available for these purposes at all times to the satisfaction of the Responsible Authority.

36. The existing street trees must not be removed or damaged as a result of the permitted development, unless with the written consent of the Responsible Authority.
37. The proposed street trees to be planted along Keilor Road must be to the satisfaction of the Responsible Authority. All costs associated with the planting of the street trees must be borne by the permit applicant and be completed to the satisfaction of the Responsible Authority before the building approved by this permit is occupied.

38. Provision must be made for the drainage of the land including landscaped and pavement areas. The discharge of water from the land must be controlled around its limits to prevent any discharge onto any adjoining or adjacent property or streets other than by means of an underground pipe drain which is discharged to an approved legal point of discharge to the satisfaction of the Responsible Authority.

39. Before the building approved by this permit is occupied, all boundary fencing is to be constructed in accordance with the endorsed plans at the cost of the permit holder to the satisfaction of the Responsible Authority.

40. Except with the prior written consent of the Responsible Authority, equipment, services or other building features (other than those shown on the endorsed plan) must not be erected above the roof level of the building.

41. The development must be provided with external lighting capable of illuminating access to the vehicle accessway, loading bay, car parking spaces and pedestrian entrances. Lighting must be located, directed and shielded and of limited intensity so that no nuisance or loss of amenity is caused to any person within or beyond the land.

42. Noise levels emanating from service equipment on the land must not exceed the permissible noise levels determined in accordance with State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade), No. N-1 (SEPP N-1).

43. All security alarms or similar devices installed on the land must not emit any noise which is audible beyond the boundary of the land and must be designed in accordance with the relevant Australian Standard and must be connected to a security monitoring service.

44. The amenity of the area must not be detrimentally affected by the use of land, through:
   a) Transportation 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; or
   d) Presence of vermin,
   or in any other way, to the satisfaction of the Responsible Authority.

45. All wastes, including liquid waste and waste water, must be disposed of to the satisfaction of the Responsible Authority.

46. The garden areas shown on the endorsed plan and schedule must only be used as gardens and must be constructed, completed and maintained in a proper, tidy and healthy condition to the satisfaction of the Responsible Authority. Any
tree or shrub damaged, removed or destroyed must be replaced by a tree or shrub of similar size and variety to the satisfaction of the Responsible Authority.

Subdivision Conditions

47. The owner of the land must enter into an agreement with:
   - a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider’s requirements and relevant legislation at the time; and
   - a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

48. Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
   - a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider’s requirements and relevant legislation at the time; and
   - a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

49. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority’s requirements and relevant legislation at the time.

50. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.

51. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

52. Before a Statement of Compliance is issued, the Responsible Authority must be provided with written advice in accordance with Section 20A of the Subdivision Act 1988.

Expiry Conditions

53. This permit, as it relates to use and development, will expire if:
a) The development is not commenced within two (2) years from the date of issue of this permit; or

b) The development is not completed and the use is not commenced within four (4) years from the date of issue of this permit.

Before the permit expires, or within six (6) months afterwards, the owner or occupier of the land may make a written request to the Responsible Authority to extend the expiry date.

If the development commences before the permit expires, within twelve (12) months after the permit expires, the owner or occupier of the land may make a written request to the Responsible Authority to extend the expiry date.

54. This permit, as it relates to subdivision, will expire if:

a) The plan of subdivision is not certified within two years of the date of this permit; or

b) The registration of the subdivision is not completed within five years of the date of certification of the plan of subdivision.

The Responsible Authority may extend the time to certify the plan of subdivision if a request is made in writing before the permit expires or within six (6) months afterwards.

Permit Notes

• This is not a building permit under the Building Act. A separate building permit is required to be obtained for any demolition or building works.

• Before the development starts, the permit holder must contact Moonee Valley City Council on 9243 8888 regarding legal point of discharge, vehicular crossings, building over easements, asset protection, road consent/occupancy, etc.

• This permit does not authorise any advertising signs. No advertising signs may be erected on the land other than those which have been approved under a separate planning permit or are exempt from the need for a planning permit under the Moonee Valley Planning Scheme.

• No on street parking permits will be provided to the occupiers of the land.

• The required on-site detention system must be designed to limit the rate of stormwater discharge from the property to pre-development levels in accordance with the following: Cw=0.4, tc=10mins, tso=5mins, ARI 1 in 5. An ARI of 1 in 10 shall be used for storage and the greater of post development Cw or Cw=0.80.

• All drainage works undertaken must be in accordance with the requirements of Stormwater Drainage Requirements for Development Works as prepared by Moonee Valley City Council.

• Before the development starts, separate approval must be obtained from Moonee Valley City Council in relation to the proposed planting of the nominated street trees. Please contact Council on 9243 8888 to speak with Council’s Arborist.
• All works undertaken within any existing road reserves must accord with the requirements of Moonee Valley City Council’s Technical Services Department and be to the satisfaction of the Responsible Authority.

• Existing levels along the property line and easements must be maintained. All proposed levels must match to existing surface levels along the property boundary and/or easement. Council will not accept any modifications to existing levels within any road reserve or easement.

• In the event that car parking spaces or storage cages are separately titled, a condition will be imposed on any further subdivision permit requiring the permit holder to enter into a Section 173 Agreement to ensure the on-site car spaces and storage cages must not be subdivided, leased or sold separately to external parties that are not prime lot owners or tenants of the building or development.

• The development authorised by this permit will require the submission of a Construction and Site Management Plan (CSMP) prior to the commencement of any works. All CSMP’s are required to be made via Council’s online system at http://www.mvcc.vic.gov.au/planning-and-building/planning/construction-site-management-plans.aspx or in person at 9 Kellaway Avenue, Moonee Ponds.

• The need for a public open space contribution may be required through any future subdivision application for each stage accordingly.

• The proposal comprises of works associated with the re-instatement of kerb and channel which require separate approval under the Road Management Act 2004. Please contact VicRoads/DoT prior to commencement any works.

1. Introduction

1.1 Subject Site and Surrounds
The subject site is a corner site located on the southern side of Keilor Road and the eastern side of Roberts Street, Essendon. The entire site is irregular in shape with a total frontage to Keilor Road of 87.20 metres and a frontage to Roberts Street of 56.62 metres, resulting in a total area of 3,562m². Stage 1 of the site has a frontage to Keilor Road of 38.43 metres and a total area of 2,025m².

The land is relatively flat with minimal fall across the site.

There are no restrictions noted on the Certificate of Title provided. However, a 3.66 metre wide and 1.83 metre wide drainage and sewerage easement exists along the southern (rear) property boundary.

The site comprises a vacant car sales yard. Vehicle access is obtained from existing crossovers located along each streetscape. There is no significant landscaping or vegetation on the subject site. There are four street trees located at the front of the site along Keilor Road.
The surrounding area is predominantly commercial and residential zoned land used and developed for commercial and residential purposes. The subject site directly abuts the No.59 tram route, forming part of the Principal Public Transport Network (PPTN), and is located within the Keilor Road Major Activity Centre under Plan Melbourne 2017-2050: Metropolitan Planning Strategy. The site is also located within proximity of numerous bus routes, local businesses, schools and public parks/reserves. The built form within the vicinity is predominantly 1-2 storeys in height, comprising commercial buildings and multi-unit developments, with six storey mixed-use developments approved to the north and west of the site at 144-160 Keilor Road and 203-211 Keilor Road respectively. While external building materials predominantly consist of brick or render finishes, the broader area is very much eclectic in nature with an emergence of new and contemporary developments nearby.

1.2 Proposal

It is proposed to demolish all remaining buildings/structures and construct a six storey building comprising four retail premises and 44 dwellings (Stage 1), use the land for dwellings, reduce car parking requirements, alter access to a road in a Road Zone, Category 1, and create a two lot staged subdivision. The proposal (Stage 1) can be summarised as follows:
### Table 1

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail premises</td>
<td>459.4m² (four tenancies)</td>
</tr>
<tr>
<td>No. of dwellings</td>
<td>44 (3 x 4 bedrooms, 11 x 3 bedrooms, 16 x 2 bedrooms and 14 x 1 bedroom)</td>
</tr>
<tr>
<td>No. of car spaces</td>
<td>69 (8 x retail staff and 61 x dwelling spaces)</td>
</tr>
<tr>
<td>No. of bicycle spaces</td>
<td>17 (11 x employee/resident, 5 x visitor/shopper spaces and 1 surplus space)</td>
</tr>
<tr>
<td>Max. building height</td>
<td>20.06 metres (6 storeys), excluding architectural features and building services</td>
</tr>
</tbody>
</table>

Stage 2 is proposed to remain vacant in the interim and to be used for equipment during the construction of Stage 1. The future development of Stage 2 will be the subject of a separate planning permit application.

Refer Appendix C – Advertised Plans (separately circulated).

Revised ‘without prejudice’ plans (refer Appendix D – separately circulated) were received by Council on 11 October 2019 to address some of the referrals and concerns raised. The revised ‘without prejudice’ plans demonstrate:

- Modified basement levels, including relocation of one retail car space and deletion of one surplus residential car space to accommodate a loading bay area within Basement Level 1.
- Provision of a retail bin storage room adjoining the loading bay area within Basement Level 1.
- A modified ground floor layout including deletion of a south-facing three-bedroom dwelling, increase in total floor area of retail premises to 588.7m², provision of retail ‘back of house’ service corridors (including retail waste chutes) and a retail courtyard/open space area.
- An increase in the number of bicycle parking spaces provided on site to 20, including two ground floor visitor/shopper bicycle spaces adjoining the modified residential entry.
- Provision of two additional street trees along the Keilor Road site frontage.
- Relocation of gas meters within the easement in the south-west corner of the site to the northern side of the shared vehicle accessway.
- The underside of the front awning/canopy lowered from 4.7 metres above natural ground level to 3.25 metres above natural ground level.

The revised ‘without prejudice’ plans address some of the referrals and concerns raised and are to be included as a condition on any permit granted accordingly (refer Appendix D – separately circulated).

### 2. Background

#### 2.1 Relevant Planning History

Planning Permit MV/693/2015 was approved on 30 August 2016 for construction of a six storey building in a Design and Development Overlay (DDO7 & DDO9),
use of the land for dwellings, a reduction in car parking requirements, a waiver of loading bay requirements and alteration of access to a road in a Road Zone, Category 1 at 165-169 Keilor Road, Essendon.

Planning Permit application MV/318/2015 for construction of a six storey building in a Design and Development Overlay (DDO7 and DDO9), use of the land for dwellings, a reduction in car parking requirements, waiver of loading bay requirements and alteration of access to a Road Zone, Category 1 was withdrawn on 13 July 2015.

Planning Permit MV/726/2012 was approved on 28 November 2012 for removal of a restrictive covenant No. 1250401 pursuant to Clause 47(2) of the Planning and Environment Act 1987 at 165 Keilor Road, Essendon.

Planning Permit MV/14516/2001 was approved on 10 April 2002 to remove the restrictive covenants affecting the land known as 167-169 Keilor Road, Essendon.

Planning Permit MV/14349/2001 was approved on 10 April 2002 to use, construct and carry out works for the purpose of motor vehicle sales and a business identification sign at 165-169 Keilor Road, Essendon.

Planning Permit MV/9581/1997 was approved on 7 November 1997 for development of an office/foyer extension in association with existing car sales yard at 167-169 Keilor Road, Essendon.

Planning Permit MV/5038/1988 was approved on 12 December 1988 for alterations to car yard at 167-169 Keilor Road, Essendon.

Planning Permit MV/4262/1985 was approved on 16 December 1985 for an underground tank for unleaded petrol at 167-169 Keilor Road, Essendon.

2.2 Planning Policies and Decision Guidelines

Planning Policy Framework (PPF)

Clause 11 Settlement
Clause 13 Environmental Risks and Amenity
Clause 15 Built Environment and Heritage
Clause 16 Housing
Clause 17 Economic Development
Clause 18 Transport
Clause 19 Infrastructure

Local Planning Policy Framework (LPPF)

Clause 21.01 Municipal Profile
Clause 21.02 Key Issues and Influences
Clause 21.03 Vision
Clause 21.04 Sustainable Environment
Clause 21.05 Housing
Clause 21.06 Built Environment
Clause 21.07 Activity Centres
Clause 21.08 Economic Development
Clause 21.09 Transport
Clause 21.10 Social and Physical Infrastructure
Clause 22.03 Stormwater Management (Water Sensitive Urban Design)

Zoning
Clause 34.01 Commercial 1 Zone

Overlays
Clause 43.02 Design and Development Overlay Schedules 7 and 9
(DDO7 and DDO9)

Particular, General and Operational Provisions
Clause 52.06 Car Parking
Clause 52.29 Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road
Clause 52.34 Bicycle Facilities
Clause 53.01 Public Open Space Contribution and Subdivision
Clause 53.18 Stormwater Management in Urban Development
Clause 58 Apartment Developments
Clause 65 Decision Guidelines
Clause 66 Referral and Notice Provisions
Clause 71.02-3 Integrated decision making

2.3 Referrals

External

<table>
<thead>
<tr>
<th>Referral Authority</th>
<th>Conditions/Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>VicRoads (Section 55 referral)</td>
<td>No objection subject to a standard condition</td>
</tr>
<tr>
<td>Essendon Fields Airport (Section 52 referral)</td>
<td>No objection subject to standard conditions</td>
</tr>
<tr>
<td>Head, Transport for Victoria (Section 52 referral)</td>
<td>No objection subject to standard conditions</td>
</tr>
<tr>
<td>City West Water (Section 52 referral)</td>
<td>No objection subject to standard conditions</td>
</tr>
</tbody>
</table>

Internal
<table>
<thead>
<tr>
<th>Department/Officer</th>
<th>Conditions/Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Development Engineering (Drainage)</strong></td>
<td>No objection subject to standard engineering and drainage conditions. A civil plan showing new footpath levels within the road reserve fronting the development must also be provided and approved 30 days prior to the commencement of works.</td>
</tr>
</tbody>
</table>
| **Traffic and Transport** | No objection to the revised memorandum and swept paths from Traffix Group dated 11 October 2019 and revised ‘without prejudice’ plans (refer Appendix D – separately circulated), subject to the inclusion of conditions on any permit granted.  
While such a reduction in car parking spaces is accepted, Stage 2 will be subject to a separate assessment which may restrict the overall development yield of the site.  
No objection with regard to traffic generation associated with Stage 1 of the proposed development, noting overall traffic volumes for Stages 1 and 2 should not exceed the volumes previously approved by Council for the site.  
No objection to the car parking design, loading facilities, bicycle facilities and vehicle crossings subject to the inclusion of conditions and a car parking management plan on any permit granted. |
| **Waste Management** | No objection to the revised waste memorandum from Leigh Design dated 11 October 2019 and revised ‘without prejudice’ plans (refer Appendix D – separately circulated), which demonstrate private waste collection accommodated on site (no kerbside collection along Keilor Road). |
| **Environmental Sustainable Design (ESD) Officer** | No objection to the revised Sustainability Management Plan (Revision 6 dated 11 October 2019), including BESS and STORM reports, and revised ‘without prejudice’ plans (refer Appendix D – separately circulated), subject to meeting the requirements of Clause 58.07-4 (Natural ventilation) and the provision of all required plan notations as conditions on any permit granted. |
| **Landscape Architect / City Design** | No objection subject to the following:  
- Include advanced (100L) street tree planting to Keilor Road. There are four existing trees. Add five trees to infill and create an evenly spaced row of trees along the Keilor Road frontage. Species to match four existing trees.  
- The ground floor communal garden area is poorly positioned, partitioned into smaller bits, |
Department/Officer | Conditions/Comments
--- | ---
does not provoke a sense of garden/landscape and does not respond to the concept (courtyard, landscaped, etc.)
- The 1.2m wide front awning/canopy extending over public land along Keilor Road at 4.7m in height does not provide any amenity while obstructing tree canopies. Should provide overhead cover within the title boundary (i.e. set back the ground floor wall line)
- Façade greenery (climbing plant) details, including climbing support structure, have not been provided. The façade design heavily depends on this greenery and the design is required to be robust
- Planting in ground floor communal garden area should feature shade tolerant plants. Reconsider substituting Cycads, Correa alba, etc. (sun loving plants)
- Further details regarding which garden is irrigated, if the irrigation water is roof runoff or potable, and whether adequate drainage is provided (especially above structure – no drainage point is apparent from the plan)

2.4 Public Notification of the Application

Pursuant to Section 52 of the Planning and Environment Act 1987 the application was advertised by mail to adjoining and surrounding properties, with two notices erected on site for 14 days.

As a result, one (1) objection was received from the property contained within Appendix A (separately circulated) of this report.

A response to the objection is provided in Section 3.15 of this report.

3. Discussion

3.1 Does the proposal address the relevant State, Regional and Local Planning Policies?

The proposal, subject to conditions, is considered to comply with the relevant State, Regional and Local Planning Policies. Generally, these policies seek to encourage urban consolidation in locations which take advantage of existing commercial and community services and public transport. The subject site is located within the Keilor Road Major Activity Centre under Plan Melbourne 2017-2050: Metropolitan Planning Strategy and is located on the Principal Public Transport Network (PPTN). The subject site directly abuts the No.59 tram route and is within proximity of numerous local businesses, schools, public parks/reserves and bus routes. The location of the subject site is considered to
lend support for a more intensive form of residential and commercial development.

With regard to Clauses 13.04-1S (Contaminated and potentially contaminated land) and 21.04-6 (Potentially Contaminated Land), the site contained a fuel bowser and oil storage area. Given the land is potentially contaminated from previous uses, and the proposed development is to be used for residential purposes (a ‘sensitive use’), further investigation is required before construction commences. In particular an assessment of the level, nature and distribution of any contamination within the land will be required as a condition on any permit granted. This may require a Certificate or Statement of Environmental Audit in accordance with Part IXD of the Environment Protection Act 1970, depending on the outcome of the site assessment and any contamination found, to ensure the site is suitable for residential purposes.

Policy guidelines relevant to the built environment and urban design, Clauses 15.01 (Built Environment) and 21.06-4 (Urban Design), are discussed in detail within Section 3.2 of this report.

The proposal contributes to the objective and strategies of Clause 16.01-3S (Housing diversity) by providing a mix of dwelling sizes in various configurations, which will cater for the increasingly diverse needs of future residents.

With regard to Clause 17.02-1S (Business) the proposal will help meet the communities’ needs for retail and other commercial services within Keilor Road Activity Centre along the Principal Public Transport Network (PPTN). Importantly, the proposed commercial facilities are aggregated and provide net community benefit in relation to their accessibility and efficient use of infrastructure. The proposal also provides relatively small-scale shopping opportunities to help meet the needs of local residents and workers in a convenient activity centre location.

With regard to Clause 18.01-1S (Land use and transport planning), the proposed development helps create a safe and sustainable transport system by integrating land use and transport. As discussed earlier, the proposed development complies with the strategies of Clause 18.02-2R (Principal Public Transport Network) by maximising the use of existing infrastructure and increasing the diversity and density of development along the PPTN in an activity centre. The proposal also accords with the objective and strategies of Clause 18.04 (Airports) by protecting the ongoing operation of Essendon Fields Airport. As discussed within Section 3.5 of this report, the proposed visual amenity, use and development of the subject site accord with the provisions of the DDO9 and will not prejudice the safety or efficiency of aircraft operations, including noise impacts, subject to the inclusion of conditions on any permit granted.

The proposal complies with Clause 21.04-3 (Ecologically Sustainable Development) through the use of ecologically sustainable design principles, subject to the revised Sustainability Management Plan (Revision 6 dated 11 October 2019) and associated BESS report forming conditions on any permit granted. As referenced in Section 2.3 of this report, Council’s ESD Officer has no objection to these revised documents being endorsed through conditions on
any permit granted, subject to the provision of all required plan notations and the proposal meeting the requirements of Clause 58.07-4 (Natural ventilation).

The proposal shown on revised ‘without prejudice’ plans (refer Appendix D – separately circulated) accords with the objectives and strategies of Clause 21.04-7 (Waste) as it integrates waste management and recycling facilities in order to achieve best practice in waste minimisation and recycling. A revised waste memorandum dated 11 October 2019 was submitted following public notification and indicates private waste collection on site. This revised waste memorandum adequately addresses the provisions of this clause, subject to being incorporated into an amended waste management plan. Therefore, an amended waste management plan demonstrating private waste collection on site is to be submitted, endorsed, implemented and managed as a condition on any permit granted accordingly.

The proposal complies with the objectives and strategies of Clause 21.05 (Housing) by increasing housing opportunities to meet growing population needs, providing a diversity of housing choice in a well-established area with access to public transport options and local/community services. It is noted the subject site is located within an area of ‘high to substantial housing intensification’.

Clause 21.07 (Activity Centres) is applicable in this instance and builds on the objectives and strategies of the Planning Policy Framework, in particular Clause 11 (Settlement). The subject site is located within the Keilor Road Activity Centre as identified in Plan Melbourne 2017-2050: Metropolitan Planning Strategy. Importantly, the proposal provides a mixture of land uses to maximise opportunities for local employment, day and night time activity and active ground floor frontages. The proposal also increases the density of development in the activity area that is considered respectful of the transition to residential streets adjoining the activity area.

Residential uses are provided on the upper levels of the proposed development with retail uses on the ground floor fronting Keilor Road. A consistent public domain treatment and landscaping theme for Keilor Road has been provided, with the inclusion of additional street trees on revised ‘without prejudice’ plans (refer Appendix D – separately circulated), along with a diversity of housing sizes. Bicycle parking and storage areas are provided within the proposed development along with well-located, accessible and safe car parking areas which do not visually dominate the public realm. The Keilor Road Activity Centre Structure Plan 2011 and Keilor Road Built Form Guidelines 2012 have been considered in the design and assessment of the proposal under the DDO7, to which there is a high degree of compliance as discussed within Section 3.4 of this report.

With regard to Clause 21.08 (Economic Development), the proposal would contribute to and enhance Keilor Road Activity Centre in terms of investment and employment opportunities. In particular, the proposed retail premises satisfy the community’s retail and commercial service needs through increased accessibility to local businesses and a more sustainable local economy. Therefore, the proposed development and provision of retail premises is acceptable.
As discussed earlier and within Section 3.5 of this report, the proposal complies with the objective and strategy of Clause 21.09-6 (Essendon Airport) by ensuring the safe and effective operation of Essendon Fields Airport for the community. Through correspondence with Essendon Fields Airport, the proposed development and built form is acceptable with no intrusions into flight paths in the vicinity of the airport, subject to the inclusion of conditions on any permit granted.

The revised Sustainability Management Plan (Revision 6 dated 11 October 2019) complies with Clause 22.03 Stormwater Management (Water Sensitive Urban Design) and meets the required on-site stormwater treatment as demonstrated by achieving at least 100% within the revised STORM report. As referenced within Section 2.3 of this report, the revised Sustainability Management Plan, inclusive of the revised STORM report, is to form a condition on any permit granted. The relevant WSUD requirements, including stormwater treatment measures and associated plan notations, are also to be included as conditions on any permit granted in accordance with this policy.

3.2 Does the proposal represent an appropriate built form outcome?

It is a strategy of Clause 15.01-1S (Urban design) to ensure new development responds to its context in terms of character, cultural identity, natural features, surrounding landscape and climate. The proposed development, subject to modification, appropriately considers its site context and proposes a built form that will not be visually dominant to the streetscape or adjoining properties and is considered to provide appropriate internal amenity to future users of the site.

Further to this, the overarching objective of Clause 15.01-2S (Building design) is:

- “To achieve building design outcomes that contribute positively to the local context and enhance the public realm.”

The Urban Design Guidelines for Victoria (2017) are a policy guideline in support of this clause, providing guidance on the development of functional and enjoyable places throughout Victoria for people to live, work and spend leisure time. The guidelines contained at Element 2 (Movement Network), Element 3 (Public Spaces) and Element 5 (Buildings) are of relevance to this application and have been satisfied, as discussed below.

Clause 21.06-4 (Urban Design) provides further objectives and strategies, including the reference document City of Moonee Valley Design Guidelines for Multistorey Residential Buildings (2003), which echoes the key urban design principles contained within Clause 15.01-2S and the Urban Design Guidelines for Victoria (2017).

It is considered the proposed development, subject to modification, is consistent with the relevant design principles of the Urban Design Guidelines for Victoria (2017), the City of Moonee Valley Design Guidelines for Multistorey Residential Buildings (2003) and Clauses 15.01-2S and 21.06-4, as discussed below.

Building Design Quality and Context

A description of the proposal has been provided within this report, along with the accompanying documentation, which accurately details the context of the
site. The design response demonstrated on revised ‘without prejudice’ plans (refer Appendix D – separately circulated) is considered appropriate given the size and location of the site with good access to a range of services including public transport, schools and numerous recreational facilities/reserves.

The proposed design is contemporary and is considered to respond well to the site’s location and context through the provision of architectural elements and an acceptable combination of materials (see Figure 3 below). An appropriate degree of visual interest and design articulation is considered to have been provided with an acceptable transition of built form to adjoining properties in accordance with the setback requirements of the DDO7.

![Figure 3 – 3D perspective of the proposed development looking south-west from Keilor Road](image)

**Streetscape and Urban Design**

The front façade and three-storey podium are considered to make a positive contribution to Keilor Road and help integrate the development with the street while assisting to enhance the experience for pedestrians. The inclusion of ground floor retail premises and a central residential entry area along Keilor Road provide for an active frontage at the street level. There would be a significant increase in fenestration, passive surveillance and the perception of public safety to Keilor Road as a result of the proposed development. The incorporation of balconies also provides appropriate articulation of the building façade while maximising opportunities for visibility and passive surveillance. All vehicle and pedestrian entries are well defined and clearly identifiable from the public realm.

Car parking for the development is contained within two basement levels with vehicle access from Roberts Street. The provision of one vehicle accessway can be comfortably absorbed along this streetscape, particularly given a
number of existing vehicle crossovers are to be removed and reinstated along each streetscape as part of the proposed development. This will maintain an active and visually interesting primary street frontage along Keilor Road. The provision of one vehicle accessway and concealed car parking areas allow the articulated built form to be the main focal point of the proposed development. Therefore, car parking would be adequately concealed from Keilor Road, allowing the proposed development to address this streetscape with a more active frontage.

Setbacks and Site Coverage

The building envelope and scale of the building is guided by the DDO7, the size of the site and its direct abutments. The proposed site coverage and setbacks are acceptable within the commercial zoning of the site and the requirements of the DDO7, as discussed within Section 3.4 of this report.

The proposed development is built to the front and side property boundaries at the lower levels, which is considered to provide an acceptable response to the opportunities and constraints of the site including zoning and overlay requirements. In particular, a three-storey street wall to Keilor Road is acceptable under the DDO7. The upper level setbacks along Keilor Road are also acceptable under the DDO7 and provide an appropriate transition of built form to the streetscape and adjoining properties. The proposed rear setbacks largely meet and exceed the rear setback requirements of the DDO7, with exception to one third floor balcony, and are considered acceptable as discussed within Section 3.4 of this report.

The design response is considered to largely comply with and exceed the rear setback requirements of the DDO7, helps reduce potential visual bulk/mass issues, minimises amenity impacts on adjoining properties and allows for equitable development opportunities. These setbacks in conjunction with the articulated built form and provision of landscaping, screen planting and canopy trees to the rear of the site provide an appropriate rear interface.

The proposed development has a high level of site coverage, which is consistent with the commercial zoning of the site and its location within a Major Activity Centre.

Building Height and Silhouette

Appropriate building height is derived from the local context, street conditions and character objectives for an area. As highlighted earlier, the subject site is located within a Commercial 1 Zone in a Major Activity Centre and directly abuts the Principal Public Transport Network (PPTN). Such locations encourage more intensive forms of development to take advantage of existing infrastructure and services.

The DDO7 provides guidance on preferred building heights, as discussed in detail within Section 3.4 of this report. The proposed maximum building height of 20.06 metres accords with the preferred maximum building height of 21 metres as stipulated within the DDO7. Therefore, the proposed height and silhouette of the building is appropriate.
Internal Circulation, Space and Building Adaptability

The proposed development shown on revised ‘without prejudice’ plans (refer Appendix D – separately circulated) achieves an acceptable degree of internal amenity and provides for comfortable living environments with adequate internal living spaces to meet the needs of future occupants.

The entry points to the development will be easily identifiable from within the basement car parking levels, with a central lift and stairwell providing access to the upper levels. Separate pedestrian access points, in the form of a residential lobby area, are provided along Keilor Road. The provision of lift and stair access in conjunction with a lobby/foyer area along the streetscape will allow for ease of movement, including the movement of furniture, emergency access and escape.

The development shown on revised ‘without prejudice’ plans (refer Appendix D – separately circulated) provides an adequate and efficiently designed car parking layout that will ensure safe vehicle movements. As discussed within Sections 2.3 and 3.6 of this report, Council’s Traffic and Transport Unit has no objection to the provision and layout of car parking, subject to the inclusion of conditions on any permit granted.

In terms of storage space, all dwellings have been provided with adequate internal and external storage space in accordance with the relevant provisions of Clause 58.05-4 (Storage), subject to the condition discussed within Section 3.11 of this report being included on any permit granted.

Provision for waste storage on the revised ‘without prejudice’ plans (refer Appendix D – separately circulated) is included at Basement Level 1 by way of common bin storage rooms, which have been suitably separated into residential and commercial waste storage areas. Council’s Waste Management Unit has no objection to the revised waste memorandum from Leigh Design dated 11 October 2019 and revised ‘without prejudice’ plans (refer Appendix D – separately circulated), as discussed within Sections 2.3 and 3.1 of this report. These requirements and revised plans are to form conditions on any permit granted accordingly.

On-Site Amenity and Liveability

The proposal has been designed to accommodate a range of dwelling sizes and types, including different layouts and orientations. This will cater to the needs and preferences of a range of people with different needs.

In a general sense, the layout of each dwelling is considered to provide an appropriate level of amenity for future occupants, subject to the deletion of ‘Apartment G05’ as shown on revised ‘without prejudice’ plans (refer Appendix D – separately circulated). Residents will be afforded with generous sized open plan living opportunities with good fenestration and access to daylight. Further to this, all habitable rooms (living areas and bedrooms) will have direct access to daylight, which is considered to be a good design outcome allowing for a high level of internal amenity for each dwelling.

Each dwelling is provided with a balcony considered to be well-proportioned and well-oriented. Importantly, all balcony areas meet the minimum area and dimension requirements of Clause 58.05-3 (Private open space).
The proposed development has been designed to limit internal overlooking where possible. However, further details and/or treatment/screening is required between Apartments 202, 203 and 204 to ensure this requirement has been adequately satisfied. This is to form a condition on any permit granted.

The proposed development is to minimise the transmission of noise within the development, including from external sources such as Essendon Fields Airport, through the inclusion of suitable conditions on any permit granted, as discussed within Section 3.11 of this report.

Off-Site Amenity

There would not be any significant overlooking potential into habitable room windows and private open space of new and existing dwellings from the proposed development, subject to conditions on any permit granted as discussed within Section 3.11 of this report. While ResCode is not applicable in this instance, the requirements of Clause 55.04-6 (Overlooking) of the Moonee Valley Planning Scheme provide a useful guide to assess overlooking potential, as referenced within Clause 58.04-1 (Building setback). Therefore, the first and second floor east-facing balconies of Apartments 108 and 208 are to be treated/screened in accordance with the requirements of Clause 55.04-6 (Overlooking), and this is to form a condition on any permit granted accordingly.

The proposed development does not cause adverse overshadowing to any adjoining or nearby existing secluded private open space areas due to the location/orientation of the site and proposed design response. Importantly, at least 40m² of existing secluded private open space areas will receive a minimum of five hours of sunlight between 9am and 3pm on 22 September in accordance with the requirements of Clause 55.04-5 (Overshadowing open space).

The proposed development would minimise the transmission of noise to adjoining properties through the inclusion of suitable conditions on any permit granted.

Therefore, subject to appropriate overlooking and noise conditions on any permit granted, the proposal is considered an acceptable design response to the site and surrounding area.

Parking, Traffic and Access

Comments provided by Council’s Traffic and Transport Unit are included within Section 2.3 of this report, in addition to the requirements of Clause 52.06 (Car Parking), as discussed within Section 3.6 of this report.

Landscaping and Fencing

The subject site currently has limited permeability and does not contain any significant landscaping or vegetation. The proposed development would have a high level of site coverage, which is acceptable for a site within a Commercial 1 Zone and Major Activity Centre. However, the proposed development does provide a substantial green landscaping buffer with plantings and canopy trees along the southern (rear) property boundary. Planter boxes and climbers are also proposed throughout the development to help improve internal amenity and mitigate off-site amenity impacts. The revised ‘without prejudice’ plans (refer
Appendix D – separately circulated) also provide for new street trees, which is considered suitable within the streetscape and public realm.

While the recommendations from Council’s Landscape Architect referenced within Section 2.3 of this report will help provide an improved landscaping theme for the site and surrounding area, any ground floor setback from Keilor Road would not accord with the DDO7 and will not form a condition on any permit granted accordingly.

Environmental Sustainability

Given the type of development and the intensive use of the site for a multi-level, multi-dwelling development, there are quite a number of inherent energy efficient design principles used in this project. These include the sharing of floors, walls and ceilings, which assist in the prevention of excessive heat gain and loss. This sharing of floors, walls and ceilings also makes efficient use of resources and building materials.

The revised waste memorandum from Leigh Design dated 11 October 2019 and revised ‘without prejudice’ plans (refer Appendix D – separately circulated) are acceptable with regard to the management of waste on site and are to form conditions on any permit granted accordingly.

The proposed development has incorporated many Environmentally Sustainable Design initiatives, including the provision of a 23,000 litre rainwater tank within Basement Level 2 for the re-use of stormwater within the development. However, the revised Sustainability Management Plan (Revision 6 dated 11 October 2019) comprises a larger rainwater tank of 28,000 litres for the increased treatment and re-use of stormwater within the development. This helps provide an even more sustainable development for the benefit of present and future generations. In addition to this, all habitable living areas and bedrooms have windows with direct access to daylight.

Lastly, the location of the subject site offers a number of benefits, namely access to public transport, the Melbourne CBD and other local services/facilities. Each of these factors reduce the need for additional housing on the fringes of the metropolitan area and make efficient use of existing infrastructure and services, reducing travel time/costs and thereby environmental impacts.

Service Infrastructure

The proposed infill development would utilise existing infrastructure and services available on site and within the surrounding area. This is considered to be an efficient and appropriate use of available resources. Furthermore, Council’s Development Engineering (Drainage) Unit has no objection to the proposal, subject to the inclusion of standard engineering and drainage conditions on any permit granted.

3.3 Does the proposal accord with the Commercial 1 Zone?

The proposed use of the land for dwellings requires a planning permit under Clause 34.01-1 (Table of Uses). While the residential frontage at ground floor level along Keilor Road exceeds 2.0 metres in width, thereby requiring a planning permit, this residential entrance is acceptable as it maintains a
predominantly active frontage along the commercial spine of Keilor Road. Importantly, the location and design of the residential entrance for Stage 1 allows for approximately 35 metres of integration and street activation for the proposed retail premises along Keilor Road, which equates to approximately 91% of the site frontage. The proposed retail premises are ‘as-of-right’ uses within the Commercial 1 Zone. Therefore, the proposed mix of land uses accord with the objectives of relevant planning policies within the Moonee Valley Planning Scheme and will help create a vibrant precinct within Keilor Road Activity Centre, as discussed within Section 3.1 of this report.

The proposed subdivision of the land requires a permit under Clause 34.01-3 (Subdivision). As discussed throughout this report, the staged subdivision creating two lots is consistent with the purpose and decision guidelines of the Commercial 1 Zone.

The proposed development also requires a permit under Clause 34.01-4 (Buildings and Works). As discussed throughout this report, the proposed development is considered to be a good design outcome for the site and surrounding area, subject to the inclusion of conditions on any permit granted.

3.4 Does the proposal accord with Schedule 7 to the Design and Development Overlay (DDO7)?

The subject site is located within ‘Precinct 3’ of the Design and Development Overlay Schedule 7 (DDO7).

Table 2

<table>
<thead>
<tr>
<th></th>
<th>DDO7-Precinct 3</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preferred maximum building height</td>
<td>21 metres on ‘key sites’</td>
<td>20.06 metres</td>
</tr>
<tr>
<td>Front setback (up to three storeys in height)</td>
<td>0 metres</td>
<td>0 – 3 metres</td>
</tr>
<tr>
<td>Front setback (above three storeys in height)</td>
<td>3 metres</td>
<td>3 – 5.6 metres</td>
</tr>
<tr>
<td>Rear setback (up to three storeys in height)</td>
<td>3 metres</td>
<td>3 – 17.6 metres</td>
</tr>
<tr>
<td>Rear setback (above three storeys in height)</td>
<td>8 metres</td>
<td>8 – 17.6 metres (excluding Level 3 ‘Apt 305’ balcony)</td>
</tr>
</tbody>
</table>

The subject site is considered to be a ‘key site’ as the site has a total land parcel area greater than 1,000 square metres (3,562m² in total; 2,025m² for Stage 1) with a frontage width greater than 20 metres (87.20 metres in total; 38.43 metres for Stage 1); the site is within 400 metres of a tram stop or train station (approximately 120 metres from a tram stop); new vehicle access to the site can be achieved by a side street or via a rear lane (vehicle access proposed from Roberts Street); and the additional height applicable to a ‘key
site’ has no significant amenity or heritage impacts as discussed within Sections 3.2, 3.11 and Appendix B (separately circulated) of this report.

The proposed development has a high level of compliance with the height and setback requirements under Precinct 3 of the DDO7, as demonstrated in Table 2 above. The proposed building height of 20.06 metres does not include architectural features or building services and meets the preferred maximum building height requirement and design objectives of the DDO7 accordingly.

b) The proposed development meets the minimum front setback requirements of the DDO7.

The proposed development meets and exceeds the minimum rear setback requirements of the DDO7, with the exception of the third-floor balcony for ‘Apartment 305’ (highlighted in yellow within Figure 4 below). While balconies may encroach up to 0.5 metres into the nominated setback where the side or rear boundary is shared with a property in a residential zone, the Apartment 305 balcony has a rear setback of approximately 4.2-4.9 metres due to the varied nature of the rear boundary. This results in a non-compliance of approximately 2.6-3.3 metres.

However, given the proposed location and design response, the Apartment 305 balcony would largely be obscured from adjoining properties by the three-storey built form below which has a 3.0 metre compliant rear setback. This particular balcony is not located within close proximity of any existing habitable room windows, with existing dwellings located approximately 23 metres or more from this balcony. The siting, design and setbacks of the Apartment 305 balcony would minimise any potential visual or amenity impacts on adjoining properties.

It is also noted Apartment 305 itself has a rear setback of 8-8.66 metres, resulting in the walls and built form of this apartment being wholly compliant with the rear setback requirements of the DDO7. Therefore, the proposed rear setbacks meet the design objectives of the DDO7 and are considered acceptable accordingly.
Figure 4 – Compliance with the DDO7 rear setback requirement (Section BB)

Overall, the proposed development achieves each of the design objectives of the DDO7, including the provision of a consistent street rhythm, creating an engaging interface, achieving excellence and diversity in architecture, providing a pedestrian friendly environment and integrating street trees and landscaping to Keilor Road. As referenced within Section 2.3 of this report, Council’s Landscape Architect / City Design Unit did not object to the proposed development subject to the inclusion of conditions on any permit granted. Importantly, the revised ‘without prejudice’ plans (refer Appendix D – separately circulated) build on these design objectives further. Therefore, the proposed built form and revised design response meet the objectives of the DDO7 and allow for an interesting building design on a relatively large and unique ‘key site’ within Keilor Road Activity Centre.

There are no specific subdivision, lot size or other requirements specified within Schedule 7 to the Design and Development Overlay. Notwithstanding this, the proposed two lot staged subdivision will result in development which is in keeping with the character and appearance of adjacent buildings, the streetscape and surrounding area. Importantly, the development of Stage 2 will be subject to a separate planning permit application and will be assessed on its own merits accordingly.

3.5 Does the proposal accord with Schedule 9 to the Design and Development Overlay (DDO9)?

A planning permit is required to construct a building or carry out works which exceed 80m Australian Height Datum (AHD) in height. As the proposed building exceeds 80m AHD (87.05m AHD proposed), the application was referred to Essendon Fields Airport under Section 52 of the Planning and Environment Act 1987. As referenced within Section 2.3 of this report, Essendon Fields Airport
has no objection to the proposed development subject to the inclusion of conditions on any permit granted.

Similar to the DDO7, there are no specific subdivision, lot size or other requirements specified within Schedule 9 to the Design and Development Overlay. Notwithstanding this, the proposed two lot staged subdivision will result in development which is in keeping with the character and appearance of adjacent buildings, the streetscape and surrounding area. Importantly, the development of Stage 2 will be subject to a separate planning permit application and will be assessed on its own merits accordingly.

Therefore, subject to the inclusion of conditions required by Essendon Fields Airport on any permit granted, the proposal is acceptable and complies with the design objectives and decision guidelines of the DDO9.

3.6 Is adequate car parking and vehicle access provided?

The advertised plans provide car parking as set out in the table below:

Table 3

<table>
<thead>
<tr>
<th>Unit (advertised plans)</th>
<th>Requires</th>
<th>Provides</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail premises / shops (459.4m²)</td>
<td>16</td>
<td>8</td>
</tr>
<tr>
<td>44 dwellings (3 x 4 bedrooms, 11 x 3 bedrooms, 16 x 2 bedrooms and 14 x 1 bedroom)</td>
<td>58</td>
<td>61</td>
</tr>
<tr>
<td>Residential visitors</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>74</strong></td>
<td><strong>69</strong></td>
</tr>
</tbody>
</table>

The revised ‘without prejudice’ plans (refer Appendix D – separately circulated) provide car parking as set out in the table below:

Table 4

<table>
<thead>
<tr>
<th>Unit (revised plans)</th>
<th>Requires</th>
<th>Provides</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail premises / shops (588.7m²)</td>
<td>20</td>
<td>8</td>
</tr>
<tr>
<td>43 dwellings (3 x 4 bedrooms, 10 x 3 bedrooms, 16 x 2 bedrooms and 14 x 1 bedroom)</td>
<td>56</td>
<td>60</td>
</tr>
<tr>
<td>Residential visitors</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>76</strong></td>
<td><strong>68</strong></td>
</tr>
</tbody>
</table>

As referenced within Section 2.3 of this report, Council’s Traffic and Transport Unit has no objection to the revised memorandum and swept paths from Traffix Group dated 11 October 2019 and revised ‘without prejudice’ plans (refer
Appendix D – separately circulated), subject to the inclusion of conditions on any permit granted.

With regard to the reduction in retail car parking requirements, the subject site directly abuts the No.59 tram route and the No.476, 477 and 483 bus routes, which provide alternate modes of transport to and from the subject site. The revised ‘without prejudice’ plans (refer Appendix D – separately circulated) also provide 20 bicycle spaces on site (a surplus of four bicycle spaces on site) and three additional bicycle rails along Keilor Road which can be utilised by retail employees and shoppers to the proposed development. It is also noted there are numerous on-street car spaces available at the front of the site along Keilor Road and Roberts Street that can be utilised by retail employees and shoppers, with additional on-street car spaces created through the removal and reinstatement of existing crossovers. Such measures would all help offset the retail car parking spaces not being provided for on site.

In relation to traffic generation, the proposed development is expected to generate 28 vehicle movements per hour in the peak hours, which equates to less than one vehicle movement every two minutes during the peak hours. Traffix Group are satisfied that this level of traffic is low in traffic engineering terms and able to be accommodated by the existing road network. This is accepted by Council’s Traffic and Transport Unit who have no objection to traffic generation associated with Stage 1 of the proposed development, noting overall traffic volumes for Stages 1 and 2 should not exceed the volumes previously approved by Council for the site.

With regard to car parking design, Council’s Traffic and Transport Unit has no objection to the revised ‘without prejudice’ plans (refer Appendix D – separately circulated), subject to the inclusion of a Car Parking Management Plan (CPMP) and conditions on any permit granted as follows:

- All objects and landscaping within the pedestrian sight triangle, provided on the exit side of the vehicle accessway, is to be kept below 900mm in height and clearly annotated on the plans
- The two adjoining car spaces located at the end of the aisle on Basement Level 2 allocated to the same dwelling to better manage access, similar to a tandem car space
- The layout of the DDA car space and adjoining shared area in accordance with the layout shown within the revised memorandum and swept paths from Traffix Group dated 11 October 2019
- The management of the car park, including allocation of car spaces, access control and management of the multi-purpose loading/waste collection area (i.e. vehicle size, operating times for different users, etc.) is to be controlled through a Car Parking Management Plan (CPMP)
- Deletion of any reference to a loading zone along the site’s frontage to Keilor Road
- Include a sign at the site access reading “Right turn to Keilor Road” facing internally to discourage vehicles from using Roberts Street (local road)
• The vehicle crossing shown in accordance with Moonee Valley Standard Drawings and Council’s Vehicle Crossings Policy, with all redundant vehicle crossings removed and reinstated with kerb, channel and nature strip to the satisfaction of Council.

Therefore, subject to the inclusion of conditions on any permit granted, it is not anticipated the proposed development will generate a cumulative impact or have an adverse effect on car parking, vehicle movements or the capacity of the existing road network.

3.7 Is the alteration of access to a road in a Road Zone, Category 1, considered appropriate?

A planning permit is required under Clause 52.29 (Land Adjacent to a Road Zone, Category 1) to create or alter access to a road in a Road Zone, Category 1. As this planning application proposes to alter access to Keilor Road, a Category 1 Road Zone, the application was referred to the Roads Corporation (VicRoads) under Section 55 of the Planning and Environment Act 1987. As referenced within Section 2.3 of this report, VicRoads has no objection to the proposed development subject to the inclusion of a condition on any permit granted.

3.8 Are adequate bicycle facilities provided?

The proposal includes bicycle spaces as set out in the table below:

<table>
<thead>
<tr>
<th>Table 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit</td>
</tr>
<tr>
<td>Retail employees</td>
</tr>
<tr>
<td>Retail shoppers</td>
</tr>
<tr>
<td>Dwelling residents</td>
</tr>
<tr>
<td>Dwelling visitors</td>
</tr>
<tr>
<td>Surplus</td>
</tr>
<tr>
<td><strong>Total</strong></td>
</tr>
</tbody>
</table>

As demonstrated in the table above, the proposed development provides adequate bicycle spaces in accordance with the requirements of Clause 52.34 (Bicycle Facilities). In addition to this, three single sided bicycle rails are proposed for visitors/shoppers and general public use within the nature strip along Keilor Road.

The revised ‘without prejudice’ plans (refer Appendix D – separately circulated) also provide three additional bicycle spaces on site, including a double-sided bicycle rail adjoining the residential entry, which is an improved design response. As referenced within Section 2.3 of this report, Council’s Traffic and Transport Unit has no objection to the provision of bicycle facilities as part of the proposed development, subject to the inclusion of conditions on any permit.
granted. In particular, the single sided bicycle rails within the nature strip along Keilor Road are to accord with the design requirements of Australian Standard AS2890.3-2015 and be to the satisfaction of the Responsible Authority.

3.9 Are adequate loading facilities provided?

Clause 65 (Decision Guidelines) requires the consideration of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts. Given the proposed retail premises are moderate in size, it is generally accepted deliveries to such premises of this scale are delivered by small trucks, vans and the like. The proposed loading bay at Basement Level 1, as shown within the revised memorandum and swept paths from Traffix Group dated 11 October 2019, provides adequate space for such delivery vehicles, including 6.4m long Small Rigid Vehicles (SRV) and private waste collection vehicles.

As referenced within Section 2.3 of this report, Council’s Traffic and Transport Unit has no objection to the provision of such loading facilities, subject to the revised ‘without prejudice’ plans correctly reflecting the loading bay layout/design shown on swept paths from Traffix Group dated 11 October 2019. Therefore, the revised ‘without prejudice’ plans (refer Appendix D – separately circulated) are to correctly reflect the loading bay layout/design shown on swept paths from Traffix Group dated 11 October 2019, and this is to be included as a condition on any permit granted.

3.10 Does the proposal comply with the requirements of Clause 53.01 (Public Open Space Contribution and Subdivision)?

The proposal generally complies with the provisions of Clause 53.01-1 (Exemption from public open space requirement specified in the scheme) as the proposal subdivides land into two lots. While a two-lot subdivision is exempt from a public open space contribution, such a requirement can be made if Council considers that either of the lots could be further subdivided.

In Palenkas v Whitehorse CC [2003] VCAT 2043 (10 October 2003), Justice Morris provided guidance as to how this discretion can be exercised. Where discretion is required, Council is to make an assessment against Section 18(1A) of the Subdivision Act 1988 and justify that the subdivision will result in a need for more open space.

In this instance, the proposal allows for two relatively large lots that are likely to be further subdivided in accordance with their respective development applications. Therefore, the need for a public open space contribution is to be assessed and required through any future subdivision application for each stage accordingly.

3.11 Does the proposal comply with the requirements of Clause 58 (Apartment Developments)?

The proposal is considered to generally comply with the provisions of Clause 58 as set out in the assessment table (refer Appendix B – separately circulated).

The following points of exception, which have not been satisfied in full through this development, are listed and discussed below:
### Table 6

<table>
<thead>
<tr>
<th>Design Standard</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clause 58.03-1 (Standard D6) Energy efficiency</td>
<td>The development has generally been oriented to make appropriate use of solar energy with residential living areas, courtyards and balconies predominantly located to the north, east or west with adequate access to daylight and solar energy, where possible (noting imbedded constraints with the orientation and layout of this commercial site). A large number of dwellings are also dual aspect and, therefore, provided with improved access to daylight and ventilation to ensure dwellings achieve adequate thermal efficiency and reduce fossil fuel energy use. However, the orientation and layout of the ground floor ‘Apartment G05’ does not make appropriate use of daylight or solar energy and fails to achieve adequate thermal efficiency. The revised ‘without prejudice’ plans (refer Appendix D – separately circulated) delete and replace ‘Apartment G05’ with extended retail floor areas, which is considered to be an improved design response and to be included as a condition on any permit granted accordingly. A revised Sustainability Management Plan (Revision 6 dated 11 October 2019), including BESS report, and revised ‘without prejudice’ plans (refer Appendix D – separately circulated) demonstrate an adequate level of energy efficiency supported by Council’s ESD Officer. As such, these revised documents/plans are to be endorsed through the inclusion of conditions on any permit granted.</td>
</tr>
<tr>
<td>Clause 58.03-3 (Standard D8) Solar access to communal outdoor open space</td>
<td>The communal outdoor open space cannot be located on the north side of the building given this interface is with Keilor Road. In particular, the commercial zoning of the site and DDO7 require buildings to be built up to the front boundary (zero metre front setback) as well as encouraging a consistent street rhythm that reinforces local character, creates an engaging interface and provides for an active commercial frontage. Unfortunately, the prescribed airspace requirements of Essendon Fields Airport also restrict the provision of meaningful communal outdoor open space being provided as a roof terrace with improved solar access. As such, the primary communal outdoor open space does not meet the minimum requirement of 55 square metres receiving a minimum of two hours of</td>
</tr>
<tr>
<td>Design Standard</td>
<td>Response</td>
</tr>
<tr>
<td>----------------</td>
<td>----------</td>
</tr>
<tr>
<td></td>
<td>sunlight between 9am and 3pm on 21 June. Given the constraints associated with the context and orientation of the site, the location of the ground floor communal outdoor open space is considered acceptable in this instance</td>
</tr>
<tr>
<td>Clause 58.03-5 (Standard D10)</td>
<td>The commercial zoning of the site does not encourage the provision of landscaping, which respects the landscape character (or lack thereof) of other commercial properties abutting the Principal Public Transport Network (PPTN) forming part of Keilor Road Activity Centre. However, whilst the development is not providing the required deep soil areas (10% of site area with a minimum dimension of 6m) or minimum number of canopy trees as specified in Table D2, the provision of a ground floor landscaping buffer to the rear of the site with 11 canopy trees (8-10m in height); use of raised planter boxes throughout the development; climbers along the front façade, eastern ground floor side courtyards and rear ground floor pergola; and additional street trees along Keilor Road is considered acceptable and meets the objectives of this standard, subject to the recommendations of Council’s Landscape Architect being incorporated and included as conditions on any permit granted</td>
</tr>
<tr>
<td>Clause 58.03-8 (Standard D13)</td>
<td>A STORM Rating Report formed part of the application and is to be updated and amended to demonstrate adequate stormwater management, collection, utilisation and infiltration within the development, as discussed within Sections 2.3 and 3.1 of this report</td>
</tr>
</tbody>
</table>
| Clause 58.04-1 (Standard D14) | Direct views into habitable room windows and private open space areas of new and existing dwellings have generally been avoided. However, there appears to be overlooking potential into private open space associated with the existing dwelling directly to the south at 145 Hedderwick Street. In particular, the first and second floor east-facing balconies of Apartments 108 and 208 have overlooking potential within a 9m radius which require further treatment/screening to ensure no direct views into private open space. Any treatment/screening of these balconies is to meet the requirements of Standard B22 within ResCode (which is a useful guide in the absence of any other
<table>
<thead>
<tr>
<th>Design Standard</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>overlooking provisions). Such requirements are to be included as conditions on any permit granted accordingly. With regard to direct views into private balconies between new dwellings, further details and/or treatment/screening is required between Apartments 202, 203 and 204. This is to be included as a condition on any permit granted accordingly.</td>
</tr>
<tr>
<td>Clause 58.04-3 (Standard D16) Noise impacts</td>
<td>The layout and design of the proposed development and new dwellings are considered to adequately minimise noise transmission within the site. In particular, noise sensitive rooms such as living areas and bedrooms have generally been located to avoid noise impacts from mechanical plants, lifts, building services, non-residential uses, car parking, communal areas and other dwellings. However, the location of bedrooms and living areas directly adjacent, or provided with an outlook, to the ground floor communal open space area should be designed or modified to avoid potential noise impacts from this communal area. The bedroom of ‘Apartment G01’, adjacent to the retail premises, is also to be designed or modified to avoid potential noise impacts from this non-residential use. Furthermore, the third, fourth and fifth floor bedrooms directly adjoining the communal waste chutes are to be designed or modified to avoid potential noise impacts from this building service. Such requirements are to be included as conditions on any permit granted accordingly. While the proposed dwellings are likely to be subject to external noise impacts from Essendon Fields Airport, the development is to be constructed to comply with any noise attenuation measures required by Australia Standard 2021-2015 as a condition on any permit granted. Importantly, the inclusion of such a requirement was recommended by Essendon Fields Airport as a condition on any permit granted.</td>
</tr>
<tr>
<td>Clause 58.05-4 (Standard D20) Storage</td>
<td>All dwellings have convenient access to usable and secure storage space, with all storage space meeting the ‘minimum storage volume within the dwelling’ and ‘total minimum storage volume’ requirements specified in Table D6. However, given three of the one-bedroom dwellings require one of the larger storage cages within the basement (minimum 3.8m³).</td>
</tr>
</tbody>
</table>
and three of the three-bedroom dwellings also require one of the larger storage cages within the basement (minimum 4.5m³), in order to meet the ‘total minimum storage volume’ requirement specified in Table D6, the allocation of these larger storage cages within the basement levels is to be included as a condition on any permit granted.

Clause 58.06-3 (Standard D23) Waste and recycling
A revised waste memorandum dated 11 October 2019 and revised ‘without prejudice’ plans (refer Appendix D – separately circulated) demonstrate adequate waste management, utilising private waste collection services on site, as discussed within Sections 2.3 and 3.1 of this report. Therefore, an amended waste management plan demonstrating private waste collection on site is to be submitted, endorsed, implemented and managed as a condition on any permit granted accordingly.

3.12 Does the proposal comply with the requirements of Clause 65.02 (Approval of An Application to Subdivide Land)?

The staging of the proposed subdivision of the land is considered appropriate and in accordance with the staging and further subdivision of multi-storey developments across the subject site. In particular, the staging of the proposed subdivision is to occur as follows:

Stage 1 (Master Plan)
Stage 1 creates Lots S1 and S2 representing Stages 1 and 2, respectively, of the proposed development. There is no intention to create an Owners Corporation in this stage as this will be created in Stage 2.

Stage 2 (Subdivision of Lot S1, being Stage 1 of the development)
Stage 2 creates the lots for the apartments, car spaces, storage lots and associated common property. Lot S2 and the airspace above the carpark entry will be combined into a new stage lot, being Lot S3 which will be included as a member of the unlimited Owners Corporation in this stage of the plan.

Stage 3 (Subdivision of Lot S3, being Stage 2 of the development)
Stage 3 creates the lots for the apartments, car spaces, storage lots and associated common property with lots being added to Owners Corporation(s) created in the previous stage as required.

The staging of the subdivision, as outlined above, is considered appropriate and in accordance with the future development of the land. However, the provision and location of common property has not been shown on proposed Plan of Subdivision 827834M/S1. Given the requirement for common property and Owners Corporation(s) on future subdivision plans, the provision and location of
common property is required to be shown on Plan of Subdivision 827834M/S1 and this is to form a condition on any permit granted accordingly.

3.13 Does the proposal comply with the requirements of Clause 66.01 (Subdivision Referrals)?

The proposal complies with the provisions of Clause 66.01-1 (Mandatory conditions for subdivision permits), subject to the inclusion of such mandatory conditions on any permit granted.

3.14 Does the proposal demonstrate integrated decision making?

The proposal complies with the provisions of Clause 71.02-3 (Integrated decision making), subject to the inclusion of conditions on any permit granted.

The VCAT decision of 5 Chauvel Street Pty Ltd v Banyule CC states that Clause 71.02-3 essentially recognises there may be ‘pros’ and ‘cons’ of a development and just because there is one or some ‘cons’, does not mean a proposal fails. It follows that planning does not seek perfect or ideal outcomes but acceptable outcomes, balancing competing policy. Not every aspect of every policy must be complied with to arrive at an acceptable outcome and favourable decision for a proposal. This is supported by the Supreme Court decision of Rozen, where, at paragraph 171, the Court stated the following:

- “The test of acceptable outcomes stated in the clause is informed by the notions of net community benefit and sustainable development. An outcome may be acceptable despite some negative characteristics. An outcome may be acceptable because on balance it results in net community benefit despite achieving some only of potentially relevant planning objectives and impeding or running contrary to the achievement of others.”

Furthermore, in Knox City Council v Tucany Pty Ltd it states the planning scheme does not require an ideal outcome as a pre-requisite to a permit. If it did, very few, if any, permits for development would ever be granted and there would be difficult differences of opinion as to whether the outcomes were in fact ideal. The Tribunal is entitled to grant a permit where it is satisfied the permit will result in a reasonably acceptable outcome having regard to the matters relevant to its decision under the planning scheme. The concept of net community benefit is not one of ideal outcomes, but of outcomes which result in a net benefit to the community assessed within a policy framework by reference to both their benefits and disbenefits.

As discussed throughout this report, the proposal suitably addresses aspects of economic, environmental and social well-being by balancing conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. In particular, the proposal provides significant streetscape improvement works and canopy tree plantings along Keilor Road, four retail premises for meaningful employment opportunities and activation to this section of Keilor Road, a substantial increase in housing opportunities and considerable diversity of dwelling stock to meet growing population needs.
3.15 Objections

A response to the objection is provided as follows:

Table 7

<table>
<thead>
<tr>
<th>Issue</th>
<th>Officer Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building height</td>
<td>This is acceptable and in accordance with the preferred maximum building height requirements of the DDO7, as discussed within Sections 3.2 and 3.4 of this report</td>
</tr>
<tr>
<td>Overshadowing</td>
<td>This is acceptable as discussed within Section 3.2 of this report. Importantly, there would not be any adverse overshadowing impacts as a result of the proposed development due to the location, design response and rear setbacks from existing secluded private open space areas directly to the south. Whilst the requirements of Clause 55.04-5 (Overshadowing open space) are not strictly applicable, this clause provides a useful guide in the absence of any other quantitative overshadowing requirements, to which the proposed development is compliant</td>
</tr>
<tr>
<td>Increased traffic impacts</td>
<td>This is acceptable, subject to the inclusion of conditions on any permit granted, as discussed within Sections 2.3 and 3.6 of this report</td>
</tr>
<tr>
<td>Oversaturation of apartments along Keilor Road</td>
<td>As discussed throughout this report, Keilor Road is located within a Major Activity Centre and forms part of the Principal Public Transport Network (PPTN). Such locations encourage increased development and higher densities, as guided by the DDO7 applicable to the site and other properties along Keilor Road. Therefore, the proposed mixed-use development and apartments are acceptable to the site and surrounding area as discussed within Sections 3.1, 3.2, 3.3, 3.4 and 3.11 of this report. It is also important to note that every application is assessed on its own merits and level of compliance with the Moonee Valley Planning Scheme, to which the proposal has a high level of compliance</td>
</tr>
</tbody>
</table>

4. Human Rights

The application process and decision making is in line with the Victorian Charter of Human Rights and Responsibilities Act 2006 (Section 18 – Taking part in public life).
5. **Council Plan/Policy**

On 26 June 2018, Council adopted the MV2040 Strategy as its long-term plan for the city. It is considered the proposal is consistent with the relevant strategic directions set out in the MV2040 Strategy, including:

- Strategic Direction 3: A city where people are healthy and safe
- Strategic Direction 5: A city with housing for all
- Strategic Direction 14: A city that is green and water-sensitive
- Strategic Direction 15: A city that rethinks waste
- Strategic Direction 16: A city that is cool and climate-adapted
- Strategic Direction 17: A city that fosters local identity
- Strategic Direction 18: A city of high-quality design
- Strategic Direction 20: A city in a beautiful landscape setting.

6. **Conclusion**

The application has been assessed against the relevant provisions of the Planning Policy Framework, Local Planning Policy Framework, zoning and overlay controls, the relevant Particular and General Provisions, and the decision guidelines at Clause 65 of the Moonee Valley Planning Scheme. Additionally, consideration has been given to the requirements of Section 60(1B) of the *Planning and Environment Act 1987* and it is determined the proposal would not have a significant social effect.

It is considered the proposal demonstrates general compliance with the requirements of these provisions and policies. The application is supported by officers as detailed above in the recommendation section.

**Attachments**

A: Objectors (separately circulated)

B: Clause 58 (Apartment Developments) Assessment Table (separately circulated)

C: Advertised Plans (separately circulated)

D: Revised Without Prejudice Plans (separately circulated)
10.4 8-24 Everage Street, Moonee Ponds (Land in PS347399D) - Construction of a 16 storey building comprising food and drink premises (excluding hotel and tavern), offices and dwellings with a reduction in car parking requirements

Author: William Wheeler - Principal Statutory Planner
Business Unit: Planning

<table>
<thead>
<tr>
<th>Planning File No.</th>
<th>MV/2/2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposal</td>
<td>Construction of a 16 storey building comprising a food and drink premises (excluding hotel and tavern), two office levels and 89 dwellings above five basement levels Reduction in car parking requirements</td>
</tr>
<tr>
<td>Applicant</td>
<td>Fulcrum Urban Planning Pty Ltd</td>
</tr>
<tr>
<td>Owner</td>
<td>Savoy Towers Pty Ltd</td>
</tr>
<tr>
<td>Planning Scheme Controls</td>
<td>Activity Centre Zone - Schedule 1 (ACZ1)</td>
</tr>
<tr>
<td>Planning Permit Requirement</td>
<td>Clause 37.08-5 – Construct a building or construct or carry out works Clause 52.06-3 – Reduction in car parking requirements</td>
</tr>
<tr>
<td>Car Parking Requirements (Clause 52.06)</td>
<td>Required: 138 car spaces Provided: 65 car spaces and 20 motorbike spaces</td>
</tr>
<tr>
<td>Bicycle Requirements</td>
<td>Required: 34 bicycle spaces Provided: 100 bicycle spaces</td>
</tr>
<tr>
<td>Restrictive Covenants</td>
<td>None</td>
</tr>
<tr>
<td>Easements</td>
<td>None</td>
</tr>
<tr>
<td>Site Area</td>
<td>724 square metres</td>
</tr>
<tr>
<td>Number of Objections</td>
<td>N/A</td>
</tr>
<tr>
<td>Consultation Meeting</td>
<td>N/A</td>
</tr>
</tbody>
</table>
Executive Summary

- The application seeks planning approval for the construction of a 16 storey building comprising a food and drink premises (excluding hotel and tavern), two office levels and 89 dwellings above five basement levels with a reduction in car parking requirements.

- The site has an area of 724 square metres and is located on a corner on the eastern side of Everage Street and southern side of Homer Street, Moonee Ponds. The site comprises an existing single storey commercial building with nine individual tenancies and a rooftop car parking area.

- The application was exempt from advertising, therefore a Consultation Meeting was not held as no objections were received.

- The application was externally referred to the Head, Transport for Victoria. Support to the application was provided.

- The application was internally referred to Council’s Development Engineering (Drainage) Unit, Traffic and Transport Unit, Waste Management Unit, Environmental Sustainable Design (ESD) Officer, Strategic Planning Unit, Landscape Architect / City Design Unit, Senior Sustainability Officer (Wind) and Commercial Property Unit. Conditional support to the application was provided by all.

- The proposed development provides a suitable level of intensification for a site located within a Major Activity Centre and the Principal Public Transport Network Area, with no adjoining sensitive interfaces. Ultimately the proposal, subject to conditions, successfully balances conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. In particular, the proposal provides a food and drink premises and two office levels for meaningful employment opportunities and activation of each streetscape, a substantial increase in housing opportunities and considerable diversity of dwelling stock to meet growing population needs. Revised ‘without prejudice’ plans (refer Appendix C – separately circulated) also provide 144 bicycle spaces on site to promote alternative transport modes and mitigate traffic impacts within Moonee Ponds Activity Centre. A number of conditions are also to be included on any permit granted to reflect the future design approach captured in the Draft MPAC Streetscape and Public Spaces Plan.

- This assessment report finds the proposal demonstrates an adequate level of compliance with the relevant policies and provisions of the Moonee Valley Planning Scheme, and recommends a Planning Permit be issued subject to conditions.
**Recommendation**

That Council issues a Planning Permit in relation to Planning Permit Application No. MV/2/2019 for the construction of a 16 storey building comprising food and drink premises (excluding hotel and tavern), offices and dwellings with a reduction in car parking requirements at No.8-24 Everage Street, Moonee Ponds (Land in PS347399D), subject to the following conditions:

**Endorsement Conditions**

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended plans must be drawn to scale with dimensions and an electronic copy must be provided. The amended plans must be generally in accordance with the plans submitted and assessed with the application but modified to show:

   a) Modified ground floor, basement and office levels, including relocation of the car lift, provision for a loading bay area, a reduction in car spaces, increase in bicycle spaces and improved ESD and sustainability measures in accordance with revised ‘without prejudice’ plans prepared by Arcadia, Revision C, dated 9 October 2019;

   b) All walls, balconies and windows within the title boundaries of the site, including all basement levels;
c) At least 50% of dwellings clearly and correctly designed in accordance with the requirements of Standard D17 of Clause 58.05-1 (Accessibility) of the Moonee Valley Planning Scheme;

d) Improved pedestrian connectivity between the ground floor loading bay and foyer areas, including wider pedestrian doors/access through the ‘visitor bikes’ room to allow for the efficient movement of goods and furniture;

e) Confirmation of amenities to be provided within the proposed outdoor kitchen associated with the roof terrace;

f) Further details regarding how the fire booster and gas/water meters will be screened with stone cladding along each streetscape;

g) A reduction in the width of the proposed ground floor awning to a maximum 1.5m overhang, with reconsideration of the proposed material due to the collection of leaf litter and maintenance issues from future street tree canopies under the Draft MPAC Streetscape and Public Spaces Plan;

h) Provision of 300mm trench grates at the bottom of ramps;

i) Section diagrams of the car parking levels demonstrating satisfactory headroom clearance is achieved, specifically for the car stackers;

j) Pedestrian visibility splays at the vehicle accessway, with the access location offset from the property boundary to achieve adequate sightlines to pedestrians;

k) Standard at-grade car spaces provided in lieu of dependent car stackers or, alternatively, an independent car stacker system (i.e. shuffle system) in lieu of dependent car stackers;

l) A minimum headroom clearance of 2.5m for the DDA car space and adjoining shared area, with provision of a bollard centrally located within the adjoining shared area in accordance with the design requirements of Australian Standard AS2890.6-2009;

m) Dimensions shown for the column locations and clearance to structures in accordance with the requirements of ‘Diagram 1’ of Clause 52.06-9 (Design standards for car parking) of the Moonee Valley Planning Scheme;

n) A grade of 1:200 towards the carpark discharge points for drainage purposes;

o) Confirmation that 19 of the 38 car stacker spaces have a headroom clearance height of 1.9m (50%);

p) The manufacturer specifications for the car lift provided and confirmed, including lift shaft and lift cabin dimension requirements;

q) The vehicle crossing shown in accordance with Council’s Standard Drawings and Vehicle Crossings Policy, as well as Council’s Draft MPAC Streetscape and Public Spaces Plan;

r) The horizontal bicycle rails within the north-western corner of Basement Level 3 redesigned to accord with Australian Standard AS2890.3-2015;
s) All stormwater treatment measures and associated annotations as a result of Condition 3;

t) All Sustainability Management Plan and BESS annotations and measures in accordance with Condition 4;

u) Any design modifications and changes to the built form as a result of recommendations within the amended Wind Impact Assessment required under Condition 5;

v) A landscape plan in accordance with Condition 6; and

w) A detailed schedule of all external materials and finishes. The schedule must show the specific material, colour (including colour samples) and finishes of all external walls, roofing, fascias, window frames, screening measures, soffits, vehicle access doors and paving.

When approved, these plans will be endorsed and will form part of this permit.

2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

3. Stormwater from the development must be treated to meet the water quality performance objectives set out in the *Urban Stormwater Best Practice Environmental Management Guidelines, Victoria Stormwater Committee 1999 (Guidelines)*, as amended. The performance objectives of the Guidelines must be met entirely on site as demonstrated by a Water Sensitive Urban Design (WSUD) assessment report(s) submitted to and approved by the Responsible Authority; except that with the written consent of the Responsible Authority, up to 20% of treatment may be delivered offsite as demonstrated by a Water Sensitive Urban Design (WSUD) assessment report(s) submitted to and approved by the Responsible Authority.

4. An amended Sustainability Management Plan, inclusive of BESS Report, must be submitted simultaneously with the submission of amended plans in accordance with Condition 1 of this permit. The Sustainability Management Plan must be generally in accordance with the report prepared by ADP Consulting Pty Ltd (Revision 9 dated 14 October 2019) and be to the satisfaction of the Responsible Authority for approval. Once approved the Sustainability Management Plan, inclusive of BESS Report, is to be implemented and appropriately managed during construction of the proposed building.

5. Concurrent with the submission of Condition 1 plans, an amended Wind Impact Assessment must be submitted to and approved by the Responsible Authority. The amended Wind Impact Assessment must undertake a comprehensive scale model wind tunnel test of the proposed development and surrounding properties to the satisfaction of the Responsible Authority. The amended Wind Impact Assessment report must clearly reference all relevant development plans and be prepared by a suitably qualified expert to the satisfaction of the Responsible Authority. In addition to this, a separate wind consultant is to be engaged at the cost of the permit holder to repeat the scale model wind tunnel tests and assessments to ensure integrity of this process.

When approved, the amended Wind Impact Assessment will be endorsed and will form part of the permit.
The provisions, recommendations and requirements of the endorsed Wind Impact Assessment must be implemented and complied with to the satisfaction of the Responsible Authority.

6. Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The landscape plan must be prepared by a person or firm with suitable qualifications to the satisfaction of the Responsible Authority, drawn to scale with dimensions and an electronic copy must be provided. The landscape plan must be generally in accordance with the plans submitted with the application but modified to show:

a) Any changes as required by Condition 1 of this permit;

b) A planting schedule of all proposed vegetation (trees, shrubs and ground covers) which includes botanical names, common names, pot size, mature size and total quantities of each plant;

c) The use of drought tolerant species;

d) Features such as paths, paving and accessways;

e) Provision of planter bed details, including irrigation and pebble mulch;

f) Inclusion of raised planters on balconies, with greenery shown only where planters are proposed;

g) Planters with trees a minimum of 1m deep;

h) The location of street trees along Everage Street and Homer Street as shown in the Draft MPAC Streetscape and Public Spaces Plan;

i) Kerb and channel along Homer Street to be a two-pitcher bluestone channel;

j) Kerb and channel along Everage Street to be a one-pitcher bluestone channel;

k) The pedestrian pathways for Homer Street and Everage Street accented by 1m x 0.5m sawn bluestone paving, similar to the City of Melbourne standard footpath paving. 250mm x 250mm vehicle grade sawn bluestone should be used where a crossover is required with a transition line perpendicular to the kerb. Pram ramps in bluestone paving should also be bluestone with white granite tactile pavers;

l) Only include bollards where there is no barrier kerb (100mm diameter brushed stainless steel tube bollard with flat top is the preferred product);

m) Bluestone pavers (1m x 0.5m pavers) to extend into building entrance/lobby up to the door to create a more seamless entry; and

n) An appropriate irrigation system, including drip irrigation for all raised planters.

When approved, the landscape plan will be endorsed and will form part of this permit.

Landscaping in accordance with the endorsed landscaping plan and schedule must be completed before the building is occupied.
7. Before the development starts, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended Waste Management Plan must be in accordance with the City of Moonee Valley’s ‘Waste Management Plans – Guidelines for Applicants’ and must:
   a) Be generally in accordance with the report prepared by Leigh Design Pty Ltd dated 2 October 2019; and
   b) Be modified in accordance with Condition 1 of this permit.

When approved, the amended Waste Management Plan will be endorsed and will form part of this permit.

The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

8. Before the development starts, a Car Parking Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Car Parking Management Plan must be prepared by a traffic consultant with suitable qualifications to the satisfaction of the Responsible Authority, and must include:
   a) A car parking layout generally in accordance with the relevant requirements of the Australian Standards for Off-Street Car Parking AS/NZS 2890.1-2004 (including ramp grades and dimensions, column location, headroom clearance, etc.);
   b) Arrangements for the provision and allocation of car spaces on site;
   c) The management of car parking spaces and security arrangements for occupants of the development, including the provision of an intercom system at the security entrances;
   d) Lighting of car parking areas, entries and exits;
   e) Proposed line marking, convex mirrors and signage to direct occupants, residents and staff to their designated car spaces;
   f) Arrangements for the loading and unloading of goods and materials for the commercial uses;
   g) Entitlements to the use of the loading bay by all uses on the land, including the collection of waste by private waste collection vehicles;
   h) No charge being made for car parking without the consent of the Responsible Authority;
   i) Traffic calming measures for inclusion within the accessways and car parking areas on site, including rubber speed humps and speed restrictions as appropriate;
   j) The closure of any car parking areas a minimum of 30 minutes after the closure of the last use(s) approved on the land and/or details regarding appropriate access to the site, including hours that the vehicle access gate/door will be open;
k) The movements of trucks and other vehicles to the loading bay showing likely access routes and movements from adjacent roads;

l) Details as to how the car lift and car stackers are to be regularly maintained and serviced;

m) Details of timeframes and measures to be undertaken, to reinstate the car lift and car stackers back to working order, if the car lift or car stackers becoming non-operational;

n) Details of measures to be undertaken if the car lift or car stackers are not operational, so not to provide any additional on-street parking demand; and

o) Details regarding use of the car lift for waste management, including the marshalling of commercial bins to/from the ground floor temporary storage area by the building manager outside of peak hours.

When approved, the Car Parking Management Plan will be endorsed and will form part of this permit.

The provisions, recommendations and requirements of the endorsed Car Parking Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

9. A minimum 30 days prior to any building or works commencing, a Construction and Site Management Plan (CSMP) must be submitted to and be approved by the Responsible Authority detailing the construction activity proposed and the site and environmental management methods to be used. The CSMP must be in accordance with Moonee Valley City Council’s CSMP Guidelines and Template.

When approved, the CSMP will be endorsed and will form part of this permit.

The development must be carried out in accordance with the endorsed CSMP and the provisions, requirements and recommendations of the endorsed CSMP must be implemented and complied with to the satisfaction of the Responsible Authority.

10. A maximum 30 days following completion of the development, a WSUD Maintenance Program must be submitted to and approved by the Responsible Authority which sets out future operational and maintenance arrangements for all WSUD measures. The program must include, but is not limited to:

a) Inspection frequency;

b) Cleanout procedures;

c) As installed design details/diagrams including a sketch of how the system operates; and

d) A report confirming completion and commissioning of all WSUD Response treatment measures written by the author of the WSUD Response and STORM or MUSIC model approved pursuant to this permit, or licensed installing/commissioning plumber, or similarly qualified person or company. This report must be to the satisfaction of the Responsible Authority and must confirm that all WSUD treatment measures specified in
the WSUD Response and STORM or MUSIC model have been completed and implemented in accordance with the approved report.

The WSUD Maintenance Program may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Builder’s Guide or a Building Maintenance Guide.

11. An on-site stormwater detention drainage system must be installed on the land to the satisfaction of the Responsible Authority.

Before the development starts a Drainage Layout Plan, including computations and manufacturer’s specifications, to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Drainage Layout Plan must be prepared by a Civil Engineer with suitable qualifications to the satisfaction of the Responsible Authority and must depict an on-site stormwater detention drainage system to be installed on the land.

When approved, the Drainage Layout Plan will form part of this permit.

The on-site stormwater detention drainage system must be installed and the provisions, recommendations and requirements of the endorsed Drainage Layout Plan must otherwise be implemented and complied with to the satisfaction of the Responsible Authority.

Development Conditions

12. The water sensitive urban design treatments as specified within the Water Sensitive Urban Design (WSUD) assessment report(s) submitted to and approved by the Responsible Authority must be implemented on site prior to the occupation of the development unless an alternative agreement is reached with the Responsible Authority.

13. Before the building approved by this permit is occupied, all boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority if the occupier of the adjoining land allows access for the purpose.

14. Service units, including air conditioning units, must not be located on any of the balconies or terrace areas unless appropriately visually and acoustically screened to the satisfaction of the Responsible Authority.

15. Floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.

16. Before the building approved by this permit is occupied, the privacy screens and other measures to prevent overlooking as shown on the endorsed plans must be installed in accordance with Clause 55.04-6 (Overlooking) of the Moonee Valley Planning Scheme to the satisfaction of the Responsible Authority.

All privacy screens and other measures to prevent overlooking as shown on the endorsed plans must at all times be maintained to the satisfaction of the Responsible Authority.

17. All pipes, fixtures, fittings, ducts and vents servicing any building on the land, other than stormwater downpipes and gutters above the ground floor storey of the building, must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
18. Before the building approved by this permit is occupied, the areas set aside for the parking of vehicles, together with the associated driveways and access lanes as shown on the endorsed plans must be:
   a) Constructed;
   b) Available for use in accordance with the endorsed plans;
   c) Properly formed to such levels and drained so that they can be used in accordance with the endorsed plans;
   d) Finished with a permanent trafficable surface (such as concrete, asphalt or paving); and
   e) Line-marked or provided with another adequate means of ensuring that the boundaries of all vehicle spaces are clearly indicated on the ground, in accordance with the endorsed plans to the satisfaction of the Responsible Authority.

The area set aside for the parking of vehicles, together with the associated driveways and access lanes as shown on the endorsed plans must:
   f) Be maintained and made available for such use; and
   g) Not be used for any other purpose,
   to the satisfaction of the Responsible Authority.

19. Before the building approved by this permit is occupied, concrete vehicular crossing(s) must be constructed to suit the proposed driveway(s) in accordance with the Responsible Authority's specification and any obsolete, disused or redundant vehicle crossing(s) must be removed and the area reinstated to footpath, nature strip and kerb and channel to the satisfaction of the Responsible Authority.

All vehicle access points must be located a minimum of 1.0 metre from any infrastructure including service pits. Alternatively, such assets may be incorporated into the crossover with the prior written consent of the Responsible Authority and relevant servicing authority/agency. Subsequent works and costs in association with the relocation and/or amendment must be incurred at the owner's cost, to the satisfaction of the relevant servicing authority/agency and Responsible Authority.

20. Bicycle parking spaces, access, lockers and compounds, associated showers and change rooms, must be provided, maintained and kept available for these purposes at all times to the satisfaction of the Responsible Authority.

21. Provision must be made for the drainage of the land including landscaped and pavement areas. The discharge of water from the land must be controlled around its limits to prevent any discharge onto any adjoining or adjacent property or streets other than by means of an underground pipe drain which is discharged to an approved legal point of discharge to the satisfaction of the Responsible Authority.

22. Except with the prior written consent of the Responsible Authority, equipment, services or other building features (other than those shown on the endorsed plan) must not be erected above the roof level of the building.
23. The development must be provided with external lighting capable of illuminating access to the vehicle accessway, loading bay, car parking spaces and pedestrian entrances. Lighting must be located, directed and shielded and of limited intensity so that no nuisance or loss of amenity is caused to any person within or beyond the land.

24. Noise levels emanating from service equipment on the land must not exceed the permissible noise levels determined in accordance with State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade), No. N-1 (SEPP N-1).

25. All security alarms or similar devices installed on the land must not emit any noise which is audible beyond the boundary of the land and must be designed in accordance with the relevant Australian Standard and must be connected to a security monitoring service.

26. The amenity of the area must not be detrimentally affected by the use of land, through:
   a) Transportation 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; or
   d) Presence of vermin,
   or in any other way, to the satisfaction of the Responsible Authority.

27. All wastes, including liquid waste and waste water, must be disposed of to the satisfaction of the Responsible Authority.

28. The garden areas shown on the endorsed plan and schedule must only be used as gardens and must be constructed, completed and maintained in a proper, tidy and healthy condition to the satisfaction of the Responsible Authority. Any tree or shrub damaged, removed or destroyed must be replaced by a tree or shrub of similar size and variety to the satisfaction of the Responsible Authority.

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

Before the permit expires, or within six (6) months afterwards, the owner or occupier of the land may make a written request to the Responsible Authority to extend the expiry date.

If the development commences before the permit expires, within twelve (12) months after the permit expires, the owner or occupier of the land may make a written request to the Responsible Authority to extend the expiry date.

**Permit Notes**

- This is not a building permit under the *Building Act*. A separate building permit is required to be obtained for any demolition or building works.
• Before the development starts, the permit holder must contact Moonee Valley City Council on 9243 8888 regarding legal point of discharge, vehicular crossings, building over easements, asset protection, road consent/occupancy, etc.

• This permit does not authorise any advertising signs. No advertising signs may be erected on the land other than those which have been approved under a separate planning permit or are exempt from the need for a planning permit under the Moonee Valley Planning Scheme.

• No on street parking permits will be provided to the occupiers of the land.

• The required on-site detention system must be designed to limit the rate of stormwater discharge from the property to pre-development levels in accordance with the following: $C_w=0.4$, $t_c=10\text{mins}$, $t_s=5\text{mins}$, $\text{ARI }1\text{ in }5$. An ARI of 1 in 10 shall be used for storage and the greater of post development $C_w$ or $C_w=0.80$.

• All drainage works undertaken must be in accordance with the requirements of Stormwater Drainage Requirements for Development Works as prepared by Moonee Valley City Council.

• All works undertaken within any existing road reserves must accord with the requirements of Moonee Valley City Council’s Technical Services Department and be to the satisfaction of the Responsible Authority.

• Existing levels along the property line and easements must be maintained. All proposed levels must match to existing surface levels along the property boundary and/or easement. Council will not accept any modifications to existing levels within any road reserve or easement.

• The development authorised by this permit will require the submission of a Construction and Site Management Plan (CSMP) prior to the commencement of any works. All CSMP’s are required to be made via Council’s online system at http://www.mvcc.vic.gov.au/planning-and-building/planning/construction-site-management-plans.aspx or in person at 9 Kellaway Avenue, Moonee Ponds.

1. Introduction

1.1 Subject Site and Surrounds

The subject site is a corner site located on the eastern side of Everage Street and the southern side of Homer Street, Moonee Ponds. The site is irregular in shape with a frontage to Everage Street of 45.05 metres and a frontage to Homer Street of 15.23 metres, resulting in a total area of 724m$^2$.

The land has a fall of approximately 1.50 metres from south-west to north-east across the site.

There are no easements or restrictions noted on the Certificate of Title provided.

The site comprises a single storey commercial building with nine individual tenancies and a rooftop car parking area. The existing building has no front setback to Everage Street or Homer Street. Vehicle access is obtained from an existing crossover to the south-west along Everage Street. There is no
landscaping or vegetation on the subject site. There are no street trees located along the Everage Street or Homer Street frontages.

Figure 2 – Subject site (No.8-24 Everage Street, Moonee Ponds)

The surrounding area is predominantly activity centre zoned land used and developed for commercial and residential purposes. The subject site is located within the Moonee Ponds Activity Centre (MPAC) under Plan Melbourne 2017-2050: Metropolitan Planning Strategy and directly abuts Moonee Ponds Central Shopping Centre to the east and south. The site is also located within the Principal Public Transport Network Area and is proximate to Moonee Ponds Railway Station, the No.59 and 82 tram routes, numerous bus routes and various local businesses. The built form within the vicinity ranges from older single storey shops up to the contemporary 30 storey mixed-use Caydon development under construction directly to the west.

1.2 Proposal

It is proposed to demolish all buildings and construct a 16 storey building comprising a food and drink premises (excluding hotel and tavern), two office levels and 89 dwellings above five basement levels, and reduce car parking requirements. The proposal can be summarised as follows:

Table 1

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Food and drink premises</td>
<td>312m²</td>
</tr>
<tr>
<td>Offices</td>
<td>1,176m² (two levels/tenancies)</td>
</tr>
<tr>
<td>No. of dwellings</td>
<td>89 (4 x 3 bedrooms, 72 x 2 bedrooms and 13 x 1 bedroom)</td>
</tr>
</tbody>
</table>
No. of car spaces | 65 (3 x food and drink premises, 4 x office and 58 x dwelling spaces)
No. of motorbike spaces | 20 (unallocated)
No. of bicycle spaces | 100 (20 x employee/resident, 11 x visitor/shopper spaces and 69 surplus spaces)
Max. building height | 50 metres (16 storeys), excluding service equipment

Refer Appendix B – Plans (separately circulated).

It is noted revised ‘without prejudice’ plans (refer Appendix C – separately circulated) were received by Council on 14 October 2019 to address some of the referrals and concerns raised. The revised ‘without prejudice’ plans demonstrate:

- A modified ground floor layout, including relocation of the car lift and provision for a loading bay area, to facilitate loading and waste collection on site and mitigate traffic impacts.
- As a result of the above, a minor reduction in the area of the food and drink premises to 305m².
- Modified basement levels including a reduction in the number of car parking spaces provided on site to 58, with seven fewer car spaces allocated to dwellings.
- An increase in the number of bicycle parking spaces provided on site to 144 (incorrectly states 146), with 44 additional bicycle spaces to help offset the reduction in car parking and promote alternative transport.
- Improved ESD and sustainability measures, including insulated spandrels and horizontal sunshade devices to the office levels.
- Modified external design, particularly to the ground, first and second floor levels along the north and west elevations, to accommodate the above changes.

The revised ‘without prejudice’ plans address a number of referrals and concerns raised and are to be included as a condition on any permit granted accordingly (refer Appendix C – separately circulated).

2. Background

2.1 Relevant Planning History

No relevant planning permit history has been identified for the land.

2.2 Planning Policies and Decision Guidelines

Planning Policy Framework (PPF)
Clause 11 Settlement
Clause 15 Built Environment and Heritage
Clause 16 Housing
Clause 17 Economic Development
Clause 18 Transport
Clause 19 Infrastructure

Local Planning Policy Framework (LPPF)
Clause 21.01 Municipal Profile
Clause 21.02 Key Issues and Influences
Clause 21.03 Vision
Clause 21.04 Sustainable Environment
Clause 21.05 Housing
Clause 21.06 Built Environment
Clause 21.07 Activity Centres
Clause 21.08 Economic Development
Clause 21.09 Transport
Clause 21.10 Social and Physical Infrastructure
Clause 22.03 Stormwater Management (Water Sensitive Urban Design)

Zoning
Clause 37.08 Activity Centre Zone

Particular, General and Operational Provisions
Clause 52.06 Car Parking
Clause 52.34 Bicycle Facilities
Clause 53.18 Stormwater Management in Urban Development
Clause 58 Apartment Developments
Clause 65 Decision Guidelines
Clause 66.02 Use and Development Referrals
Clause 71.02-3 Integrated decision making

2.3 Referrals

External

<table>
<thead>
<tr>
<th>Referral Authority</th>
<th>Conditions/Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Head, Transport for Victoria (Section 55 referral)</td>
<td>No objection.</td>
</tr>
</tbody>
</table>
## Internal

<table>
<thead>
<tr>
<th>Department/Officer</th>
<th>Conditions/Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development Engineering (Drainage)</td>
<td>No objection subject to standard engineering and drainage conditions.</td>
</tr>
</tbody>
</table>
| Traffic and Transport                      | No objection to the revised memorandum and appendices from Traffix Group dated 14 October 2019 and revised ‘without prejudice’ plans (refer Appendix C – separately circulated), subject to the inclusion of conditions on any permit granted.  
With regard to car parking, Traffic and Transport cannot reasonably object to the application based on the provision of parking.  
No objection with regard to traffic generation associated with the proposed development.  
No objection to the car parking design, loading facilities, bicycle facilities and vehicle crossings subject to the inclusion of conditions and a car parking management plan on any permit granted. |
| Waste Management                           | No objection to the revised Waste Management Plan dated 2 October 2019 and revised ‘without prejudice’ plans (refer Appendix C – separately circulated).                                                                                                                                           |
| Environmental Sustainable Design (ESD) Officer | No objection to the revised Sustainability Management Plan (Revision 9 dated 14 October 2019), including BESS and STORM reports, and revised ‘without prejudice’ plans (refer Appendix C – separately circulated).                                                                                     |
| Senior Sustainability Officer (Wind)       | No objection subject to a scale model wind tunnel test of the proposed development being conducted and, if a successful test outcome can be achieved, the design reflecting any changes to the built form that may be found necessary by the wind tunnel testing. |
| Strategic Planning                         | No objection subject to conditions.  
The mix of land uses is appropriate for the site and activity centre. In particular, the development of non-residential uses in the precinct aligns with current and future objectives for the area.  
The proposed development is compliant with the 50m mandatory maximum building height (excluding basement), and generally complies with the setback requirements for the first 11m in building height.  
The proposal does not align with the setback requirements above the 11m street wall height. It is
<table>
<thead>
<tr>
<th>Department/Officer</th>
<th>Conditions/Comments</th>
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<tbody>
<tr>
<td></td>
<td>noted that the MPAC review is proposing a mandatory floor area ratio for the site, with a preferred maximum height significantly lower than the current height controls. In this regard, the proposed development in its current form would compromise the built form objectives for the site as contained in the MPAC to 2040 strategic review. The visual presentation to Homer Street, as well as the Homer/Everage Street corner could be improved. There is limited articulation on the upper levels and the continuous built form, particularly on the narrow corner site, may generate negative wind conditions for pedestrian safety and comfort at ground level. The usability of the roof terrace and apartment balconies may also be impacted by negative wind conditions. There are elements of the building that protrude over the title boundary. Aside from the ground floor awning, no encroachment to the public realm is supported due to implications with public amenity and future public realm improvements. In conclusion, the mixed-use development is appropriate for the site and activity centre. However, for the reasons stated above, the proposed development could be improved to better comply with the built form objectives for the site/precinct. Whilst the proposed development can only be assessed under the current controls in the Moonee Valley Planning Scheme, it is important to note that in its current form the proposed development would compromise the future directions for the area as outlined within MPAC to 2040.</td>
</tr>
<tr>
<td>Landscape Architect / City Design</td>
<td>No objection subject to conditions. Include raised planters on balconies – only show greenery where there is proposed planters. Confirm there is drip irrigation to all raised planters. Planters with trees to be a minimum of 1m deep. Avoid using an architectural framing element around the office windows. The architectural framing is to be completely within the title boundary. Confirm what amenities will be provided in the rooftop outdoor kitchen. Provide further details about how the gas, fire and water meters will be screened with a stone clad wall.</td>
</tr>
</tbody>
</table>
TUESDAY 10 DECEMBER 2019
AGENDA – ORDINARY COUNCIL MEETING

<table>
<thead>
<tr>
<th>Department/Officer</th>
<th>Conditions/Comments</th>
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<tr>
<td></td>
<td>Provide planter bed details, including irrigation and pebble mulch. Reduce the awning to 1.5m overhang. Street trees will be located along Everage Street and Homer Street as shown in the Draft MPAC Streetscape and Public Spaces Plan. The glass awning proposed will likely collect leaf litter from the street tree canopies and become a maintenance issue. Reconsider the material of the awning. Ensure the plans reflect the below design approach as captured in the Draft MPAC Streetscape and Public Spaces Plan:</td>
</tr>
<tr>
<td></td>
<td>• Kerb and channel along Homer Street to be a two-pitcher bluestone channel. • Kerb and channel along Everage Street to be a one-pitcher bluestone channel. • The pedestrian pathways for Homer Street and Everage Street are to be accented by 1m x 0.5m sawn bluestone paving similar to the City of Melbourne standard footpath paving. 250mm x 250mm vehicle grade sawn bluestone should be used where a crossover is required with a transition line perpendicular to the kerb. Pram ramps in bluestone paving should also be bluestone with white granite tactile pavers. • Only include bollards where there is no barrier kerb – 100mm diameter brushed stainless steel tube bollard with flat top is the preferred product. Bluestone pavers (1m x 0.5m pavers) to extend into building entrance/lobby up to the door to create a more seamless entry. Include a ground floor minimum setback of 1.5m to achieve wider footpaths along Everage Street.</td>
</tr>
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</table>

Commercial Property | No objection. |

2.4 Public Notification of the Application

Pursuant to Clause 37.08-8, and Clause 7 of the ACZ1, an application to construct a building or construct or carry out works that meets the maximum building height and precinct requirements of Clause 5.2 (Precinct 2D) of the ACZ1 is exempt from the notice requirements of Section 52(1)(a), (b) and (d) of the Planning and Environment Act 1987.
Pursuant to Clause 52.06-4, an application under Clause 52.06-3 is exempt from the notice requirements of Section 52(1)(a), (b) and (d) if the application is also for a permit under another provision of the planning scheme and in respect of all other permissions sought the application is exempt from the notice requirements of Section 52(1)(a), (b) and (d) of the Planning and Environment Act 1987.

3. Discussion

3.1 Does the proposal address the relevant State, Regional and Local Planning Policies?

The proposal, subject to conditions, is considered to comply with the relevant State, Regional and Local Planning Policies. Generally, these policies seek to encourage urban consolidation in locations which take advantage of existing commercial and community services and public transport. The subject site is located within the Moonee Ponds Major Activity Centre under Plan Melbourne 2017-2050: Metropolitan Planning Strategy and the Principal Public Transport Network Area. The subject site is within proximity of Moonee Ponds Railway Station, the No.59 and 82 tram routes, numerous bus routes and various local businesses, including Moonee Ponds Central Shopping Centre. The location of the subject site is considered to lend support to a more intensive form of commercial and residential development.

Policy guidelines relevant to the built environment and urban design, Clauses 15.01 (Built Environment) and 21.06-4 (Urban Design), are discussed in detail within Section 3.2 of this report.

The proposal contributes to the objective and strategies of Clause 16.01-3S (Housing diversity) by providing a mix of dwelling sizes in various configurations, which will cater for the increasingly diverse needs of future residents.

With regard to Clause 17.02-1S (Business) the proposal will help meet the community’s needs for retail, office and other commercial services within Moonee Ponds Activity Centre and the Principal Public Transport Network Area. Importantly, the proposed commercial facilities are aggregated and provide net community benefit in relation to their viability, accessibility and efficient use of infrastructure. The proposal also provides small scale shopping opportunities to help meet the needs of local residents and workers in a convenient activity centre location.

With regard to Clause 18.01-1S (Land use and transport planning), the proposed development helps create a safe and sustainable transport system by integrating land use and transport. Furthermore, the proposed development complies with the strategies of Clause 18.02-2R (Principal Public Transport Network) by maximising the use of existing infrastructure and increasing the diversity and density of development along the PPTN, proximate to an important modal interchange in a Major Activity Centre.

The proposal complies with Clause 19.03-3S (Integrated water management) by sustainably managing water supply, water resources, wastewater, drainage
and stormwater through an integrated water management approach as discussed throughout this report.

The proposal complies with Clause 21.04-3 (Ecologically Sustainable Development) through the use of ecologically sustainable design principles, subject to the revised Sustainability Management Plan (Revision 9 dated 14 October 2019), associated BESS report and revised ‘without prejudice’ plans (refer Appendix C – separately circulated) forming conditions on any permit granted. As referenced in Section 2.3 of this report, Council’s ESD Officer has no objection to these revised documents and plans being endorsed through conditions on any permit granted.

The proposal shown on revised ‘without prejudice’ plans (refer Appendix C – separately circulated) accords with the objectives and strategies of Clause 21.04-7 (Waste) as it integrates waste management and recycling facilities in order to achieve best practice in waste minimisation and recycling. A revised waste management plan (dated 2 October 2019) was submitted with the application indicating private waste collection. This revised waste management plan adequately addresses the provisions of this clause and is to be endorsed, implemented and managed through a condition on any permit granted accordingly.

The proposal complies with the objectives and strategies of Clause 21.05 (Housing) by increasing housing opportunities to meet growing population needs, providing a diversity of housing choice in a well-established area with access to public transport options and local/community services. It is noted the subject site is located within an area of ‘high to substantial housing intensification’.

Clause 21.07 (Activity Centres) is applicable in this instance and builds on the objectives and strategies of the Planning Policy Framework, in particular Clause 11 (Settlement). The subject site is located within the Moonee Ponds Activity Centre as identified in Plan Melbourne 2017-2050: Metropolitan Planning Strategy. Importantly, the proposed development achieves a compact urban form that consolidates land use so as not to underutilise land for its intended purpose and proposed intensity. The revised ‘without prejudice’ plans (refer Appendix C – separately circulated) improve traffic management, car parking facilities and pedestrian networks within the centre while continuing to support and encourage medium to higher density development in the Moonee Ponds Activity Centre. The scale of the proposed development will not be detrimental to residential areas surrounding the activity centre given its central location and distance from such areas. The proposed scale is also somewhat dwarfed by the Caydon development directly to the west, which is approximately twice as large at 30 storeys and nearly 100 metres in height (see Figure 3 below). The proposed development also provides for increased housing densities that provide a range of housing types as provided for in the Activity Centre Zone. Consequently, the Moonee Ponds Activity Centre Structure Plan 2010 has been considered in the design and assessment of the proposal under the ACZ1, to which there is a high degree of compliance as discussed within Section 3.3 of this report.
1. **Figure 3 – Northern streetscape (Homer Street)**

With regard to Clause 21.08 (Economic Development), the proposed development would contribute to and enhance the Moonee Ponds Activity Centre in terms of investment and employment opportunities. In particular, the establishment of office and mixed use developments that support professional services, including high value adding office, retail and creative industries, are encouraged. Furthermore, the proposed food and drink premises and offices satisfy the community’s retail, commercial services, entertainment and leisure needs through increased accessibility to local businesses and a more sustainable local economy. Therefore, the proposed mix of uses and activities within this precinct and broader activity centre area are acceptable.

Clause 21.09 (Transport) seeks to improve walking and cycling infrastructure and encourage residents and visitors to use these viable transport modes, as well as increase the number of residents and visitors who walk and cycle, particularly for short trips (under 2km walk and 5km ride). This clause also seeks to locate new development where there is access to public transport to improve its viability and increase the number of residents and visitors who use public transport. The proposed development is located within the Principal Public Transport Network Area and will be served by high-quality public transport with access to Moonee Ponds Railway Station, the No.59 and 82 tram routes and a number of local bus routes. Notably, this clause seeks to reduce private vehicle use throughout the municipality by encouraging residents and visitors to use alternative transport. The revised ‘without prejudice’ plans (refer **Appendix C** – separately circulated) demonstrate an appropriate balance with respect to the provision of on-site parking and encouraging the use of alternative and more sustainable modes of transport, as discussed within Sections 3.4 and 3.5 of this report.
2. The proposal complies with Clause 22.03 Stormwater Management (Water Sensitive Urban Design) and meets the required on-site stormwater treatment as demonstrated by achieving at least 100% on the STORM Rating Report. Furthermore, the revised Sustainability Management Plan (Revision 9 dated 14 October 2019) and revised ‘without prejudice’ plans (refer Appendix C – separately circulated) demonstrate a higher STORM rating of 128% with substantially larger rainwater tanks for the treatment and re-use of stormwater within the development. As referenced in Section 2.3 of this report, Council’s ESD Officer has no objection to these revised documents and plans being endorsed through conditions on any permit granted in accordance with this policy.

3.2 Does the proposal represent an appropriate built form outcome?

It is a strategy of Clause 15.01-1S (Urban design) to ensure new development responds to its context in terms of character, cultural identity, natural features, surrounding landscape and climate. The proposed development, subject to modification, appropriately considers its site context and proposes a built form that will not be visually dominant to the streetscape or adjoining properties and provides appropriate internal amenity to future users of the site.

Further to this, the overarching objective of Clause 15.01-2S (Building design) is:

- “To achieve building design outcomes that contribute positively to the local context and enhance the public realm.”

The Urban Design Guidelines for Victoria (2017) are a policy guideline in support of this clause, providing guidance on the development of functional and enjoyable places throughout Victoria for people to live, work and spend leisure time. The guidelines contained at Element 2 (Movement Network), Element 3 (Public Spaces) and Element 5 (Buildings) are of relevance to this application and have been satisfied, as discussed below.

Clause 21.06-4 (Urban Design) provides further objectives and strategies, including the reference document City of Moonee Valley Design Guidelines for Multistorey Residential Buildings (2003), which echoes the key urban design principles contained within Clause 15.01-2S and the Urban Design Guidelines for Victoria (2017).

It is considered the proposed development, subject to modification, is consistent with the relevant design principles of the Urban Design Guidelines for Victoria (2017), the City of Moonee Valley Design Guidelines for Multistorey Residential Buildings (2003) and Clauses 15.01-2S and 21.06-4, as discussed below.

Building Design Quality and Context

A description of the proposal has been provided within this report, along with the accompanying documentation, which accurately details the context of the site. The design response demonstrated on revised ‘without prejudice’ plans (refer Appendix C – separately circulated) is appropriate given the size and location of the site with good access to a range of services including public transport, education facilities, recreational parks/reserves, various local businesses and Moonee Ponds Central Shopping Centre.
The proposed design is contemporary and responds well to the site's location and context through the provision of architectural elements and an acceptable combination of materials (see Figure 4 below). An appropriate degree of visual interest and design articulation has been provided with an acceptable transition of built form to adjoining properties, noting the 30 storey Caydon development to the west and development potential of underutilised land (Moonee Ponds Central Shopping Centre) to the north, east and south.

3. **Figure 4 – 3D perspective of the proposed development looking south-east from Homer Street**

**Streetscape and Urban Design**

The front façade and well-founded three-storey commercial podium make a positive contribution to Everage Street and Homer Street, and help integrate the development with each streetscape while assisting to enhance the experience for pedestrians. The inclusion of the ground floor food and drink premises along Everage Street and Homer Street provides for a suitably active frontage at street level. The provision of modified vehicle access towards the rear of the site along Everage Street, shown on revised ‘without prejudice’ plans (refer **Appendix C** – separately circulated), utilises the existing vehicle crossover and accessway. There would be a significant increase in fenestration, passive surveillance and the perception of public safety to each streetscape as a result of the proposed development. The incorporation of balconies also provide appropriate articulation of the building façade while maximising opportunities for visibility and passive surveillance. All vehicle and pedestrian entries are well defined and clearly identifiable from the public realm.

Car parking for the development is contained within five basement levels with vehicle access from Everage Street. The provision of one vehicle accessway...
can be comfortably absorbed along the streetscape, particularly given the location of an existing crossover and vehicle accessway in this location. This will maintain an active and visually interesting street frontage along both Everage Street and Homer Street. The provision of one vehicle accessway and basement car parking areas allow the articulated built form to be the main focal point of the proposed development. Therefore, car parking would be adequately concealed from Everage Street, allowing the proposed development to address each streetscape with a more active frontage.

Setbacks and Site Coverage

The building envelope and scale of the building is dictated by the ACZ1, adjoining developments and lack of sensitive interfaces abutting the site. The proposed site coverage and setbacks are acceptable to the zoning of the site and the requirements of the ACZ1 as discussed within Section 3.3 of this report.

The proposed development is built up to the front, side and rear property boundaries, which provides an acceptable response to the opportunities and constraints of the site, including zone requirements and the lack of sensitive interfaces. The lack of setbacks and provision of light court areas above Level 2 along the east and south elevations also provide an acceptable response and equitable development opportunities to the much larger adjoining property directly to the east and south (Moonee Ponds Central Shopping Centre). While there are no prescriptive setback requirements within Precinct 2D of the ACZ1, there is a centre-wide provision for all buildings to provide a zero metre front setback from the street for the first 11 metres in height from ground floor level to provide a podium and activate the streetscape. The proposed development complies with this provision. However, there is also a centre-wide provision for built form above 11 metres in height to be set back from the street to avoid overshadowing and detrimental wind effects on public spaces. Importantly, this is not a mandatory setback requirement. Nonetheless, there would be no overshadowing of Homer Street at all and no overshadowing of Everage Street by the proposed development from 12pm onwards, due to the orientation of the site. It is noted that, given constraints with orientation, any modest increase in development of the subject site would result in additional overshadowing to Everage Street up until 12pm, and no intervening setback above 11 metres will have any meaningful impact in reducing this. With regard to detrimental wind effects on public spaces, a scale model wind tunnel test of the proposed development is to be conducted, with the design to reflect any changes to the built form that are found to be necessary through wind tunnel testing. This is to be included as a condition on any permit granted accordingly.

With regard to the architectural framing element around the office windows, this minor protrusion provides an interesting visual feature that helps frame the podium and provide additional depth and articulation across the façade. As such, this minor protrusion is acceptable and would not impact on any future streetscape works proposed under the Draft MPAC Streetscape and Public Spaces Plan, particularly given the wider awning/canopy below this framing element is considered to be an allowable encroachment/design feature.

It is also noted that there are no ground floor setback requirements under the Draft MPAC Streetscape and Public Spaces Plan, with Council already
proposing to widen this footpath up to four metres through the reclamation of on-street parking along the eastern side of Everage Street.

Overall, the siting and setbacks of the proposal provide articulation and visual interest to the built form while helping to mitigate detrimental off-site amenity impacts. Therefore, the setbacks for the proposed development provide an acceptable response to the opportunities, constraints and features of the site.

The proposed development provides for maximum site coverage, which is consistent with the zoning of the site and its location within a Major Activity Centre.

**Building Height and Silhouette**

Appropriate building height is derived from the local context, street conditions and character objectives for an area. As highlighted earlier, the subject site is located within activity centre zoned land in a Major Activity Centre and Principal Public Transport Network Area. Such locations encourage more intensive forms of development to take advantage of existing infrastructure and services.

The ACZ1 provides guidance on mandatory maximum building heights, as discussed in detail within Section 3.3 of this report. It is noted that the proposed maximum building height of 50 metres accords with the mandatory maximum building height of 50 metres stipulated within the ACZ1. Therefore, the proposed height and silhouette of the building is appropriate in this instance.

**Internal Circulation, Space and Building Adaptability**

The proposed development achieves an acceptable degree of internal amenity and provides for comfortable living environments with adequate internal living spaces to meet the needs of future occupants.

The pedestrian entry points to the food and drink premises, office levels and dwellings are clearly identifiable from Everage/Homer Street, and the basement car parking levels are also easily accessible from the site frontage along Everage Street. The provision of lift and stair access, in conjunction with a lobby/foyer area along Everage Street, will allow for ease of movement, including the movement of furniture, emergency access and escape.

The development, as demonstrated within the revised memorandum and appendices from Traffix Group dated 14 October 2019 and revised ‘without prejudice’ plans (refer **Appendix C** – separately circulated), generally provides an adequate car parking layout that will ensure safe vehicle movements. As discussed within Sections 2.3 and 3.4 of this report, Council’s Traffic and Transport Unit have no objection to the revised provision and layout of car parking, subject to the inclusion of conditions on any permit granted.

In terms of storage space, all dwellings have been provided with adequate internal and external storage space in accordance with the relevant provisions of Clause 58.05-4 (Storage).

Provision for waste storage is included at ground floor level and Basement Level 1 by way of common bin storage rooms, which have been suitably separated into residential and commercial waste storage areas. Council’s Waste Management Unit has no objection to the revised waste management plan (dated 2 October 2019) and revised ‘without prejudice’ plans (refer
Appendix C – separately circulated), as discussed within Sections 2.3 and 3.1 of this report. These revised plans are to form conditions on any permit granted accordingly.

On-Site Amenity and Liveability

The proposal has been designed to accommodate a range of dwelling sizes and types, including different layouts and orientations. This will cater to the needs and preferences of a range of different people.

In a general sense, the layout of each dwelling provides an appropriate level of amenity for future occupants. Residents will be afforded with generous sized open plan living opportunities with good fenestration and access to daylight. Further to this, all habitable rooms (living areas and bedrooms) will have direct access to daylight, which is considered to be a good design outcome allowing for a high level of internal amenity for each dwelling.

Each dwelling is provided with a balcony that is considered to be well-proportioned and well-oriented. Importantly, all balcony areas meet the minimum area and dimension requirements of Clause 58.05-3 (Private open space).

The proposed development has been designed to limit internal overlooking in accordance with the requirements of Clause 58.04-2 (Internal views).

The proposed development has been designed to minimise the transmission of noise within the development in accordance with the requirements of Clause 58.04-3 (Noise impacts).

Off-Site Amenity

There would not be any overlooking potential into habitable room windows and private open space of new and existing dwellings from the proposed development. While ResCode is not applicable in this instance, it is noted the requirements of Clause 55.04-6 (Overlooking) have been met, given there are no approved or existing dwellings within 9.0 metres of the subject site.

The proposed development does not cause significant overshadowing to any existing secluded private open space areas due to the location/orientation of the site and proposed design response. Importantly, all existing secluded private open space areas would receive a minimum of five hours of sunlight between 9am and 3pm on 22 September in accordance with the requirements of Clause 55.04-5 (Overshadowing). Whilst there would be some additional overshadowing of pedestrian footpaths along Everage Street during the morning hours at the September Equinox, the proposed development is located in an activity centre zone within a Major Activity Centre where higher densities and additional overshadowing are to be expected. Therefore, the proposed development is considered to provide a suitable design response and is acceptable with regard to overshadowing.

The proposed development would minimise the transmission of noise to adjoining properties through the inclusion of suitable conditions on any permit granted.

Therefore, subject to appropriate noise conditions on any permit granted, the proposal is an acceptable design response to the site and surrounding area.
Parking, Traffic and Access

See comments provided by Council’s Traffic and Transport Unit within Section 2.3 of this report, in addition to the requirements of Clause 52.06 (Car Parking) discussed within Section 3.4 of this report.

Landscaping and Fencing

The subject site currently has no permeability and does not contain any landscaping or vegetation. The proposed development would also have a high level of site coverage, which is acceptable for a site within an activity centre zone and Major Activity Centre. However, low level planting at ground floor level along Everage Street, and the provision of planter boxes at Levels 1, 3-15 and within the roof terrace area, is generally considered appropriate subject to conditions.

In particular, the recommendations from Council’s Landscape Architect, as referenced within Section 2.3 of this report, will help provide an improved landscaping theme and streetscape/public realm design response for the site and surrounding area. Such recommendations are to be included as conditions on any permit granted accordingly.

Environmental Sustainability

Given the type of development and the intensive use of the site for a multi-level, multi-dwelling development, there are quite a number of inherent energy efficient design principles used in this project. These include the sharing of floors, walls and ceilings, which assist in the prevention of excessive heat gain and loss. This sharing of floors, walls and ceilings also makes efficient use of resources and building materials.

The revised waste management plan dated 2 October 2019, and revised ‘without prejudice’ plans (refer Appendix C – separately circulated), are acceptable with regard to the management of waste on site and are to form conditions on any permit granted accordingly.

The proposed development has incorporated many Environmentally Sustainable Design initiatives, including the provision of two rainwater tanks with a total capacity of 10,000L within the sub-basement level, for the re-use of stormwater within the development, and a 10kW solar photovoltaic system. However, the revised Sustainability Management Plan (Revision 9 dated 14 October 2019) and revised ‘without prejudice’ plans (refer Appendix C – separately circulated) demonstrate substantially larger rainwater tanks (25,000L in total) for the increased treatment and re-use of stormwater within the development. This helps provide an even more sustainable development for the benefit of present and future generations. In addition to this, all habitable living areas and bedrooms have windows with direct access to daylight.

Lastly, it is noted the location of the subject site offers a number of benefits, namely access to public transport, the Melbourne CBD and other local services/facilities. Each of these factors reduce the need for additional housing on the fringes of the metropolitan area and make efficient use of existing infrastructure and services, reducing travel time/costs and thereby environmental impacts.
Service Infrastructure

The proposed infill development would utilise existing infrastructure and services available on site and within the surrounding area. This is considered to be an efficient and appropriate use of available resources. Furthermore, Council’s Development Engineering (Drainage) Unit has no objection to the proposal, subject to the inclusion of standard engineering and drainage conditions on any permit granted.

3.3 Does the proposal accord with Schedule 1 to the Activity Centre Zone (ACZ1)?

The proposed food and drink premises (excluding hotel and tavern), office and dwellings are ‘as-of-right’ uses within Clause 3 (Table of uses) of Schedule 1 to the Activity Centre Zone. As such, the proposed mix of land uses accord with the objectives of relevant planning policies within the Moonee Valley Planning Scheme and will help create a vibrant precinct within Moonee Ponds Activity Centre, as discussed within Section 3.1 of this report.

The proposed development requires a permit under Clause 37.08-5 (Buildings and works). As discussed within Sections 3.1 and 3.2 of this report, the proposal is considered to be a good design outcome for the site and surrounding area. In particular, the proposed building height of 50 metres meets the mandatory maximum building height of 50 metres within Precinct 2D. It is noted that the mandatory maximum building height does not apply to service equipment including plant rooms, lift overruns, solar collectors and other such equipment, with all relevant criteria within Clause 4.4 of the ACZ1 adequately met. While the recent Tribunal decision in Hexa Pacific Pty Ltd v Moonee Valley CC [2019] VCAT 1418 confirms that uncovered rooftop communal open space areas, including balustrades, set inside and not at the edge of a roof do not form part of the overall building height, the proposed roof terrace here falls below the mandatory maximum building height of 50 metres.

The nomination of Everage Street as a ‘pedestrian priority street’ within Clause 5.2 (Precinct 2 – Hall/Homer – Secondary Retail and Office Precinct) is supported by the significant car parking reduction being sought and substantial provision of bicycle spaces on site, as discussed below within Sections 3.4 and 3.5 of this report.

Therefore, the precinct objectives to expand retail, office and entertainment uses within the precinct with accommodation on upper levels, and to enable taller and more intense built form in the body of the precinct, have been met.

3.4 Is adequate car parking and vehicle access provided?

The proposal provides car parking as set out in the table below:

Table 2

<table>
<thead>
<tr>
<th>Unit</th>
<th>Requires</th>
<th>Provides</th>
</tr>
</thead>
<tbody>
<tr>
<td>Food and drink premises (312m²)</td>
<td>10</td>
<td>3</td>
</tr>
<tr>
<td>Office (1,176m²)</td>
<td>35</td>
<td>4</td>
</tr>
</tbody>
</table>
Unit | Requires | Provides |
--- | --- | --- |
89 dwellings (4 x 3 bedrooms, 72 x 2 bedrooms and 13 x 1 bedroom) | 93 | 58 |
Residential visitors | 0 | 0 |
Total | 138 | 65 |

As referenced within Section 2.3 of this report, Council’s Traffic and Transport Unit has no objection to the revised ‘without prejudice’ plans (refer Appendix C – separately circulated), subject to the inclusion of conditions on any permit granted.

With regard to the reduction and provision of car parking on site, the subject site is well located with access to various alternative modes of transport including Moonee Ponds Railway Station, the No.59 and 82 tram routes and numerous bus routes. Importantly, the revised proposal has struck an appropriate balance with respect to the provision of on-site parking and encouraging the use of alternative and more sustainable modes of transport. It is also noted that the subject site achieves a ‘walk score’ of 99 out of 100, which is a “Walker’s Paradise”. Walk scores of 90+ indicate that building occupants do not require a car to complete daily errands, which further justifies the reduction in car parking requirements being sought. This is considered to be an acceptable and well-balanced outcome that will help reduce the dominance of private motor vehicles and traffic issues along Everage Street and the broader Moonee Ponds Activity Centre.

With regard to traffic generation and car lift queuing, the revised proposal is expected to generate in the order of 18 vehicle trip ends within each peak hour (including four movements for motorcycles), which equates to one vehicle movement every 3-4 minutes during each peak hour. Traffix Group are satisfied that the level of additional traffic generated as a result of this proposal will not have a detrimental impact on the operation or safety of Everage Street or the surrounding road network. This is accepted by Council’s Traffic and Transport Unit, who have no objection based on traffic generation.

With regard to car parking design, Council’s Traffic and Transport Unit has no objection subject to the inclusion of a Car Parking Management Plan (CPMP) and conditions on any permit granted as follows:

- The basement footprint extending marginally beyond the property boundary of the site is unacceptable, with a revised design to ensure all building works are limited to the site boundary without extending into Council land.
- Details regarding access to the site within a CPMP (i.e. hours that the vehicle access gate/door is open, how residents/staff will access the carpark to minimise delays for entering vehicles, etc.).
- Section diagrams of the parking levels demonstrating satisfactory headroom clearance is achieved, specifically for the car stackers.
- Pedestrian visibility splays at the site accessway. While alternative measures can be entertained (i.e. convex mirrors, warning lights, signage,
etc.), it is recommended the access location be off-set from the property boundary to achieve sightlines to pedestrians.

- Standard at-grade car spaces provided in lieu of dependent car stackers or, alternatively, an independent car stacker system (i.e. shuffle system).

- A minimum headroom clearance of 2.5m for the DDA car space and adjoining shared area. Provision of a bollard centrally located within the adjoining shared area in accordance with the design requirements of Australian Standard AS2890.6-2009.

- Dimensions shown on the plans for the column locations and clearance to structures in accordance with the requirements of ‘Diagram 1’ of Clause 52.06-9 (Design standards for car parking).

- A grade of 1:200 towards the carpark discharge points for drainage purposes.

- Confirmation that 19 of the 38 car stacker spaces have a headroom clearance height of 1.9m (50%).

- The manufacturer specifications for the car lift provided and confirmed, including lift shaft and lift cabin dimension requirements.

- A CPMP for the development addressing maintenance of the car stackers and car lift, line marking, signage, security, access control, waste management, etc. This includes marshalling of commercial bins to/from the ground floor temporary storage area by the building manager outside of peak hours.

- The vehicle crossing shown in accordance with Council’s Standard Drawings and Vehicle Crossings Policy, as well as Council’s draft streetscape plan for Everage Street.

Therefore, subject to the inclusion of conditions on any permit granted, it is not anticipated the proposed development will generate a cumulative impact or have an adverse effect on car parking, vehicle movements or the capacity of the local road network.

3.5 Are adequate bicycle facilities provided?

The proposal includes bicycle spaces as set out in the table below:

**Table 3**

<table>
<thead>
<tr>
<th>Unit</th>
<th>Requires</th>
<th>Provides</th>
</tr>
</thead>
<tbody>
<tr>
<td>Food and drink premises / retail employees</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Food and drink premises / retail shoppers</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Office employees</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Office visitors</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Dwelling residents</td>
<td>18</td>
<td>18</td>
</tr>
</tbody>
</table>
As demonstrated in the table above, the proposed development provides adequate bicycle spaces in accordance with the requirements of Clause 52.34 (Bicycle Facilities). However, the revised ‘without prejudice’ plans (refer Appendix C – separately circulated) demonstrate an additional 44 bicycle spaces on site, including four additional visitor/shopping bicycle spaces at ground level, which is an improved design response. As such, the revised plans will help offset the reduction in car parking requirements being sought, promote alternative transport modes within the activity centre and are to be included as a condition on any permit granted accordingly.

Further to the above bicycle space requirements, a minimum of one shower and change room is also required for employees under Clause 52.34-5 (Required bicycle facilities). An ‘end of trip’ shower and change room facility is nominated on Levels 1 and 2 with safe, secure and convenient access from employee bicycle spaces within the basement levels. This is acceptable and meets the requirements of this clause.

As referenced within Section 2.3 of this report, Council’s Traffic and Transport Unit has no objection to the provision of bicycle facilities as part of the proposed development, subject to the inclusion of conditions on any permit granted. In particular, the horizontal bicycle rails within the north-western corner of Basement Level 3 on the revised ‘without prejudice’ plans (refer Appendix C – separately circulated) are to be redesigned to accord with Australian Standard AS2890.3-2015.

3.6 Are adequate loading facilities provided?

Clause 65 (Decision Guidelines) requires the consideration of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts. Given the moderate size of the proposed food and drink premises, it is generally accepted deliveries to such premises of this scale are delivered by small trucks, vans and the like. The proposed truck loading area at ground floor level on the revised ‘without prejudice’ plans (refer Appendix C – separately circulated) provides adequate space for such delivery vehicles, including 6.4m long Small Rigid Vehicles (SRV) and private waste collection vehicles. As referenced within Section 2.3 of this report, Council’s Traffic and Transport Unit and Waste Management Unit have no objection to the design and provision of loading facilities shown on revised plans. Therefore, the revised ‘without prejudice’ plans (refer Appendix C – separately circulated) are to be included as a condition on any permit granted.

3.7 Does the proposal comply with the requirements of Clause 58 (Apartment Developments)?

The proposal is considered to generally comply with the provisions of Clause 58 as set out in the assessment table (refer Appendix A – separately circulated).
The following points of exception, which have not been satisfied in full through this development, are listed and discussed below:

**Table 4**

<table>
<thead>
<tr>
<th>Design Standard</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clause 58.03-1</td>
<td>The development has generally been oriented to make appropriate use of solar energy, with residential living areas and balconies predominantly located to the north or west with adequate access to daylight and solar energy, where possible (noting 12 of the smaller single-bedroom dwellings are located to the south-east due to imbedded constraints with the orientation of the site). However, a large number of dwellings are dual aspect, including the 12 single-bedroom dwellings to the south-east, and are therefore provided with improved access to daylight and ventilation to ensure dwellings achieve adequate thermal efficiency and reduce fossil fuel energy use. A revised Sustainability Management Plan (Revision 9 dated 14 October 2019), including BESS report, and revised 'without prejudice' plans (refer Appendix C – separately circulated) demonstrate an adequate level of energy efficiency supported by Council’s ESD Officer. As such, these revised documents/plans are to be endorsed through the inclusion of conditions on any permit granted. Importantly, the layout and design of the proposed development will not adversely impact on the energy efficiency of existing dwellings and buildings, given there are no existing dwellings directly abutting the site and the Caydon development under construction is well set back approximately 13-21 metres west of the site.</td>
</tr>
<tr>
<td>(Standard D6)</td>
<td>Energy efficiency</td>
</tr>
<tr>
<td>Clause 58.03-5</td>
<td>The activity centre zoning and relatively small lot size do not encourage the provision of extensive landscaping, which respects the landscape character (or lack thereof) of other small properties within Moonee Ponds Activity Centre. However, a professional landscape plan and the recommendations of Council’s Landscape Architect are to form conditions on any permit granted in order to provide appropriate landscaping and promote climate responsive landscape design and water management that support thermal comfort and reduce the urban heat island effect. Given the site area is less than 750m², there is no requirement for the provision of deep soil areas or canopy trees as specified in Table D2.</td>
</tr>
<tr>
<td>(Standard D10)</td>
<td>Landscaping</td>
</tr>
</tbody>
</table>
Design Standard | Response
---|---
Clause 58.03-8 (Standard D13) Integrated water and stormwater management | A STORM Rating Report formed part of the application and is to be updated and amended to demonstrate adequate stormwater management, collection, utilisation and infiltration within the development, as discussed within Sections 2.3 and 3.1 of this report.

Clause 58.05-1 (Standard D17) Accessibility | It is stated on the plans that 50 out of 89 dwellings comply with the requirements of this standard, which equates to 56.18% of dwellings within the proposed development. This would normally comply with the requirements of this standard. However, a number of minor non-compliances result in none of the dwellings being compliant. This is to be rectified through a condition on any permit granted accordingly.

Clause 58.06-3 (Standard D23) Waste and recycling | A revised Waste Management Plan dated 2 October 2019 and revised ‘without prejudice’ plans (refer Appendix C – separately circulated) demonstrate adequate waste management, utilising private waste collection services, as discussed within Sections 2.3 and 3.1 of this report. These plans are to be endorsed, implemented and managed through a condition on any permit granted accordingly.

3.8 Does the proposal demonstrate integrated decision making?

The proposal complies with the provisions of Clause 71.02-3 (Integrated decision making), subject to the inclusion of conditions on any permit granted.

The VCAT decision of 5 Chauvel Street Pty Ltd v Banyule CC states that Clause 71.02-3 essentially recognises that there may be ‘pros’ and ‘cons’ of a development and just because there is one or some ‘cons’, does not mean a proposal fails. It follows that planning does not seek perfect or ideal outcomes but acceptable outcomes, balancing competing policy. Not every aspect of every policy must be complied with to arrive at an acceptable outcome and favourable decision for a proposal. This is supported by the Supreme Court decision of Rozen, where, at paragraph 171, the Court stated the following:

- “The test of acceptable outcomes stated in the clause is informed by the notions of net community benefit and sustainable development. An outcome may be acceptable despite some negative characteristics. An outcome may be acceptable because on balance it results in net community benefit despite achieving some only of potentially relevant planning objectives and impeding or running contrary to the achievement of others.”

Furthermore, in Knox City Council v Tucany Pty Ltd it states the planning scheme does not require an ideal outcome as a pre-requisite to a permit. If it did, very few, if any, permits for development would ever be granted and there would be difficult differences of opinion as to whether the outcomes were in fact
ideal. The Tribunal is entitled to grant a permit where it is satisfied that the permit will result in a reasonably acceptable outcome having regard to the matters relevant to its decision under the planning scheme. The concept of net community benefit is not one of ideal outcomes, but of outcomes which result in a net benefit to the community assessed within a policy framework by reference to both their benefits and disbenefits.

As discussed throughout this report, the proposal suitably addresses aspects of economic, environmental and social well-being by balancing conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. In particular, the proposal provides a food and drink premises and two office levels for meaningful employment opportunities and activation of each streetscape, a substantial increase in housing opportunities and considerable diversity of dwelling stock to meet growing population needs. Revised ‘without prejudice’ plans (refer Appendix C – separately circulated) also provide 144 bicycle spaces on site to promote alternative transport modes and mitigate traffic impacts within Moonee Ponds Activity Centre. A number of conditions are also to be included on any permit granted to reflect the future design approach captured in the Draft MPAC Streetscape and Public Spaces Plan, as referenced within Section 2.3 of this report.

4. Human Rights

The application process and decision making is in line with the Victorian Charter of Human Rights and Responsibilities Act 2006 (Section 18 – Taking part in public life).

5. Council Plan/Policy

On 26 June 2018, Council adopted the MV2040 Strategy as its long-term plan for the city. It is considered the proposal is consistent with the relevant strategic directions set out in the MV2040 Strategy, including:

- Strategic Direction 3: A city where people are healthy and safe
- Strategic Direction 5: A city with housing for all
- Strategic Direction 14: A city that is green and water-sensitive
- Strategic Direction 15: A city that rethinks waste
- Strategic Direction 16: A city that is cool and climate-adapted
- Strategic Direction 17: A city that fosters local identity
- Strategic Direction 18: A city of high-quality design
- Strategic Direction 20: A city in a beautiful landscape setting.

6. Conclusion

The application has been assessed against the relevant provisions of the Planning Policy Framework, Local Planning Policy Framework, zoning controls, the relevant Particular and General Provisions, and the decision guidelines at Clause 65 of the Moonee Valley Planning Scheme. Additionally, consideration
has been given to the requirements of Section 60(1B) of the *Planning and Environment Act 1987* and it is determined that the proposal would not have a significant social effect.

It is considered the proposal demonstrates general compliance with the requirements of these provisions and policies. The application is supported by officers as detailed above in the recommendation section.

**Attachments**

A: Clause 58 (Apartment Developments) Assessment Table (separately circulated)

B: Plans (separately circulated)

C: Revised Without Prejudice Plans (separately circulated)
10.5 Amendment 207moon - MPAC to 2040: Moonee Ponds Activity Centre Local Plan

Author: Corina de Araujo - Senior Strategic Planner
Business Unit: Planning

1. Purpose

1.1 The purpose of this report is to:

1.1.1 Present Council with the MPAC to 2040: Moonee Ponds Activity Centre Local Plan (Local Plan) and series of background documents.

1.1.2 Seek a Council resolution to prepare and exhibit the Moonee Valley Planning Scheme Amendment 207moon (Amendment 207moon) to introduce new planning controls in the Moonee Ponds Activity Centre (MPAC).

2. Background

2.1 On 13 August 2019, Council resolved to request a Ministerial Amendment to extend the expiry date of the interim mandatory controls for maximum building heights for Precincts 1-8, by a minimum of one year.

2.2 The same Council report provided further details regarding MPAC’s inclusion in the State Government’s Activity Centre Pilot Program (Pilot Program) and the rationale for the comprehensive strategic work.

2.3 On September 2019, Amendment C208moon extended the interim mandatory maximum building height controls until 30 September 2020. This will allow Council to progress a full planning scheme amendment process.

2.4 This was the second time the interim mandatory controls have been extended (since the controls were first introduced on 12 October 2017) and has allowed Council officers to thoroughly review all feedback received during the informal consultation held in April-May 2019, including undertaking further testing and refinement of controls.

3. Issues

Pilot Program

3.1 The inclusion of MPAC in the Pilot Program followed concern that development in the activity centre was not delivering on the strategic objectives and preferred built form outcomes identified in the Moonee Ponds Activity Centre Structure Plan 2010 (updated 2012).

3.2 Council officers successfully advocated to DELWP for a comprehensive review of MPAC that considered built form, transport, streetscapes, open space, affordable housing and wind.

3.3 This was particularly important given the adoption of the MV2040 Strategy on 26 June 2018, to ensure the MPAC review reflected Council’s long-term plan.
Local Plan

3.4 The Local Plan (Attachment A – separately circulated) is intended to replace the existing *Moonee Ponds Activity Centre Structure Plan 2010 (updated 2012).*

3.5 The Local Plan summarises the key directions from the series of background documents (outlined below).

3.6 The Local Plan provides a tailored response for MPAC to ensure the forecast growth occurs in a way that successfully balances the valued attributes of the activity centre, and delivers a high-quality living and working environment in line with the *MV2040 Strategy.*

3.7 The Local Plan specifically addresses built form and land use, community facilities, access and movement, environmentally sustainable development, and streetscapes and open space.

Background Documents

3.8 The following table provides a summary of the background documents supporting the Local Plan, and new direction for MPAC.

3.9 The background documents, including the Local Plan, will be introduced to the Moonee Valley Planning Scheme (Scheme) as background documents.

**Table 1: Background Documents**

<table>
<thead>
<tr>
<th>Document</th>
<th>Author</th>
<th>Summary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Moonee Ponds Activity Centre: Built Form</td>
<td>Hodyl + Co</td>
<td>Integrated assessment of built form issues and preferred outcomes to support projected growth.</td>
</tr>
<tr>
<td>(Attachment B)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Moonee Ponds Activity Centre: Streetscapes</td>
<td>Moonee Valley City Council (peer reviewed</td>
<td>Presents the design and concept plans for key streets, ensuring a consistent design language and materiality for MPAC.</td>
</tr>
<tr>
<td>and Public Spaces (Attachment C)</td>
<td>by Donald Goldsworthy and Associates and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Planning Australia Consultants)</td>
<td></td>
</tr>
<tr>
<td>Moonee Ponds Activity Centre: Public Open</td>
<td>Moonee Valley City Council (peer reviewed</td>
<td>Provides the strategic rationale and design principles for new public open space in MPAC.</td>
</tr>
<tr>
<td>Spaces (Attachment D)</td>
<td>by REALM Studios)</td>
<td></td>
</tr>
<tr>
<td>Moonee Ponds Activity Centre: Transport</td>
<td>Traffix Group</td>
<td>Integrated assessment of transport and car parking in the centre, and the preferred outcomes to support sustainable transport modes.</td>
</tr>
<tr>
<td>(Attachment E)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
The Waste Management Plans – Guidelines for Planning Applicants, previously adopted by Council on 18 November 2018, has also been updated to align with the comprehensive transport review of the activity centre. This ensures the movement of vehicles (including waste collection vehicles) reflects the intended function of each street and laneway in MPAC.

The updated Waste Management Plans – Guidelines for Planning Applicants (Attachment I) is also intended to be introduced to the Scheme as a background document as part of the MPAC to 2040 Amendment. The 2018 version is due to be introduced to the Scheme through Amendment C193mon.

Amendment C193mon is currently being considered for approval by the Minister for Planning.

Amendment 207mon

3.10 Amendment 207mon proposes to implement the land use and development directions of the Local Plan and associated background documents by replacing the Schedule 1 to Clause 37.08 (Activity Centre Zone) and introduce a new Schedule 2 to Clause 45.09 (Parking Overlay).

3.11 The key planning controls proposed have been developed through a series of rigorous testing. They are as follows:

**Table 2: Built Form Controls**

<table>
<thead>
<tr>
<th>Control</th>
<th>Rationale</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mandatory floor area ratios (FARs)</td>
<td>Ensures new development provides a contextual response to the site considering the overall vision for the activity centre and the specific precinct objectives.</td>
</tr>
<tr>
<td>Control</td>
<td>Rationale</td>
</tr>
<tr>
<td>--------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Discretionary maximum building heights</td>
<td>The FARs are applied with a discretionary building height (metres) to provide guidance of the expected typology and scale of new development.</td>
</tr>
<tr>
<td>Mandatory maximum building height – Puckle Street</td>
<td>Applies only to Puckle Street and is consistent with Planning Practice Note: 59: Role of Mandatory Provisions in Planning Schemes due to Puckle Street’s high heritage value.</td>
</tr>
<tr>
<td>Discretionary side and rear setbacks and building separation</td>
<td>Improves internal and public amenity for new development and maximises development equity.</td>
</tr>
<tr>
<td>Mandatory rear setbacks – certain locations</td>
<td>Applies only to rear to rear boundary locations and is required where there is no laneway to separate sites.</td>
</tr>
<tr>
<td>Affordable housing uplift</td>
<td>Enables new development to exceed the FAR where a provision is made for affordable housing (cash or dwelling).</td>
</tr>
<tr>
<td>Discretionary residential interfaces and ground floor setbacks</td>
<td>Provides sensitive interfaces to low scale residential uses on the activity centre boundary, reduces visual bulk from the street level, and facilitates an improved public realm.</td>
</tr>
<tr>
<td>Discretionary street wall heights and building setbacks (above the street wall)</td>
<td>Provides a contextual response that relates to street widths, sensitive residential interfaces and heritage buildings.</td>
</tr>
<tr>
<td>Mandatory and discretionary solar access controls</td>
<td>Protects key pedestrian streets and public open space from overshadowing, and effectively limits building heights on some sites.</td>
</tr>
<tr>
<td>Discretionary wind assessments</td>
<td>Ensures new development minimises negative wind impacts for pedestrian comfort and safety at the street level.</td>
</tr>
<tr>
<td>Mandatory minimum bicycle parking rates</td>
<td>Supports the objective to improve cycling accessibility and encourage a modal shift to sustainable transport modes.</td>
</tr>
<tr>
<td>Mandatory maximum car parking rates</td>
<td>Leverages MPAC’s proximity to various public transport options and Melbourne CBD to reduce the reliance on vehicles and support alternative modes of transport.</td>
</tr>
</tbody>
</table>
3.12 Specifically, the built form controls will provide certainty to the community regarding development outcomes and encourage considered, evolving design outcomes that enrich the fabric of the activity centre.

3.13 The proposed controls facilitate more flexibility in design and further testing demonstrates that, in particular, the proposed controls will not result in a podium and tower typology across the activity centre.

3.14 Amendment 207moon also seeks to make consequential changes to other parts of the Scheme. Two versions are attached – Version 1 (Attachment J) is based on the current structure of the Planning Scheme and Version 2 (Attachment K) is based on the new Planning Policy Framework (PPF) proposed to be introduced by Amendment C193moon.

3.15 Version 1 (based on the current structure of the Scheme) makes consequential changes to Clause 21.06-4 (Urban Design), Clause 21.07-1 (Moonee Ponds Activity Centre), Clause 22.02 (Public Open Space Contributions), Schedule to Clause 72.03 (What Does the Scheme Consist of?), and Schedule to Clause 72.08 (Background Documents).

3.16 Version 2 (based on the new PPF structure) makes consequential changes to the Municipal Planning Strategy - Clause 02.03-1 (Settlement), Planning Policy Framework – Clause 15.01-1L (Urban Design), Clause 19.02-6L (Open Space), Schedule to Clause 72.03 (What Does the Scheme Consist of?), and Schedule to Clause 72.08 (Background Documents).

3.17 In the case that Amendment C193moon is gazetted prior to requesting the Minister for Planning to authorise Amendment C207moon, Version 1 (based on the current structure of the Scheme) becomes redundant.

Testing of Planning Controls

3.18 The series of testing outlined below shows that the proposed controls align with the new vision and objectives for the activity centre; allow for flexible design outcomes; encourage developers to provide community benefits such as public open space and affordable housing; and ensure the proposed controls can accommodate the projected growth in the centre to 2040.

3.19 Hodyl + Co undertook an iterative process of site testing on a range of properties across the centre to establish the proposed built form controls (refer to page 99 in the Moonee Ponds Activity Centre: Built Form document, Attachment B for details on design outcomes and massing).

3.20 This included sensitivity testing to consider the realistic capacity of the centre (in terms of the State Government requirement of needing to accommodate population projections) and determine potential yield (gross floor area) across each of the eight precincts, 3D modelling of current built form controls and testing of the proposed changes to the built form envelope to deliver the urban design objectives for the centre.

3.21 The majority of the sites chosen include some complexity to ensure the proposed controls could achieve high quality design outcomes on the most challenging sites in MPAC.
3.22 Hodyl + Co adopted a set of parameters for each site, drawn from accepted urban design principles and recently approved or proposed controls introduced in Melbourne's central city growth areas, to inform their testing.

3.23 Fender Katsalidis Architects (FKA), a leading international design firm, were engaged to undertake further testing of the proposed suite of controls, review how the proposed controls could be interpreted by the development community, and provide independent advice.

3.24 FKA produced the Moonee Ponds Activity Centre: Built Form Testing – Amendment C207moon Supporting Document (Attachment L) which tested the proposed controls on all large sites in MPAC (sites over 2,000sqm), and at least one site in each of the eight precincts.

3.25 FKA also sought input from a development consultant to consider the commercial viability, and likely mix of uses, of particular sites across the centre. These considerations included current market conditions, site location and context, and proximity to public transport. The findings were used as part of the basis for the FKA testing.

Informal Consultation

3.26 During the three-week period of informal consultation, feedback was sought on the following draft documents:

- MPAC to 2040: Moonee Ponds Activity Centre Local Plan
- Moonee Ponds Activity Centre: Built Form
- Moonee Ponds Activity Centre: Streetscapes and Public Spaces
- Moonee Ponds Activity Centre: Public Open Spaces
- Moonee Ponds Activity Centre: Transport
- Moonee Ponds Activity Centre: Employment and Floor Space
- Moonee Ponds Activity Centre: Affordable Housing
- Moonee Ponds Activity Centre: Wind
- Schedule 1 to Clause 37.08 (Activity Centre Zone)
- Schedule 2 to Clause 45.09 (Parking Overlay)

3.27 The MPAC to 2040 Informal Consultation Report (Attachment M) summarises the key findings of the informal consultation period.

3.28 Council officers received a total of 20 written submissions (including survey responses).

3.29 Of these submissions, eight provided general support for the vision/precinct recommendations (some with specific requests for refinements), eight requested significant changes or review, three requested further consultation and one submission objected to the MPAC project.

3.30 Some key feedback raised related to:
3.30.1 General support for the new vision for MPAC (as aligned to MV2040).

3.30.2 General support for streetscape initiatives, such as wider footpaths, increased pedestrian links, more trees and public open spaces.

3.30.3 Concerns regarding the removal of some on-street car parking, and whether a sufficient supply would be maintained.

3.30.4 Further explanation on the traffic and streetscape proposal for Puckle Street (one-way traffic flow, removal of car parking).

3.30.5 Mixed responses regarding the proposed planning controls, particularly around preferred heights and mandatory Floor Area Ratios (FARs).

3.31 All changes made to the Local Plan, background documents, and planning controls following the informal consultation are outlined in Attachment M.

Other Issues – Affordable Housing

3.32 The affordable housing optional uplift enables new development to exceed the FAR by up to 0.5:1 in exchange for a cash contribution, or a dwelling/s contribution towards affordable housing (a dwelling contribution would be made directly to a registered housing association).

3.33 Council officers are undergoing further analysis to determine the most appropriate mechanism to collect and distribute cash contributions which are received through the affordable housing optional uplift provisions. A report will be presented to Council responding to this in the near future.

Recommendation

That Council resolves to:

a. Note the informal consultation undertaken on the MPAC to 2040: Moonee Ponds Activity Centre Local Plan (Attachment A – separately circulated), suite of background documents and planning controls, and recognise these documents respond to the submissions made by the Moonee Valley community.

b. Adopt the MPAC to 2040: Moonee Ponds Activity Centre Local Plan (Attachment A – separately circulated) and the suite of background documents for public exhibition.

c. Endorse Version 1 of Amendment C207moon based on the current structure of the Moonee Valley Planning Scheme, to be lodged with the Minister for Planning for authorisation should the current structure of the Moonee Valley Planning Scheme still apply at the time of lodgement.

d. Endorse Version 2 of Amendment C207moon based on the new Planning Policy Framework structure proposed by Amendment C193moon (currently being considered for approval by the Minister for Planning), to be lodged with the Minister for Planning for authorisation should the new structure of the Moonee Valley Planning Scheme be introduced by DELWP prior to lodgement.
e. Request the Minister for Planning to authorise Amendment C207moon to the Moonee Valley Planning Scheme, pursuant to Section 8A(3) of the Planning and Environment Act 1987, and place Amendment C207moon on exhibition pursuant to Section 19 of the Planning and Environment Act 1987.

f. Allow Council officers to make minor editing and typographical changes as required.

g. Receive a further report following the public exhibition of Amendment C207moon outlining all submissions received and Council officers’ responses to the issues raised.

h. Receive a further report regarding the collection and distribution mechanism for affordable housing uplift contributions to be enacted by Moonee Valley City Council, in relation to contributions received as a part of the MPAC to 2040 work.

Attachments

A: MPAC to 2040: Moonee Ponds Activity Centre Local Plan (separately circulated)

B: MPAC: Built Form Report - Final (Nov 2019) (separately circulated)
C: MPAC: Streetscapes and Public Spaces - Final (Nov 2019) (separately circulated)

D: MPAC: Public Open Spaces - Final (Nov 2019) (separately circulated)
E: MPAC: Transport - Final (Nov 2019) (separately circulated)
F: MPAC: Employment and Floor Space - Final (Nov 2019) (separately circulated)
G: MPAC: Affordable Housing - Final (Nov 2019) (separately circulated)
H: MPAC: Wind - Final (Nov 2019) (separately circulated)
I: Waste Management Plans - Guidelines for Planning Applicants - Final (Dec 2019) (separately circulated)
J: Amendment C207moon - Version 1 (Current Planning Scheme Structure) (separately circulated)
K: Amendment C207moon - Version 2 (Post PPF Structure) (separately circulated)

L: FK MPAC Built Form Testing - Final (Nov 2019) (separately circulated)
Impact Assessment

1. **Relationship to Council commitment MV2040 or Council Plan**

   1.1 The vision for the *MPAC to 2040: Moonee Ponds Activity Centre Local Plan* (Local Plan) is for a fair, thriving, connected, green and beautiful activity centre. The Local Plan, associated background documents, and suite of planning controls build on the strategic directions set by the *MV2040 Strategy*.

   1.2 In particular, the report seeks to achieve the Council Plan objective 1.5 – people have secure and suitable housing – and its associated key strategy which is: encourage high-quality development that meets the needs of our growing population (Fair – Qeente Boordup).

2. **Legislative obligations**

   2.1 To implement the key land use and development directions of the Local Plan and associated background documents, a planning scheme amendment to the Moonee Valley Planning Scheme (Scheme) is required under the *Planning and Environment Act 1987*.

   2.2 There are no human rights implications as a result of this report.

3. **Legal implications**

   3.1 The planning controls proposed to be implemented to the Scheme have been subject to legal review.

   3.2 There no legal implications as a result of this report.

4. **Risks**

   4.1 Using the risk assessment criteria matrix, the risk rating for the report is medium (8). The measure of consequence is assessed as minor (*environmental and reputation*) and the measure of likelihood is likely.

   4.2 In terms of environmental risk, an increase in inappropriate development may cause medium level environmental harm. For example, repeated occurrences of higher water and energy use, and waste generation.

   4.3 In terms of reputation risk, the outcome of this report may result in concerns from the public regarding the future of the activity centre given previous public interest and media coverage of the development outcomes in MPAC. Through the informal consultation process however, Council officers have consulted key stakeholders and produced a range of communication material, to mitigate these risks.

5. **Social impact assessment**

   5.1 The recommendations of this report will have a positive social impact in terms of providing greater certainty and clarity for development outcomes in MPAC.
5.2 In doing so, the decision-making framework will be in place to guide growth in MPAC in an equitable and sustainable manner, and in a way reflecting the community’s aspirations for the area.

6. Economic impact assessment

6.1 The recommendations of this report will have a positive economic impact in terms of further strengthening MPAC’s role as a Major Activity Centre (as identified in Plan Melbourne 2017-2050) and as the primary activity centre in Moonee Valley.

6.2 The Local Plan and proposed planning controls have been developed to ensure future commercial needs (employment and floor space) of MPAC are catered for.

7. Environmental impact assessment

7.1 The recommendations of this report will have a positive environmental impact in terms of progressing strategic work that furthers the objectives of the MV2040 Strategy’s theme of a green city.

7.2 In particular, the Local Plan and Amendment C207moon provide land use and development direction on:

7.2.1 Encouraging the creation of public open spaces with adequate sunlight and sheltered from wind.

7.2.2 Maximising opportunities for environmentally sustainable development (for example, energy efficiency) and water sensitive urban design.

7.2.3 Increasing tree canopy cover and urban greening.

8. Reputational impact assessment

8.1 Council’s decision should be in line with Council officers’ recommendations to avoid the following reputation risk:

8.1.1 Not satisfying the requirements of the State Government’s Activity Centre Pilot Program (Pilot Program).

8.1.2 Delays in commencing the formal planning scheme amendment.

8.1.3 Lack of clarity and certainty of planning controls to guide appropriate development in MPAC in line with State policy and the MV2040 Strategy.

8.1.4 Public concerns for the future of the activity centre, particularly regarding overdevelopment.

9. Financial implications

9.1 Strategic Planning and Technical Services have been the two primary departments involved in the MPAC review, and the costs associated with this project have been delivered through their respective operational budgets.
9.2 Moving forward, costs relating to the planning scheme amendment (including the independent planning panel process) will be funded through the Strategic Planning operational budget.

9.3 As part of the Pilot Program, Council was initially provided with $100,000 to undertake a review of the building heights in MPAC.

10. **Sensitivity / scenario analysis**

10.1 The interim mandatory maximum building heights for MPAC (Precincts 1-8) in Schedule 1 to Clause 37.08 (Activity Centre Zone) are due to expire on 30 September 2020.

10.2 It is critical a full planning scheme amendment is undertaken, or at the very least be seriously entertained, prior to the expiry of the planning controls.

10.2.1 The term and concept of a “seriously entertained planning proposal” suggests that an amendment at an advanced stage be given greater weight in decision making purposes.

10.3 Significant delays in the planning scheme amendment process mean there is a higher possibility the original planning controls for MPAC will be reinstated.

10.4 This is not a favourable outcome given the original planning controls resulted in built form outcomes that did not align with the adopted *Moonee Ponds Activity Centre Structure Plan 2010 (updated 2012)*.

10.5 This has implications for the appropriateness of development that will occur in the activity centre, particularly given the significant level of strategic work and built form testing that has informed the new direction of MPAC.

11. **Conflict of interest declaration**

11.1 No officer involved in the preparation of this report has any direct or indirect interest in this matter or decision.

12. **Consultation undertaken or planned**

12.1 Informal consultation took place from 23 April 2019 to 17 May 2019 and included: sending 3,249 newsletters to all owners and occupiers in MPAC; content on Council’s Your Say page, Facebook and corporate website; two drop-in sessions for the community; two sessions with the Moonee Ponds business community and five individual meetings with key stakeholders.

12.2 During a formal planning scheme amendment process, there will be a public exhibition where the community will have further opportunity to provide their feedback.

12.3 Any person who may be affected by Amendment 207moon may make a submission to Council about the amendment.
12.4 In addition, prescribed Ministers and agencies will also be notified of Amendment 207moon pursuant to the relevant sections of the Planning and Environment Act 1987.
10.6 Response to Notice of Motion 2019/24: Declaration of climate emergency

Author: Allison Watt - Manager Governance and Communications

Business Unit: Corporate Governance

1. Purpose

1.1 To report back to Council on the investigation into the printing and distribution of information stickers to be placed on residents’ waste bins (similar to those distributed by Bass Coast Shire).

2. Background

2.1 On Tuesday, 8 October 2019, a Notice of Motion (NoM) was received to declare a climate emergency, including the investigation into the printing and distribution of information stickers to be placed on residents’ waste bins (similar to those distributed by Bass Coast Shire).

2.2 On Friday, 26 July 2019, Council’s recycling contractor SKM announced that it would not be taking recyclables at any of its sites. The closure was in place for two months, and during this time Council had no other option than to send our kerbside recycling to landfill. Shortly after its closure SKM went into receivership.

2.3 Investigations into the cause of the SKM collapse pointed to issues with the stockpiling of waste due to high contamination rates of recyclable materials. Broken glass was highlighted as a key contaminant.

2.4 Kerbside recycling in Moonee Valley resumed on Monday, 23 September, and on Wednesday, 9 October Cleanaway was announced as the successful bidder of the SKM Recycling Group’s assets.

2.5 While kerbside recycling is back up and running in the interim, Council is working with the State Government and other Victorian councils to investigate long-term solutions to manage recycling. Possible solutions including the introduction of additional recycling bins to separate glass from other recyclables, and the introduction of a Container Deposit Scheme.

2.6 Council is part way through implementing a recycling awareness and education campaign, including an A-Z recycling index on our website, an updated waste calendar and education brochure for 2020 and a social media campaign educating residents on what they can and can’t recycle.

3. Issues

3.1 The cost to print bin stickers for every household in Moonee Valley (total 130,000 bins) would be between $50,000 for an A4 size sticker on each bin (landfill, recycling and green), and $95,000 for an A3 size sticker on each bin. Assuming residents can apply the stickers themselves, distribution is estimated to cost between $12,000 and $20,000. This is an unbudgeted initiative.
3.2 Given the number of changes to the Victorian recycling industry in the past six months, it is likely that Council’s recycling service will change in the coming 12 months. The change might be as small as variations in what can be included in residents’ recycling bin, or as large as a separate glass collection. Such changes will render the stickers outdated and potentially contribute to confusion about what to place in the bins.

3.3 Bin stickers are not a long-term communications solution as they are subject to wear and tear due to weather and damage from collection trucks.

Recommendation

That Council resolves to:

a. Note the costs and issues associated with bin stickers and confirm that no further action be taken to implement bin stickers in Moonee Valley at this stage.

b. Note that Council will continue to implement ongoing waste education communications for Moonee Valley residents in order to reduce contamination rates from our kerbside waste collection

Attachments

Nil
Impact Assessment

1. Relationship to Council commitment MV2040 or Council Plan
   1.1 This matter is relevant to Council Plan theme six Resilient organisation (Balit Djerring-dha, which means resilient organisation in Woi wurrung language), specifically objective 6.4 – our community is informed and has a say

2. Legislative obligations
   2.1 There are no legislative obligations in relation to this report.

3. Legal implications
   3.1 There are no legal implications as a result of this report.

4. Risks
   4.1 There are no risks as a result of this report

5. Social impact assessment
   5.1 Council has an obligation to educate and inform the community about waste and recycling and, given the high rates of contamination in recycling bins in Moonee Valley, an education and awareness campaign is warranted.

6. Economic impact assessment
   6.1 There is no economic impact as a result of this report.

7. Environmental impact assessment
   7.1 There will be some environmental impacts from the printing and distribution of the stickers, and the potential for them to end up in landfill if they are not used by residents.

8. Reputational impact assessment
   8.1 An education and awareness campaign around recycling would not impact negatively on Council’s reputation.

9. Financial implications
   9.1 The cost involved in printing and distributing bin stickers is not budgeted in the 19/20 financial year.

10. Sensitivity / scenario analysis
    10.1 Bin stickers are not a long-term communications solution as they are subject to wear and tear due to weather and damage from collection trucks.

11. Conflict of interest declaration
    11.1 No officer involved in the preparation of this report has any direct or indirect interest in this matter or the decision.

12. Consultation undertaken or planned
    12.1 No consultation is proposed as a result of this report.
10.7 2019/20 Capital Works Program Update

Author: Nikhil Aggarwal - Coordinator Program Management Office
Business Unit: Project Delivery

1. Purpose

1.1 To seek endorsement for known 2019/20 Capital Works Program (CWP) variations considered necessary to deliver the program and/or improved outcomes for the wider community

2. Background

2.1 Council adopted 2019/20 CWP of $82.54 million (including part 2018/19 CWP carryovers), which was revised to $64.8 million to include all 2018/19 CWP carryovers and 2019/20 CWP variations approved through various reports and/or delegations endorsed to 12 November 2019.

2.2 Council officers have identified necessary variations to the program that require Council authorisation to deliver the program and/or improved outcomes for the wider community. Details of these variations are as per Section A of Attachment A and summarised as below:

<table>
<thead>
<tr>
<th>Project</th>
<th>Comments on the Variation</th>
<th>Change in 2019/20 Project Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Essendon Traffic School- Renewal Works</td>
<td>Authorisation sought for additional funds in view of higher than estimated quote for fencing works. Alternatively, scope of works will need to be reduced to exclude tram renewal and drinking fountain renewal.</td>
<td>$17,500</td>
</tr>
<tr>
<td>Kerferd St. McCulloch St Pram Ramp Realignment</td>
<td>Authorisation sought for additional funds in view of higher than estimated quote for works.</td>
<td>$3,347</td>
</tr>
<tr>
<td>Rothwell Park Irrigation Works</td>
<td>Authorisation sought for additional funds as rock was encountered on the site which requires a variation to the contract.</td>
<td>$11,000</td>
</tr>
<tr>
<td>Facilities Related Renewable Energy/Efficiency Works- Retrofit Double glazing</td>
<td>Authorisation sought to reallocate funding between two projects in view of additional costs to be incurred at one facility (Bradshaw Hall) due to roof condition and working at heights requirements.</td>
<td>-$8,000</td>
</tr>
<tr>
<td>Facilities Related Renewable Energy/Efficiency Works- Solar Reflective Roof Coatings</td>
<td></td>
<td>$8,000</td>
</tr>
<tr>
<td>Project</td>
<td>Comments on the Variation</td>
<td>Change in 2019/20 Project Cost</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>---------------------------------</td>
</tr>
<tr>
<td>Lincoln Rd at Woolley St and Florence St – Traffic signals to improve bus priority (Design)</td>
<td>Authorisation sought for funds to undertake design works as major modifications are required to the original scope of the current Lincoln and Woolley Street program. Works delivery scheduled in 2020/21.</td>
<td>$20,000</td>
</tr>
<tr>
<td>Rosehill Road/Sapphire Street, Essendon West – New roundabout</td>
<td>Authorisation sought for change of scope to undertake design only in 19/20 with delivery in 20/21. Scope change is being requested in view of various design difficulties in relation to the presence of nearby Telstra pit and drainage pits, which require detailed consideration in preparation for construction.</td>
<td>-$76,750</td>
</tr>
<tr>
<td>Deakin Street – Installation of Threshold Treatments (Telstra Pit Reinstatement Works)</td>
<td>Authorisation sought for funds to undertake end of project Telstra Pit reinstatement works at the new Deakin Street Threshold Treatment (completed 2018/19).</td>
<td>$10,621</td>
</tr>
<tr>
<td>Riverside Tennis and Netball Courts- Relining Courts 13 and 14 to Tennis Only</td>
<td>Authorisation sought to undertake relining of Courts 13 &amp; 14 to tennis only for access equity. These works were excluded from 10 September 2019 variation request due to concerns around stakeholder signoff (Netball Victoria, Tennis Victoria and local tennis and netball associations using the facility). These concerns have now been addressed through communications with stakeholders and update provided to Council on 07Nov19. Background (also part of Councillor update dated 7 Nov 19): Due to unforeseen delays in the installation of temporary pavilion and public address (PA) system, clubs were allowed to use the courts to avoid them having to change venues mid-season. Several temporary measures were put in place to allow these bookings to go ahead, including installation of portable toilets in the absence of a pavilion, and having two of the tennis only courts (courts 13 and 14, originally tennis only)</td>
<td>$25,000</td>
</tr>
</tbody>
</table>
be multi-lined to accommodate the netball competition. This relining enabled portable PA to be set up centrally, in the walkway between courts 5/6 and 13/14, such that the portable PA volume could be heard on all courts in use. The PA system is now fully operational and can broadcast to all courts, the intention is to reline courts 13 and 14 back to tennis only courts (senior tennis competition cannot be played on multi-lined courts). This will restore the courts back to the original, approved layout of five tennis only, four netball only, and eight multi-lined courts. These works are planned to take place over the December/January period this year, after this time the courts will no longer be available for netball use. This has been communicated to the netball and tennis communities and agreed (Netball Victoria, EDNA, Tennis Victoria and Ascot Vale Tennis Club).

2.3 Section B of Attachment A lists variations previously authorised through Tender reports, Capital Works Program Updates, Other Reports and CEO delegation (approvals up to +5 per cent of authorised project budget).

2.4 As of 18 November 2019, $49.7 million (77 per cent) of the program (by budget) is completed/under implementation/awarded or in procurement phase. The remainder of the program is in planning/design/consultation phases.

3. Issues
3.1 Whilst 77 per cent of the program (by budget) is completed/under implementation/awarded or in procurement phase, the full delivery remains reliant on a number of factors (some outside Council control) including design capacity, extensive consultation, external approvals (e.g. VicRoads, Melbourne Water, utility companies, cultural heritage) and contractor availability.

Recommendation
That Council resolves to authorise requested 2019/20 Capital Works Project variations as per Section A of Attachment A.
Attachments

A: 2019/20 Capital Works Program- Variation Register (separately circulated) 📖
Impact Assessment

1. **Relationship to Council commitment MV2040 or Council Plan**
   1.1 Theme 6: Resilient organisation (Balit Djerring-dha, which means resilient organisation in Woi wurrung language).
   1.2 The request for variation is subsequent to the variations endorsed through various reports and/or delegations endorsed to 12 November 2019.

2. **Legislative obligations**
   2.1 There are no Legislative implications of this report except to the extent it relates to Council’s overall budget set in accordance with Section 127 of the Local Government Act 1989.

3. **Legal implications**
   3.1 There are no Legal implications of this report except to the extent that it relates to revision in Council’s budget.

4. **Risks**
   4.1 There are no risks arising out of this report.

5. **Social impact assessment**
   5.1 The report seeks endorsement for variations considered necessary to deliver improved outcomes for the wider community.

6. **Economic impact assessment**
   6.1 There are no economic impacts arising out of this report.

7. **Environmental impact assessment**
   7.1 There are no environmental issues associated with this report.

8. **Reputational impact assessment**
   8.1 There are no reputational impacts arising out of this report.

9. **Financial implications**
   9.1 Report details changes to Council’s funding commitments to 2019/20 CWP.
   9.2 Report seeks authorisation for budget variations in addition to variations endorsed through various reports/delegations to 12 November 2019.
   9.3 Variations put up for endorsement are expected to have operational cost impact. In the absence of detailed whole of life costing guidelines, it is estimated that operational costs for each project will be average 2 percent per annum calculated on the final project costs.

10. **Sensitivity / scenario analysis**
    10.1 There are no variables expected to impact outcomes of this report.

11. **Conflict of interest declaration**
    11.1 No officer involved in the preparation of this report has any direct or indirect interest in this matter or the decision.
12. Consultation undertaken or planned

12.1 Detailed consultation has been undertaken with capital works project officers, and has been endorsed by Council’s Capital Works Review Committee and Executive Team.
10.8 Crown Street Stables 2018/19 Highlights

Author: Jasmine Graham - Senior Coordinator Access and Inclusion

Business Unit: Community Services

1. Purpose

1.1 As per Council’s resolution, this report provides an update of the outcomes of Crown Street Stables Community Cafe, as delivered to the community and trainees with a disability in 2018/19.

2. Background

2.1 The Stables, originally constructed in 1886, is a local landmark rich in historical value. Initially occupied by a Victorian era home and a number of outbuildings associated at various times with the racing and butchery industries. The only built structure currently remaining on site is the six stall brick stables building fronting onto Crown Street which now houses the stables.

2.2 In March 2015, the Community Strengthening department established the stables. The aim of the stables was to keep local residents connected and support residents with disability to find meaningful employment by;

2.2.1 Operating a café as a community hub where locals could congregate. The aim of the café is to provide affordable, nutritious meals supplied by Community Chef to eligible concession card holders in an environment where they could feel a sense of connection to the wider community.

2.2.2 To support people with disability to gain valuable work experience in a café environment, enabling trainees to develop practical skills and meaningful experience which places graduates at a competitive advantage within the employment market.

2.2.3 The availability of the loft as a community venue for activities, social groups, community hire and as a meeting and training venue.

2.3 Since commencement, the Stables has built a reputation locally for its affordable and nutritious meals and warm and welcoming environment which extends to a diverse range of community members. The Stables is a community setting where customers and local residents feel valued and included.

3. Issues

3.1 In the 2018/19 financial year there was an increase in bookings for the loft space at the Stables of 263 per cent. Regular community programming through yoga classes, tai chi classes and other health and well-being activities comprising the majority of the time the loft was being used.

3.2 The table below identifies the breakdown of hire type and demonstrates that the loft is being used primarily as a space for community programming and not-for-profit community groups.
Loft hire by use type

<table>
<thead>
<tr>
<th>Use type</th>
<th>Percentage of use</th>
<th>Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community programming (includes Yoga, Tai Chi, Health &amp; Wellbeing etc)</td>
<td>43 per cent</td>
<td>195 hours</td>
</tr>
<tr>
<td>Not for profits / Community Groups</td>
<td>32 per cent</td>
<td>146 hours</td>
</tr>
<tr>
<td>Casual hire (includes private functions)</td>
<td>13 per cent</td>
<td>60 hours</td>
</tr>
<tr>
<td>Internal (Council)</td>
<td>12 per cent</td>
<td>54 hours</td>
</tr>
</tbody>
</table>

3.3 In addition to the regular and casual facility hire, the Stables has played an important role as a site for celebration by the community. This is evidenced by the below table of events that the stables hosted through 2018/19.

<table>
<thead>
<tr>
<th>Type</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Days of Significance</td>
<td>1. International day of people with disability. The event included a moonlight cinema, community stalls and performances by people with disability.</td>
</tr>
<tr>
<td>Information Sessions and Community Education</td>
<td>1. A range of information sessions and workshops relating to the community garden, the worm farm and ways to achieve sustainability.</td>
</tr>
<tr>
<td></td>
<td>2. Melbourne City Mission Bridges program attending the stables to teach participants skills around independence in the community.</td>
</tr>
<tr>
<td>Art Exhibitions and Sunday Music Sessions</td>
<td>1. Ongoing art exhibitions now in conjunction with Incinerator Gallery and on a six-week rotating basis.</td>
</tr>
<tr>
<td></td>
<td>2. Sunday Jazz music sessions took place at the stables from July – December 2018.</td>
</tr>
<tr>
<td>Seniors Festival and Children’s Week activities</td>
<td>1. Information sessions held by Victoria Police, Crime Stoppers and Fire Brigade around safety in the home.</td>
</tr>
<tr>
<td></td>
<td>2. Making a Will session held by Moonee Valley Legal Service.</td>
</tr>
<tr>
<td></td>
<td>3. During Children’s Week – the hosting of grandparents/grandchildren day of activities in the park.</td>
</tr>
</tbody>
</table>
3.4 The Stables traineeships

Aligned to actions in the Council Disability Action Plan and supporting objectives outlined in the MV2040 Strategy, in 2018/19 the Stables supported 11 people with disability interested in gaining skills and experience in the hospitality industry through the traineeship programme. This represents an increase of 54 per cent from the commencement of the program in 2016/17.

The 16-week traineeship programme is an opportunity for paid work experience for people with a disability. The trainees work alongside staff to gain valuable experience, with the focus on developing job ready skills for participants to find local employment opportunities. The programme is supported with a comprehensive induction and a structure targeted towards outcome-based learning achieved predominately through practical on-the-job experiences.

Through a process of review and continuous improvement, in 2018/19 the traineeship program has implemented a new partnership with the Clocktower Café. This partnership enables trainees to complete four weeks at the Clocktower to further improve transferable skills, knowledge and expertise while also introducing the trainees to a variety of different roles performed at the Clocktower that expands their skillset. Following the placement at the Clocktower, trainees have reported an increase in confidence and skills relating to being able to adapt what had been learnt at the stables to a different work environment.

On completion of the traineeship, two 2018/19 trainees were successful in securing employment within the local community. These employment outcomes demonstrate the significant community benefit the traineeship programme has in supporting local employment opportunities.

Recommendation

That Council resolves to:


b. Endorse to receive future Crown Street Stables updates within Council's Annual Report.

Attachments

A: KPMG high level business review report (separately circulated)
B: Crown Street Stables highlights 2018/19 (separately circulated)
Impact Assessment

1. Relationship to Council commitment MV2040 or Council Plan

1.1 The Stables has continued to achieve its broader strategic objective to increase opportunities for social connection by delivering programs and activities that facilitate participation aligned to MV2040.

1.1.1 Fair

- **Objective 1.3: Foster respect and diversity.** This is being achieved by the inclusive nature of The Stables which is demonstrated through the ongoing commitment and growth of the traineeship program, the use of the Loft by community groups supporting health and well-being, the subsidised meals program for concession card holders, and the use of The Stables as a site of celebration for events such as International Day of People with Disability and World Autism Acceptance Day.

- **Objective 2.2: Provide an accessible network of community facilities.** The Stables provides a safe and welcoming space for the community across the lifespan, this is evidenced by the regular attendance of groups ranging from the very young (mothers groups and fathers groups with their young children) through to seniors (Knit and Knatter group). This will be enhanced to an even greater degree with the introduction of the lift from October 2019 that makes the building fully accessible.

- **Objective 3.3: Support increased access to healthy food.** Through the subsidised meals program and the community garden, the Stables promotes food security and healthy eating options within the local area.

1.1.2 Thriving - Objective 6.1: Support residents to gain meaningful employment.

- **Objective 6.1: Support residents to gain meaningful employment.** Through the traineeship program for people with disability, the Stables is at the forefront of working towards meaningful employment for a section of our community that is marginalised in the area of employment. Council is continuously looking to improve the program for trainees with the introduction of an extended 4-week placement at the Clocktower Café, in 2018/19, to further enhance transferable skills aimed at improving employability.

- **Objective 8.3: Support and extend the reach of our arts sector.** Through a number of new initiatives, the Stables is beginning to establish itself as an arts hub for the local area. These initiatives have included a rotating exhibition schedule that looks to promote local and emerging artists, live music sessions being held on Sunday afternoons by local musicians, and planning for a Dementia and Art program in partnership with the Incinerator Gallery which will be implemented in 2019/20.

- **Objective 9.2: Ensure data is shared open and valued resource.** The Stables has free public Wi-Fi available enabling all members of the
community access to the internet in a welcoming and warm environment.

1.1.3 Green

- **Objective 15.1: Engage residents, businesses, early years’ services and schools around waste avoidance, reuse and recycling.** In 2018/19 a community garden and worm farm was installed which demonstrates a high level of sustainability by diverting waste from landfill and through providing local residents training that allows them to live more sustainable lives. The garden and the worm farm have had enthusiastic participation from community members through regularly run workshops in conjunction with 3000 Acres and a demonstrated ongoing commitment to the upkeep and maintenance.

1.1.4 Beautiful

- **Objective 17.1: Celebrate the heritage of our city.** This is achieved through ongoing use of the 133-year-old building as a café and a site for the community to come together. Café and Council staff regularly receive feedback from the community that The Stables is a fantastic modern use of a beautiful historic building.

- **Objective 18.2: Lead through exemplar projects.** Demonstrated through the development and installation of the lift to the building. An addition that has enhanced the building by providing access for all to the loft space and has been completed with respect to the design and historic nature of the original building.

- **Objective 20.1: Provide open spaces to meet the needs of the community.** In an area of the municipality with very little green space, Coronet Park provides one of the few open areas for residents in the Flemington Rd / Ascot Vale Road wedge. There is a very strong connection between the stables and the park with patrons of the café enjoying the open expanses of the park and the playground, while at the same time those utilising the park primarily are able to enjoy the amenities and fare of the café. This is an element of the stables that we are continuously looking to improve and has seen the introduction of picnic blankets being available for café patrons.

2. **Legislative obligations**

2.1 From a legislative perspective, the barriers for inclusive access in a Council owned facility opens up the risks around the *Disability Discrimination Act 1992* and enquiries relating to the *Equal Opportunity Act 1992* regarding universal access provisions for all community members. These issues have the potential to also impact on trainees with a disability being engaged to work at the café. This has been addressed through the installation of an accessible lift.

3. **Legal implications**

3.1 There are no legal implications as a result of this report.
4. **Risks**
   4.1 Financially costly to operate the cafe due to higher cost of workforce conditions. Council’s Enterprise Agreement provides a substantially higher market rate for café assistants.

5. **Social impact assessment**
   5.1 The Stables is an important local community resource that welcomes everyone with its primary aim being to reduce barriers to engagement for people from vulnerable and diverse backgrounds.
   5.2 Council is working to achieve its strategic objective to develop a program to improve disability access to community facilities and public spaces that connects the local needs to principal locations in accordance with the Council Plan 2017-21.

6. **Economic impact assessment**
   6.1 Supporting people with disability to gain valuable work experience in a café environment, enables trainees to develop practical skills and meaningful experience which places graduates at a competitive advantage within the employment market and increases opportunities for local economic participation.

7. **Environmental impact assessment**
   7.1 In an area of the municipality with very little green space, Coronet Park provides one of the few open areas for residents in the Flemington Rd / Ascot Vale Road wedge. Coronet Park is of critical importance given the increased community need for green space, which has facilities for a variety of community members (children’s playground, café, built in BBQ equipment) within an area of increasing density.

8. **Reputational impact assessment**
   8.1 The roll out of the National Disability Insurance Scheme (NDIS) has led to a reduction in services for people with disability provided by Council. The Stables continues to have a positive reputational impact in the community as a responsible employer for people with disability.

9. **Financial implications**
   9.1 The table below outlines profit and loss costs from 2017 to date.

<table>
<thead>
<tr>
<th></th>
<th>2017/18</th>
<th>2018/19</th>
<th>2019/20 forecast total cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income</td>
<td>$139,956</td>
<td>$132,930</td>
<td>$134,374</td>
</tr>
<tr>
<td>Materials and services</td>
<td>-$157,964</td>
<td>-$151,311</td>
<td>-$88,726</td>
</tr>
<tr>
<td>Employee costs</td>
<td>-$342,132</td>
<td>-$370,179</td>
<td>-$365,107</td>
</tr>
<tr>
<td>Net profit and loss</td>
<td>-$360,140</td>
<td>-$388,650</td>
<td>-$319,459</td>
</tr>
</tbody>
</table>
9.2 In 2018/19 the Stables came in at a total cost to Council of $388,650. This was an overall increase of cost to Council of $28,510 on the previous 2017/18 financial year.

9.3 This increased cost to Council can be attributed to the implementation of several service and infrastructure improvements which were identified in the service review by KPMG completed in 2017/18 Attachment A. These one-off investments see an improved cost to Council in 2019/20 which is forecast at $72,702 less (18.7 per cent reduction) than the year prior.

- This included the purchase and installation of the community garden and three composting worm farms, a child-safe play area within the café for children aged zero to eight years of age that features educational play equipment and beanbags, an outdoor projector that enables the projection of artwork on the building and necessary replacement of equipment including crockery and table tops.

- Forecasting into 2019/20, with the continued implementation of the point of sale system is anticipated to further reduce waste by ensuring accurate ordering. This is forecasted to reduce costs on materials and services by $62,585.

- There was an increase in employee costs for 2018/19 which can largely be attributed to the extension of the café opening hours during 2018/19 to allow for morning customers that now sees the café opening at 7.30am on weekdays.

- Revenue for 2018/19 was slightly down on the previous year. A factor in this has been a change to Council facility bookings through the implementation of the Community Facilities Management Framework. The Stables no longer charges internal Council departments for use of the facility for meetings or training sessions.

- The development of a casual pool to reduce the need to utilise agency staff in covering for absences has also seen a slight increase in employee costs however this is seen as having positive long-term benefits to the operation of the stables.

- In budget planning for 2019/20, due to the savings in relation to more accurate stocktaking and a decrease in employee costs through a more constant workforce, the cost to Council of the Stables is forecast to be down 18.5 per cent ($72,702) to $319,459.

10. Sensitivity / scenario analysis

10.1 Nil.

11. Conflict of interest declaration

11.1 No officer involved in the preparation of this report has any direct or indirect interest in this matter or the decision.
12. Consultation undertaken or planned

12.1 Crown Street Stables Community Café KPMG Business Review Report Attachment A.

12.2 Feedback is actively sought at the Stables, with local residents and customers providing suggestions for activities and improvements. As well as compliments and complaints which are acknowledged and actioned, with the implementation of several recommendations from the community including:

- The Children’s Corner which improved opportunities for the space to be utilised by play groups and parents groups on a regular basis.
- The installation of the lift at the stables has long been recommended by community groups that have been wanting to utilise the loft as an accessible space for all.
- A pot plant exchange has been established at the stables enabling community members to donate potted plants and share with others.
- A community book exchange has been established that has had great uptake by the community.
- Regular review and refresh the menu at the Stables with feedback received from patrons considered.
10.9 Proposed Lease Renewal - Strathmore Tennis Club

Author: Kenton Shue - Commercial Property Officer
Business Unit: Project Delivery

1. Purpose
1.1 To seek Council endorsement for the lease renewal to Strathmore Tennis Club Inc. (Club).

2. Background
2.1 The Club has occupied part of 44 Loeman Street, Strathmore since 1953 and currently has approximately 250 members. The Club provides a range of tennis and recreational services to the community; including coaching, competitions and court hire from the premises.
2.2 The lease commenced on 1 November 2014 for an initial 5-year term, with an option for a further 4-year term has been granted for the provision of tennis club and associated recreational purposes (as approved by Council). The leased area includes five tennis courts and a pavilion.
2.3 In 2014, Council commenced the construction of two additional tennis courts at the premises. The additional courts were officially opened in 2016. At its Ordinary Meeting on 26 November 2018, Council resolved to endorse a 11-month short term lease for the Club to occupy the additional courts (which expired on 31 October 2019), to align with the expiry of the existing lease term.

3. Issues
3.1 The Club has exercised their option to renew the lease for a further 4-year term.
3.2 It is proposed that Council grants the Club a further 4-year lease term, with a variation to the existing leased area plan, to include the additional tennis courts.
3.3 The lease renewal will be based upon Council’s standard Deed of Renewal of Lease (Deed) and the key terms are outlined in the table below:

<table>
<thead>
<tr>
<th>Commencement Date:</th>
<th>1 November 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Term:</td>
<td>4 years</td>
</tr>
<tr>
<td>Rent:</td>
<td>$377.08 plus GST per annum.</td>
</tr>
</tbody>
</table>

3.4 The existing leased area plan would be modified to include the two additional tennis courts. The proposed leased area plan is highlighted in blue in Attachment A.
3.5 The terms and conditions and maintenance obligations will remain consistent with the existing lease.
3.6 Officers have been in consultation with the Club’s committee and have agreed in principle to the proposed terms and conditions of the lease renewal.

3.7 The Club has complied with the terms and conditions of the existing lease, therefore Council has a legal obligation to provide the requested further term, commencing on 1 November 2019 until 31 October 2023.

3.8 Council officers will monitor the existing use arrangements over the term to assist in determining future lease opportunities.

Recommendation

That Council:

1. Endorses a Deed of Renewal of Lease for the Strathmore Tennis Club Inc. at 44 Loeman Street, Strathmore for a further 4-year term commencing 1 November 2019 for the purposes of a tennis club and associated recreational purposes (as approved by Council).

2. Authorises the Chief Executive Officer’s under delegation to negotiate and finalise the Deed of Lease Renewal with the Strathmore Tennis Club and execute the Deed on behalf of Council

Attachments

A: Plan - Strathmore Tennis Club (separately circulated) 📆
Impact Assessment

1. Relationship to Council commitment MV2040 or Council Plan
   1.1 Council is working to achieve its strategic objective to promote responsible and equitable decision making across Council in accordance with the Council Plan 2017-2021, Theme 6: Resilient organisation – a Resilient organisation that is sustainable, innovative, engaging and accountable and objective 6.2 good governance is everyone’s responsibility.

2. Legislative obligations
   2.1 The current lease commenced on 1 November 2014 for an initial term of 5 years with one further term of 4 years (total term of 9 years) and a rental of $250 per annum.
   2.2 Section 190 (3) of the Local Government Act 1989 (Act) does not apply, as the proposed lease term was less than 10 years and the current market rental value of the land was less than $50,000 per annum.

3. Legal implications
   3.1 The current lease for the Strathmore Tennis Club is for an initial 5-year term, with an option to renew for a further 4-year term (at the Club’s discretion). This lease has been executed in accordance with the Act.
   3.2 The Club has exercised the option to renew the lease for a further 4-year term.
   3.3 Council has a legal obligation to renew the Club’s lease for a further term, unless a significant breach of the lease has occurred. The Club has complied with the lease and has not been issued with any breach notices to Council officer’s knowledge.
   3.4 Council’s Solicitors will undertake review of the Deed to confirm it is in order for execution.

4. Risks
   4.1 The lease renewal will ensure the Club is covered against any public liability claims (up to $20 million), indemnifying Council from any exposure to risk.

5. Social impact assessment
   5.1 The proposed lease renewal does not have any adverse social impacts.

6. Economic impact assessment
   6.1 The proposed lease renewal does not have any adverse economic impacts.

7. Environmental impact assessment
   7.1 The proposed lease renewal does not have any adverse environmental impacts.
8. **Reputational impact assessment**
   8.1 The proposed lease renewal does not have any adverse reputational impacts.

9. **Financial implications**
   9.1 It is proposed the rental for the commencement of the further term is $377.08 + GST. This has been calculated by combining the current rental fee plus the additional court rental fee with a CPI increase applied.
   9.2 The rent will be reviewed by CPI annually on the anniversary of the commencement date.

10. **Sensitivity / scenario analysis**
    10.1 Not applicable.

11. **Conflict of interest declaration**
    11.1 No officer involved in the preparation of this report has any direct or indirect interest in this matter or the decision.

12. **Consultation undertaken or planned**
    12.1 Officers have undertaken internal consultation with the Sport and Recreation team and external consultation with the Club’s committee. The Club has agreed in principle to the proposed terms and conditions of the lease renewal.
10.10 Proposed Road Discontinuance - Abutting rear of 22 Church Street and 35 and 37 Bryant Street, Flemington

Author: Trish Curcuruto - Property and Right of Way Officer

Business Unit: Project Delivery

1. Purpose

1.1 To seek Council’s endorsement to commence statutory procedures pursuant to the *Local Government Act* 1989 (the Act) to consider discontinuing the road abutting the rear of 22 Church Street and 35 and 37 Bryant Street, Flemington (Road).

2. Background

2.1 The Road comprises the whole of the land contained in certificate of title volume 1469 folio 763, being lot 1 on plan of subdivision 941524C, shown as the area outlined in red on the plan attached as Attachment A.

2.2 The Road remains as a ‘road’ following a partial road discontinuance which occurred in 2003 resulting in the closure of a road adjacent to 8 Bignell Street and the road located at the rear of 45 to 39 Bryant Street. At this time, the then owner of 37 Bryant Street objected to a full closure while the then owners of 33 and 35 Bryant Street indicated no wish to purchase.

2.3 The current property owner of 37 Bryant Street, Flemington (Applicant) has requested that Council discontinue the Road and then sell the portion of the former Road directly abutting the rear of their property to the Applicant (Proposal).

2.4 The Road is shown on title as a carriageway easement. The Road is therefore a ‘road’ for the purposes of the Act, and Council has statutory power to consider discontinuing the Road. Upon being discontinued the Road will vest in Council.

2.5 A site inspection carried out by council officers confirms the Road is not constructed as a ‘road’, does not allow for vehicle access and is not considered to be required for public access.

3. Issues

3.1 The original road discontinuance in 2003 did not vest the full road to Council but only the portion subject to the closure. Council is required to undertake the full road discontinuance statutory procedures in accordance with section 206, clause 3 of schedule 10 and section 223 of the Act to deal with the remaining Road.

3.2 Following consultation with abutting property owners, the property owners of 22 Church Street, 33 and 35 Bryant Street, Flemington have supported the Proposal and expressed interest in purchasing the portion directly abutting the rear of their property.
Recommendation

That Council, acting under clause 3 of schedule 10 of the *Local Government Act 1989* (Act):

a. Resolves that the statutory procedures be commenced to discontinue the road contained in certificate of title volume 1469 folio 763, being lot 1 on plan of subdivision 941524C (Road);

b. Directs that, under sections 207A and 223 of the Act, public notice of the proposed discontinuance be given in the Moonee Valley Leader weekly newspaper;

c. Inform persons who wish to be heard in support of their submission that they will be heard at a committee of Council (if required), comprising of ward Councillors, in accordance with section 223 of the Act;

d. Resolves that the public notice required to be given under sections 207A and 223 of the Act should state that if the Road is discontinued, Council proposes to sell the Road to the abutting property owners for market value; and

e. Receive a further report following the completion of the public notice process to determine whether or not Council proceed with the proposal to discontinue the Road and sell to abutting property owners.

Attachments

A: Map Proposed Road Discontinuance (separately circulated) 📄
B: Division of Road & City West Water Infrastructure (separately circulated) 📄
Impact Assessment

1. Relationship to Council commitment MV2040 or Council Plan
   1.1 The proposed discontinuance of the Road will contribute to strategic objective “a resilient organisation that is sustainable, innovative, engaging and accountable” in accordance with Council Plan 2017-21 Theme 6: Resilient organisation (Balit Djerring-dha, which means strong partnership in Woi wurrung language).

2. Legislative obligations
   2.1 The statutory process for the Road discontinuance is being undertaken in accordance with the requirements of the Act sections 206, clause 3 of schedule 10 and section 223 of the Act.

3. Legal implications
   3.1 Legal advice indicates the previous statutory process undertaken in 2003 for the abutting portion of former road did not consider the Road. It is necessary to undertake the statutory procedures in accordance with section 206, clause 3 of schedule 10 and section 223 of the Act.

4. Risks
   4.1 The Road has an easement in favour of Council and City West Water in connection with any drains and pipes within the former road.
   4.2 Council’s Engineering team have advised they require the easement to remain in place due to stormwater drainage.
   4.3 City West Water have advised they require the easement in favour of them to remain in place due to existing sewer infrastructure located within the Road.
   4.4 Given interest from all abutting property owners, consideration has been given to whether the Road could be divided into 4 portions to all interested abutting property owners. Council’s surveyor raised concerns in the practical ability to divide the land into 4 equal portions due to the location of existing City West Water assets within the Road and has provided a proposed 3 lot subdivision. Refer to Attachment B.
   4.5 Additional consultation with City West Water has found a subdivision into more than the 3 proposed lots is not advisable due to required offset distances, the location of the sewer assets and the ability to erect new fences.
   4.6 Investigations and aerial photography indicate a portion of the Road has been occupied and maintained by 22 Church Street for a considerable period of time. Council’s current Road Discontinuance and Sale of Land policy in relation to an occupied road provides first preference for the offer to purchase to the occupier.
   4.7 The property owner of 33 Bryant Street has been advised of the above and will be given an opportunity to provide feedback and comments should the statutory procedures proceed.
5. **Social impact assessment**

5.1 There are no direct social impacts as a result of this report.

6. **Economic impact assessment**

6.1 There are no direct economic impacts as a result of this report.

7. **Environmental impact assessment**

7.1 There are no environmental implications as a result of this report.

8. **Reputational impact assessment**

8.1 There are no reputational implications as a result of this report.

9. **Financial implications**

9.1 A conditional agreement and letter of offer to reimburse Council for reasonable costs in undertaking the proposed road discontinuance and sale of land process has been agreed by the applicants/occupiers. The reimbursement of Council’s costs includes the payment of Council’s legal and land surveyor fees and costs associated with the publication of a public notice.

9.2 The land has been valued at $12,000.00 (excluding GST) in accordance with statutory requirements and the commercial terms to be agreed upon with the applicants/occupiers should Council proceed with the road discontinuance.

10. **Sensitivity / scenario analysis**

10.1 Not applicable.

11. **Conflict of interest declaration**

11.1 No officer involved in the preparation of this report has any direct or indirect interest in this matter or the decision.

12. **Consultation undertaken or planned**

12.1 All necessary Council departments and service authorities have been consulted in respect to the Proposal and no objections have been received.

12.2 The statutory procedures under the Act require Council to give public notice of the Proposal in accordance with sections 207A and 223 of the Act. The Act provides that a person may, within 28 days of the date of the public notice, lodge a written submission regarding the Proposal.

12.3 After hearing any submissions made, Council must determine whether or not the Road is reasonably required as a road for public use, in order to decide whether the Road should be discontinued.

12.4 Public notice of the proposal will be given in the Moonee Valley Leader weekly newspaper and published on Council’s website.

12.5 Abutting property owners will be advised of the Proposal in writing and informed of their right to make a submission.
10.11 Authorisations and Delegations of Council - Update 2019

Author: Lee McSweeney - Coordinator Governance

Business Unit: Corporate Governance

1. Purpose

1.1 The purpose of this report is to present a revised Instrument of Delegation to delegate Council powers, duties and functions to members of Council staff, Charters to Section 86 Special Committees of Council and updated appointments of Authorised Officers under the Planning and Environment Act 1987.

2. Background

2.1 Moonee Valley City Council (Council) has established a framework of formal Instruments of Delegation to facilitate the delegation of powers, duties and functions to the appropriate level of the organisation. These frameworks include:

2.1.1 Delegations from Council to the Chief Executive Officer
2.1.2 Delegations from Council to members of Council staff
2.1.3 Delegations from Council to Special Committees

2.2 A framework for the appointment of Authorised Officers has also been established for the purposes of the administration and enforcement of any Act, regulations or local laws which relate to the functions and powers of the Council.

2.3 The frameworks and format of the Instruments of Delegation and Instrument of Appointment for Authorised Officers at Council is based on a model developed for Victorian Councils by Maddocks Lawyers.

3. Issues

3.1 An Instrument of Delegation is a formal document that allows for certain duties, functions and decision-making powers, to be delegated to a Council officer or a Special Committee, as a means of reducing the operational and decision-making workload upon the Council.

3.2 These instruments are routinely reviewed and updated to incorporate various legislative changes that occur from time to time, as well as alterations to the organisational structure.

3.3 With recent changes within the organisation, it is proposed that the instruments be updated to include new delegated Officer positions. These new instruments of delegation are outlined in Attachment A. No new legislative provisions have been included in this review.

3.4 In a previous update presented to Council on 10 September 2019, Council appointed Authorised Officers for the purposes of the administration and enforcement of the Planning and Environment Act 1987.
3.5 It is recommended that changes be made to these authorisations in line with Attachment B to this report.

3.6 The Charter to the Grants Special Committee (Attachment C) and Land Acquisition Special Committee (Attachment D) including the instrument of delegation (Attachment E) have also been updated to include new delegated Officer positions. No further amendments have been made to the Charter documents.

Recommendation

That Council:

a. Having undertaken a review of its delegations in accordance with Section 98 of the Local Government Act 1989, resolves that:
   i. The powers, duties and functions set out in the Instrument of Delegation, provided as Attachment A be delegated to members of Council staff subject to the conditions and limitations specified in that instrument.
   ii. The Instrument of Delegation provided as Attachment A be signed and sealed, and come into force immediately upon the common seal of the Council being affixed to the instrument, with all previous corresponding instruments to be revoked.
   iii. The duties and functions set out in these Instruments of Delegation must be executed in accordance with any guidelines or policies that are adopted by the Council from time to time.

b. In the exercise of the powers conferred by Section 147(4) of the Planning and Environment Act 1987 and Section 232 of the Local Government Act 1989, resolves that:
   i. The Instrument of Appointment and Authorisation to members of Council staff referred to in Attachment B be revoked.

c. Endorse the revised Charter to the following Section 86 Special Committees of Council:
   i. Grant Assessment Special Committee (Attachment C)
   ii. Land Acquisition Committee (Attachment D)

d. The Instrument of Delegation to the Land Acquisition Special Committee provided as Attachment E be signed and sealed, and come into force immediately upon the common seal of the Council being affixed to the instrument, with all previous corresponding instruments to be revoked.

Attachments

A: Instrument of Delegation - Council to Officers (separately circulated)  
B: Authorisations to Planning Officers - Revoked (separately circulated)  
C: Charter to Grant Assessment Special Committee (separately circulated)  
D: Charter to Land Acquisition Committee (separately circulated)  
E: Delegation to Land Acquisition Committee (separately circulated)  
Impact Assessment

1. Relationship to Council commitment MV2040 or Council Plan
   1.1 In presenting this report to Council, Council is achieving its Strategic Objective to build a resilient organisation and in accordance with Council Plan 2017-2021 Theme 6: Resilient organisation.

2. Legislative obligations
   2.1 This report is presented to Council in accordance with Section 98 of the Local Government Act 1989. Council may by instrument of delegation delegate to a member of its staff any power, duty or function of a Council under this Act or any other Act other than prescribed powers of this section.

3. Legal implications
   3.1 A decision made under delegation is taken to be a decision of the Council. Decisions made without the correct authorisation and delegation of duties, powers or functions is an invalid decision of the Council.

4. Risks
   4.1 The routine review and update of instruments to incorporate various legislative changes that occur from time to time, as well as alterations to the organisational structure is good governance practices and will mitigate risks to Council in reputation; financial; legal; public interest and operational.

5. Social impact assessment
   5.1 There are no social implications resulting from the presentation of this report.

6. Economic impact assessment
   6.1 There are no economic implications resulting from the presentation of this report.

7. Environmental impact assessment
   7.1 There are no environmental implications resulting from the presentation of this report.

8. Reputational impact assessment
   8.1 There are no reputational implications resulting from the presentation of this report.

9. Financial implications
   9.1 There are no financial implications resulting from the presentation of this report.
10. **Sensitivity / scenario analysis**
   There are no sensitivity / scenario analysis resulting from the presentation of this report.

11. **Conflict of interest declaration**
   11.1 No officer involved in the preparation of this report has any direct or indirect interest in this matter or the decision.

12. **Consultation undertaken or planned**
   12.1 The nature of this report does not require any community consultation, however, relevant Managers and Senior Officers have been consulted in the review of the instruments and allocation of delegated Officers.
NOTICES OF MOTION

11.1 Notice of Motion No. 2019/26 - Returning the Moonee Valley Bee program

From: Councillor John Sipek

Take notice that at the Ordinary Meeting of Council to be held on 10 December 2019 it is my intention to move:

That Council receives a report about returning the Moonee Valley Bee program, how it can include community groups, clubs and how it can be funded in the future.
11.2 Notice of Motion No. 2019/27 - Potential improvements to Moonee Valley City Council's gateways and gateway signage

From: Councillor Cam Nation

Take notice that at the Ordinary Meeting of Council to be held on 10 December 2019 it is my intention to move:

That the Chief Executive Officer brings a report back to Council detailing potential improvements to Moonee Valley City Council’s gateways and gateway signage, in particular refreshing current signage, ensuring Moonee Valley City Council gateway signage acknowledges the traditional owners of the land, as well as looking at alternative gateway options to signage (such as plantings, lighting, etc).
11.3 Notice of Motion No. 2019/28 - Proposed relocation of the Bunyip Garden in Woodlands Park, Essendon

From: Councillor Narelle Sharpe

Take notice that at the Ordinary Meeting of Council to be held on 10 December 2019 it is my intention to move:

That Council authorises the Chief Executive Officer to stop the removal and relocation of the Bunyip Garden in Woodlands Park and use any available budget to restore and reinvigorate the space.